

## CHAPTER 14.

[H. B. 5.]

PUBLIC UTILITIES—TRANSPORTATION—TITLES 80 AND 81  
RCW REENACTMENTS.

AN ACT Relating to public service properties and utilities, providing for the regulation thereof, enacting a public utilities and transportation code to be known as Titles 80 and 81 of the Revised Code of Washington; providing penalties; repealing certain acts and parts of acts; and declaring an emergency.

*Be it enacted by the Legislature of the state of Washington:*

## TITLE 80

## PUBLIC UTILITIES

## Chapter 80.01

## PUBLIC SERVICE COMMISSION

**80.01.010 Commission created—Appointment of members—Terms—Removal.** There is hereby created and established a state commission to be known and designated as the Washington public service commission, and in this chapter referred to as the commission.

The commission shall be composed of three members appointed by the governor, with the consent of the senate. Not more than two members of said commission shall belong to the same political party.

The members of the first commission to be appointed after taking effect of this section shall be appointed for terms beginning April 1, 1951, and expiring as follows: One commissioner for the term expiring January 1, 1953; one commissioner for the term expiring January 1, 1955; one commissioner for the term expiring January 1, 1957. Each of the commissioners shall hold office until his successor is appointed and qualified. Upon the expiration of the terms of the three commissioners first to be appointed as herein provided, each succeeding commissioner shall be appointed and hold office for the term of six years. One of such commissioners to be designated by the governor, shall, during the term of the appointing governor, be the chairman of the commission.

Each commissioner shall receive a salary of not less than ten thousand dollars nor more than twelve thousand dollars per annum, payable monthly, as may be fixed by the governor.

Any member of the commission may be removed for inefficiency, malfeasance or misfeasance in office, upon 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 special tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time, place and procedure for the hearing, and the hearing shall be public. The decision of such tribunal shall be final and not subject to review.

If the tribunal specified herein finds the charges of the governor to be true, the governor shall have the right to immediately remove the commissioner from office, to declare the position of the commissioner vacant, and appoint another commissioner to the position in accordance with the provisions of the law.

Any vacancy arising in the office of commissioner shall be filled by appointment by the governor, and an appointee selected to fill such vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

If a vacancy occurs while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to the senate his nomination or nominations for the office to be filled.

Note: See also section 4, chapter 307, Laws of 1961.

**80.01.020 Commissioners, oath, bond and qualifications—Persons excluded from office and employment.** Each commissioner shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office, and furnish bond to the state in the sum of twenty thousand dollars conditioned for the faithful discharge of the duties of his office and for the proper accounting for all funds that may come into his possession by virtue of his office. Each commissioner shall be a qualified elector of this state and no person in the employ of or holding any official relation to any corporation or person, which corporation or person is subject in whole or in part to regulation by the commission, and no person owning stocks or bonds of any such corporation or who is in any manner pecuniarily interested therein shall be appointed or hold the office of commissioner or be appointed or employed by the commission: *Provided*, That if any such person shall become the owner of such stocks or bonds or become pecuniarily interested in such corporation otherwise than voluntarily, he shall within a reasonable time divest himself of such ownership or interest, and failing to do so his office or employment shall become vacant.

**80.01.030 Commission to employ secretary and other assistants—Secretary's duties—Deputies.** The commission shall appoint and employ a secretary and such accounting, engineering, expert and clerical assistants, and such other qualified assistants as may be necessary to carry on the administrative work of the commission.

The secretary shall be the custodian of the commission's official seal, and shall keep full and accurate minutes of all transactions, proceedings and determinations of the commission and perform such other duties as may be required by the commission.

The commission may deputize one or more of its assistants to perform, in the name of the commission, such duties of the commission as it deems expedient.

**80.01.040 General powers and duties of commission.** The public service commission shall:

(1) Exercise all the powers and perform all the duties prescribed therefor by this title and by Title 81, or by any other law.

(2) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging in the transportation by whatever means of persons or property within this state for compensation, and related activities; including, but not limited to, air transportation companies, auto transportation companies, express companies, freight and freight line companies, motor freight companies, motor transportation agents, private car companies, railway companies, sleeping car companies, steamboat companies, street railway companies, toll bridge companies, storage warehousemen, and wharfingers and warehousemen.

(3) Regulate in the public interest, as provided by the public service laws, the rates, services, facilities, and practices of all persons engaging within this state in the business of supplying any utility service or commodity to the public for compensation, and related activities; including, but not limited to, electrical companies, gas companies, irrigation companies, telegraph companies, telephone companies, and water companies.

(4) Make such rules and regulations as may be necessary to carry out its other powers and duties.

**80.01.050 Quorum—Hearings—Actions deemed those of the commission.** A majority of the commissioners shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the commission, and may hold hearings at any time or place within or without the state. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or any examiner designated and authorized by the commission as provided in RCW 80.01.060. All investigations, inquiries and hearings of the commission, and all findings, orders or decisions, made by a commissioner, when approved and confirmed by the commission and filed in its office, shall be and be deemed to be the orders or decisions of the commission.

**80.01.060 Examiners—Powers.** The commission shall have the power to designate employees of the commission as examiners when it deems such action necessary for its general administration. Such examiners shall have power to administer oaths, to issue subpoenas for the attendance of witnesses and the production of papers, way-bills, books, accounts, documents and testimony, to examine witnesses, and to receive testimony in any inquiry, investigation, hearing or proceeding in any part of the state, under such rules and regulations as the commission may adopt.

**80.01.070 Joint investigations, hearings, orders.** The commission shall have full power to make joint or concurrent investigations, hold joint or concurrent hearings, and issue joint or concurrent orders in conjunction or concurrence with any official, board, or commission of any state or of the United States, whether in the holding of such investigations or hearings or in the making of such orders the commission functions under agreements or compacts between states or under the concurrent power of states to regulate interstate commerce or as an agency of the federal government or otherwise. When necessary the commission may hold such joint hearing or investigation outside the state.

**80.01.080 Public service revolving fund.** The transportation revolving fund and the public utilities revolving fund are abolished as of April 1, 1949, and as of such date there is created in the state treasury a "Public Service Revolving Fund" to which shall be transferred all moneys which then remain on hand to the credit of the transportation revolving fund and the public utilities revolving fund, subject, however, to outstanding warrants and other obligations chargeable to appropriations made from such funds. From and after April 1, 1949, regulatory fees payable by all types of public service companies shall be deposited to the credit of the public service revolving fund. All expense of operation of the Washington public service commission shall be payable out of the public service revolving fund.

**80.01.090 Proceedings public records—Seal—Biennial report.** All proceedings of the commission and all documents and records in its possession shall be public records, and it shall adopt and use an official seal. The commission shall make and submit to the governor and the legislature a biennial report containing a statement of the transactions and proceedings of its office, together with the information gathered by the commission and such other facts, suggestions and recommendations as may be by it deemed necessary.

**80.01.100 Duties of attorney general.** It shall be the duty of the attorney general to represent and appear for the people of

the state of Washington and the commission in all actions and proceedings involving any question under this title or Title 81, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the commission, are enforced, and to that end he is authorized to institute, prosecute and defend all necessary actions and proceedings.

## Chapter 80.04

### REGULATIONS—GENERAL

**80.04.010 Definitions.** As used in this title, unless specifically defined otherwise or unless the context indicates otherwise:

“Commission” means the public service commission.

“Commissioner” means one of the members of such commission.

“Corporation” includes a corporation, company, association or joint stock association.

“Person” includes an individual, a firm or copartnership.

“Gas plant” includes all real estate, fixtures and personal property, owned, leased, controlled, used or to be used for or in connection with the transmission, distribution, sale or furnishing of natural gas, or the manufacture, transmission, distribution, sale or furnishing of other type gas, for light, heat or power.

“Gas company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receiver appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any gas plant within this state.

“Electric plant” includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat, or power for hire; and any conduits, ducts, or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power.

“Electrical company” includes any corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad company generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others), and every city or town owning, operating or managing any electric plant for hire within this state.

“Telephone company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, operating or managing any telephone line or part of telephone line used in the conduct of the business of affording telephonic communication for hire within this state.

“Telephone line” includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated, owned or controlled by any telephone company to facilitate the business of affording telephonic communication.

“Telegraph company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph within this state.

“Telegraph line” includes conduits, poles, wire, cables, cross-arms, instruments, machines, appliances, instrumentalities and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph company to facilitate the business of affording communication by telegraph.

“Water system” includes all real estate, easements, fixtures, personal property, dams, dikes, head gates, weirs, canals, reservoirs, flumes or other structures or appliances operated, owned, used or to be used for or in connection with or to facilitate the supply, storage, distribution, sale, furnishing, diversion, carriage, apportionment or measurement of water for power, irrigation, reclamation, manufacturing, municipal, domestic or other beneficial uses for hire.

“Water company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town owning, controlling, operating, or managing any water system for hire within this state.

“Public service company” includes every gas company, electrical company, telephone company, telegraph company and water company.

The term “service” is used in this title in its broadest and most inclusive sense.

**80.04.020 Procedure before commission and courts.** Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses

and the production of papers, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state.

The superior court of the county in which any such inquiry, investigation, hearing or proceeding may be had, shall have power to compel the attendance of witnesses and the production of papers, books, accounts, documents and testimony as required by such subpoena. The commission or the commissioner before which the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner prescribed in this chapter, and that the fees and mileage of the witness have been paid or tendered to the witness for his attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission, in the cause or proceedings named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before said court at a time and place to be fixed by the court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the commission, the court shall thereupon enter an order that said witness appear before the commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court.

**80.04.030 Number of witnesses may be limited.** In all proceedings before the commission the commission shall have the right, in their discretion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the commission.

**80.04.040 Witness fees and mileage.** Each witness who shall appear under subpoena shall receive for his attendance four dollars per day and ten cents per mile traveled by the nearest practicable route in going to and returning from the place of hearing. No witness shall be entitled to fees or mileage from the state when summoned at the instance of the public service companies affected.

**80.04.050 Protection against self-incrimination.** The claim by any witness that any testimony sought to be elicited may tend to incriminate him shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding, excepting in a prosecution for perjury. The commissioner shall have power to compel the attendance of witnesses at any place within the state.

**80.04.060 Depositions—Service of process.** The commission shall have the right to take the testimony of any witness by deposition, and for that purpose the attendance of witnesses and the production of books, documents, papers and accounts may be enforced in the same manner as in the case of hearings before the commission, or any member thereof. Process issued under the provisions of this chapter shall be served as in civil cases.

**80.04.070 Inspection of books, papers and documents.** The commission and each commissioner, or any person employed by the commission, shall have the right, at any and all times, to inspect the accounts, books, papers and documents of any public service company, and the commission, or any commissioner, may examine under oath any officer, agent or employee of such public service company in relation thereto, and with reference to the affairs of such company: *Provided*, That any person other than a commissioner who shall make any such demand shall produce his authority from the commission to make such inspection.

**80.04.075 Manner of serving papers.** All notices, applications, complaints, findings of fact, opinions and orders required by this title to be served may be served by mail and service thereof shall be deemed complete when a true copy of such paper or document is deposited in the post office properly addressed and stamped.

**80.04.080 Annual reports.** Every public service company shall annually furnish to the commission a report in such form as the commission may require, and shall specifically answer all questions propounded to it by the commission, upon or concerning which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor and the manner of payment for same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts and the interest paid thereon, the cost and value of the company's property, franchises and equipment, the number of employees and the salaries paid each class, the accidents to employees and other persons and the cost thereof, the amounts expended for improvements each year, how expended and the character of such improvements, the earnings or receipts from each franchise or business and from all sources, the propor-



tion thereof earned from business moving wholly within the state and the proportion earned from interstate business, the operating and other expenses and the proportion of such expense incurred in transacting business wholly within the state, and proportion incurred in transacting interstate business, such division to be shown according to such rules of division as the commission may prescribe, the balances of profit and loss, and a complete exhibit of the financial operations of the company each year, including an annual balance sheet. Such report shall also contain such information in relation to rates, charges or regulations concerning charges, or agreements, arrangements or contracts affecting the same, as the commission may require; and the commission may, in its discretion, for the purpose of enabling it the better to carry out the provisions of this title, prescribe the period of time within which all public service companies subject to the provisions of this title shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept. Such detailed report shall contain all the required statistics for the period of twelve months ending on the last day of any particular month prescribed by the commission for any public service company. Such reports shall be made out under oath and filed with the commission at its office in Olympia within three months after the close of the designated year for which such report is made, unless additional time be granted in any case by the commission. The commission shall have authority to require any public service company to file monthly reports of earnings and expenses, and to file periodical or special, or both periodical and special, reports concerning any matter about which the commission is authorized or required by this or any other law, to inquire into or keep itself informed about, or which it is required to enforce, such periodical or special reports to be under oath whenever the commission so requires.

**80.04.090 Forms of records to be prescribed.** The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by public service companies, including the accounts, records and memoranda of the movement of traffic, sales of its product, the receipts and expenditures of money. The commission shall at all times have access to all accounts, records and memoranda kept by public service companies, and may employ special agents or examiners, who shall have power to administer oaths and authority, under the order of the commission, to examine witnesses and to inspect and examine any and all accounts, records and memoranda kept by such companies. The commission may, in its discretion, prescribe the forms of any and all reports, accounts, records and memoranda to be fur-

nished and kept by any public service company whose line or lines extend beyond the limits of this state, which are operated partly within and partly without the state, so that the same shall show any information required by the commission concerning the traffic movement, receipts and expenditures appertaining to those parts of the line within the state.

**80.04.100 Production of out-of-state books and records.** The commission may by order with or without hearing require the production within this state, at such time and place as it may designate, of any books, accounts, papers or records kept by any public service company in any office or place without this state, or at the option of the company verified copies thereof, so that an examination thereof may be made by the commission or under its direction.

**80.04.110 Complaints—Hearings.** Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission: *Provided*, That no complaint shall be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, or telephone company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water or telephone service: *Provided further*, That when two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission shall have power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service

corporations in the locality or localities specified as shall be found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it shall be proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided: *Provided*, All grievances to be inquired into shall be plainly set forth in the complaint. No complaint shall be dismissed because of the absence of direct damage to the complainant.

Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which shall be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission.

**80.04.120 Hearings, order, record.** At the time fixed for the hearing mentioned in RCW 80.04.110, the complainant and the person or corporation complained of shall be entitled to be heard and introduce such evidence as he or it may desire. The commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing the commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the commission, shall be served upon the person or corporation complained of, or his or its attorney, which order shall, of its own force, take effect and become operative twenty days after the service thereof, except as otherwise provided. Where an order cannot, in the judgment of the commission, be complied with within twenty days, the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the commission, and the parties shall be entitled to be heard in

person or by attorney. In case of an action to review any order of the commission, a transcript of such testimony, together with all exhibits introduced, and of the record and proceedings in the cause, shall constitute the record of the commission.

**80.04.130 Suspension of tariff changes.** Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, charge, rental or toll for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company.

**80.04.140 Order requiring joint action.** Whenever any order of the commission shall require joint action by two or more public service companies, such order shall specify that the same shall be made at their joint cost, and the companies affected shall have thirty days, or such further time, as the commission may prescribe, within which to agree upon the part or division of cost which each shall bear, and costs of operation and maintenance in the future, or the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations. If at the expiration of such time such companies shall fail to file with the commission a statement that an agreement has been made for the division or apportionment of such cost, the division of costs of operation and maintenance to be incurred in the future and the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations, the commission shall have authority, after further hearing, to enter a supplemental order fixing the proportion of such cost or expense to be borne by each company, and the manner in which the same shall be paid and secured.

**80.04.150 Remunerative rates cannot be changed without approval.** Whenever the commission shall find, after hearing had upon its own motion or upon complaint as herein provided, that any rate,

toll, rental or charge which has been the subject of complaint and inquiry is sufficiently remunerative to the public service company affected thereby, it may order that such rate, toll, rental or charge shall not be changed, altered, abrogated or discontinued, nor shall there be any change in the classification which will change or alter such rate, toll, rental or charge without first obtaining the consent of the commission authorizing such change to be made.

**80.04.160 Rules and regulations.** The commission is hereby authorized and empowered to adopt, promulgate and issue rules and regulations covering the transmission and delivery of messages and conversations, and the furnishing and supply of gas, electricity and water, and any and all services concerning the same, or connected therewith; and generally such rules as pertain to the comfort and convenience of the public concerning the subjects treated of in this title. Such rules and regulations shall be promulgated and issued by the commission on its own motion, and shall be served on the public service company affected thereby as other orders of the commission are served. Any public service company affected thereby, and deeming such rules and regulations, or any of them, improper, unjust, unreasonable, or contrary to law, may within twenty days from the date of service of such order upon it file objections thereto with the commission, specifying the particular grounds of such objections. The commission shall, upon receipt of such objections, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. The commission shall have, and it is hereby given, power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings: *Provided*, No person desiring to be present at such hearing shall be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of the commission.

**80.04.165 Reconsideration of orders—Review.** After any order has been made by the commission, any public service company affected thereby may apply for a writ of review as provided in RCW 80.04.170, or within ten days after service of the order, file with the commission and serve upon all other parties to the proceeding a petition for reconsideration of said order or any part thereof. The petition shall be in such form as the commission may prescribe and shall set forth specifically the portion or portions on which reconsideration is requested and the grounds and reasons therefor.

If the commission does not grant or deny the petition within ten days from the date of filing, it shall be deemed denied. Application for a writ of review may be made as provided for in RCW 80.04.170, within thirty days after the date of service of the order

denying the petition or if no order of denial is entered within thirty days after the date when the petition shall be deemed denied. Should the commission grant the petition for reconsideration, it shall thereafter take such further proceedings and issue such further order or orders as may be appropriate, and application for a writ of review as provided in RCW 80.04.170, may be made within thirty days after the date of service of the order on reconsideration.

A writ of review applied for within the time provided herein may include for review the original order and all supplemental orders relevant thereto: *Provided*, That an order limited to granting a petition for reconsideration may not be reviewed.

**80.04.170 Review of orders.** Any complainant or any public service company affected by any findings or order of the commission, and deeming such findings or order to be contrary to law, may, within thirty days after the service of the findings or order upon him or it, apply to the superior court of Thurston county for a writ of review, for the purpose of having the reasonableness and lawfulness of such findings or order inquired into and determined. Such writ shall be made returnable not later than thirty days from and after the date of the issuance thereof, unless upon notice to all parties affected further time be allowed by the court, and shall direct the commission to certify its record in the case to the court. Such cause shall be heard by the court without the intervention of a jury on the evidence and exhibits introduced before the commission and certified to by it. Upon such hearing the superior court shall enter judgment either affirming or setting aside or remanding for further action the findings or order of the commission under review. The reasonable cost of preparing the transcript of testimony taken before the commission shall be assessable as part of the statutory court costs, and the amount thereof, if collected by the commission, shall be deposited in the public service revolving fund. In case such findings or order be set aside, or reversed and remanded, the court shall make specific findings based upon evidence in the record indicating clearly all respects in which the commission's findings or order are erroneous.

**80.04.180 Supersedeas.** The pendency of any writ of review shall not of itself stay or suspend the operation of the order of the commission, but the superior court, in its discretion may restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit.

No order so restraining or suspending an order of the commission relating to rates, charges, tolls or rentals, or rules or regulations, practices, classifications or contracts affecting the same, shall be made by the superior court otherwise than upon three days' notice and after hearing, and if a supersedeas is granted the order

granting the same shall contain a specific finding, based upon evidence submitted to the court making the order, and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage.

In case the order of the commission under review is superseded by the court, it shall require a bond, with good and sufficient surety, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums for transmission or service any person or corporation shall be compelled to pay pending the review proceedings in excess of the sum such person or corporations would have been compelled to pay if the order of the commission had not been suspended.

The court may, in addition to or in lieu of the bond herein provided for, require such other or further security for the payment of such excess charges or damages as it may deem proper.

**80.04.190 Appeal to supreme court.** The commission, any public service company or any complainant may, within twenty days after the entry of judgment in the superior court in any action of review, prosecute an appeal to the supreme court of the state of Washington. The appellant shall have fifty days after the entry of such judgment in which to serve and file his opening brief, and the respondent shall have thirty days after the service of such opening brief in which to answer the same. The appellant shall have twenty days after the service of respondent's brief in which to reply to the same. After the filing of such brief, or the expiration of the time for filing briefs, the cause shall be assigned for hearing at the earliest motion day of the court, or at such other time as the court shall fix, and the clerk of the court shall notify the attorneys for the respective parties of the date set for the hearing in time to permit the parties to participate in the hearing. Such appeal shall be taken by giving a notice of appeal in open court at the time of the rendition of judgment, or by the service and filing of a notice of appeal within twenty days from and after the entry of judgment.

The original transcript of the record and testimony filed in the superior court in any action to review an order of the commission, together with a transcript of the proceedings in the superior court, shall constitute the record on appeal to the supreme court.

No appeal shall be effective, when taken by a public service company or a complainant, unless a cost bond on appeal in the sum of two hundred dollars shall be filed within five days after the service of the notice of appeal.

The superior court may, in its discretion, suspend its judgment pending the hearing in the supreme court, upon the filing of a bond, with good and sufficient surety, conditioned as provided for

bonds upon actions for review, or upon such other or further terms and conditions as it may deem proper. The general laws relating to appeals to the supreme court shall, so far as applicable and not in conflict with the provisions of this title, apply to appeals taken under the provisions of this title.

**80.04.200 Rehearing before commission.** Any public service company affected by any order of the commission, and deeming itself aggrieved, may, after the expiration of two years from the date of such order taking effect, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the issuance of such order, or by showing a result injuriously affecting the petitioner which was not considered or anticipated at the former hearing, or that the effect of such order has been such as was not contemplated by the commission or the petitioner, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing. Upon the filing of such petition, such proceedings shall be had thereon as are provided for hearings upon complaint, and such orders may be reviewed as are other orders of the commission: *Provided*, That no order superseding the order of the commission denying such rehearing shall be granted by the court pending the review. In case any order of the commission shall not be reviewed, but shall be complied with by the public service company, such petition for rehearing may be filed within six months from and after the date of the taking effect of such order, and the proceedings thereon shall be as in this section provided. The commission, may, in its discretion, permit the filing of a petition for rehearing at any time. No order of the commission upon a rehearing shall affect any right of action or penalty accruing under the original order unless so ordered by the commission.

**80.04.210 Commission may change orders.** The commission may at any time, upon notice to the public service company affected, and after opportunity to be heard as provided in the case of complaints rescind, alter or amend any order or rule made, issued or promulgated by it, and any order or rule rescinding, altering or amending any prior order or rule shall, when served upon the public service company affected, have the same effect as herein provided for original orders and rules.

**80.04.220 Reparations.** When complaint has been made to the commission concerning the reasonableness of any rate, toll, rental or charge for any service performed by any public service company, and the same has been investigated by the commission, and the



commission has determined that the public service company has charged an excessive or exorbitant amount for such service, and the commission has determined that any party complainant is entitled to an award of damages, the commission shall order that the public service company pay to the complainant the excess amount found to have been charged, whether such excess amount was charged and collected before or after the filing of said complaint, with interest from the date of the collection of said excess amount.

**80.04.230 Overcharges, refund of.** When complaint has been made to the commission that any public service company has charged an amount for any service rendered in excess of the lawful rate in force at the time such charge was made, and the same has been investigated and the commission has determined that the overcharge allegation is true, the commission may order that the public service company pay to the complainant the amount of the overcharge so found, whether such overcharge was made before or after the filing of said complaint, with interest from the date of collection of such overcharge.

**80.04.240 Action in court on reparations and overcharges.** If the public service company does not comply with the order of the commission for the payment of the overcharge within the time limited in such order, suit may be instituted in any superior court where service may be had upon the said company to recover the amount of the overcharge with interest. It shall be the duty of the commission to certify its record in the case, including all exhibits, to the court. Such record shall be filed with the clerk of said court within thirty days after such suit shall have been started and said suit shall be heard on the evidence and exhibits introduced before the commission and certified to by it. If the complainant shall prevail in such action, the superior court shall enter judgment for the amount of the overcharge with interest and shall allow complainant a reasonable attorney's fee, and the cost of preparing and certifying said record for the benefit of and to be paid to the commission by complainant, and deposited by the commission in the public service revolving fund, said sums to be fixed and collected as a part of the costs of the suit. If the order of the commission shall be found to be contrary to law or erroneous by reason of the rejection of testimony properly offered, the court shall remand the cause to the commission with instructions to receive the testimony so proffered and rejected and enter a new order based upon the evidence theretofore taken and such as it is directed to receive. The court may in its discretion remand any cause which is reversed by it to the commission for further action. Appeals to the supreme court shall lie as in other civil cases. All complaints

concerning overcharges resulting from collecting unreasonable rates and charges or from collecting amounts in excess of lawful rates shall be filed with the commission within six months in cases involving the collection of unreasonable rates and two years in cases involving the collection of more than lawful rates from the time the cause of action accrues, and the suit to recover the overcharge shall be filed in the superior court within one year from the date of the order of the commission.

The procedure provided in this section is exclusive, and neither the supreme court nor any superior court shall have jurisdiction save in the manner hereinbefore provided.

**80.04.250 Valuation of public service property.** The commission shall have power upon complaint or upon its own motion to ascertain and determine the fair value for rate making purposes of the property of any public service company used and useful for service in this state and shall exercise such power whenever it shall deem such valuation or determination necessary or proper under any of the provisions of this title.

The commission shall have the power to make revaluations of the property of any public service company from time to time.

The commission shall, before any hearing is had, notify the complainants and the public service company concerned of the time and place of such hearing by giving at least thirty days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of ascertaining the value of the company's property, used and useful as aforesaid, which notice shall be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

**80.04.260 Summary proceedings.** Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for the appropriate relief by way of mandamus or

injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. An appeal may be taken to the supreme court from such final judgment in the same manner and with the same effect as appeals from judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of appeal, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court under the provisions of this section.

**80.04.270 Merchandise accounts to be kept separate.** Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed in such business shall not constitute a part of the fair value of said company's property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company.

**80.04.280 Purchase and sale of stock by employees.** No public service company shall permit any employee to sell, offer for sale, or solicit the purchase of any security of any other person or corporation during such hours as such employee is engaged to perform any duty of such public service company; nor shall any public service company by any means or device require any employee to purchase or contract to purchase any of its securities or those of any other person or corporation; nor shall any public service company require any employee to permit the deduction from his wages or salary of any sum as a payment or to be applied as a payment of any purchase or contract to purchase any security of such public service company or of any other person or corporation.

**80.04.290 Sales of stock to employees and customers.** A corporate public service company, either heretofore or hereafter organized under the laws of this state, may sell to its employees and customers any increase of its capital stock, or part thereof, without first offering it to existing stockholders: *Provided*, That such sale is approved by the holders of a majority of the capital stock, at a regular or special meeting held after notice given as to the time, place, and object thereof as provided by law and the bylaws of the company. Such sales shall be at prices and in amounts for each purchaser and upon terms and conditions as set forth in the resolution passed at the stockholders' meeting, or in a resolution passed at a subsequent meeting of the board of trustees if the resolution passed at the stockholders' meeting shall authorize the board to determine prices, amounts, terms, and conditions, except that in either event, a minimum price for the stock must be fixed in the resolution passed at the stockholders' meeting.

**80.04.300 Budgets to be filed by companies—Supplementary budgets.** The commission may regulate, restrict, and control the budgets of expenditures of public service companies. Each company shall prepare a budget showing the amount of money which, in its judgment, will be needed during the ensuing year for maintenance, operation, and construction, classified by accounts as prescribed by the commission, and shall within ten days of the date it is approved by the company file it with the commission for its investigation and approval or rejection. When a budget has been filed the commission shall examine into and investigate it to determine whether the expenditures therein proposed are fair and reasonable and not contrary to public interest.

Adjustments or additions to budget expenditures may be made from time to time during the year by filing a supplementary budget with the commission for its investigation and approval or rejection.

**80.04.310 Commission's control over expenditures.** The commission may, both as to original and supplementary budgets, prior to the making or contracting for the expenditure of any item therein, and after notice to the company and a hearing thereon, reject any item of the budget. The commission may require any company to furnish further information, data, or detail as to any proposed item of expenditure.

Failure of the commission to object to any item of expenditure within sixty days of the filing of any original budget or within thirty days of the filing of any supplementary budget shall constitute authority to the company to proceed with the making of or contracting for such expenditure, but such authority may be terminated any time by objection made thereto by the commission prior to the making of or contracting for such expenditure.

Examination, investigation, and determination of the budget by the commission shall not bar or estop it from later determining whether any of the expenditures made thereunder are fair, reasonable, and commensurate with the service, material, supplies, or equipment received.

**80.04.320 Budget rules and regulations.** The commission may prescribe the necessary rules and regulations to place RCW 80.04.300 through 80.04.330 in operation. It may, by general order, exempt in whole or in part from the operation thereof companies whose gross operating revenues are less than twenty-five thousand dollars a year. The commission may upon request of any company withhold from publication during such time as the commission may deem advisable any portion of any original or supplementary budget relating to proposed capital expenditures.

**80.04.330 Effect of unauthorized expenditure — Emergencies.** Any public service company may make or contract for any rejected item of expenditure, but in such case the same shall not be allowed as an operating expense, or as to items of construction, as a part of the fair value of the company's property used and useful in serving the public: *Provided*, That such items of construction may at any time thereafter be so allowed in whole or in part upon proof that they are used and useful. Any company may upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot, or insurrection, or for the immediate preservation or restoration to condition of usefulness of any of its property, the usefulness of which has been destroyed by accident, make the necessary expenditure therefor free from the operation of RCW 80.04.300 through 80.04.330.

Any finding and order entered by the commission shall be in effect until vacated and set aside in proper proceedings for review thereof.

**80.04.340 Dividends, control of.** No public service company engaged in intrastate business in this state shall pay any dividend upon its common stock until:

1. The public service company's earnings and earned surplus are sufficient to declare and pay the same after provisions are made for reasonable and proper reserves.

2. The dividend then proposed to be paid upon such common stock can reasonably be paid without impairing the ability of the public service company to perform its duty to render reasonable and adequate service at reasonable rates.

Before any common stock dividend is paid, the public service company shall make application to the commission for approval

thereof, and shall furnish to the commission such information and data relating thereto as the commission shall require.

If the commission finds after notice and an opportunity to be heard that the payment of such dividend will not be in violation of the provisions of this section it shall approve the declaration and payment thereof, otherwise it shall disapprove the same. No such dividend so disapproved shall be paid unless and until the findings and order of the commission with respect thereto, have been vacated and set aside in proper proceeding for review thereof.

If at any time the commission shall find that the capital of any public service company is impaired, it may, after due notice, investigation and hearing, issue an order directing such company to cease paying dividends on its common stock until reasonable proof has been made to the commission that such impairment has been made good, and the status of the public service company has become such that common stock dividends may reasonably and properly be paid in full compliance with this section.

**80.04.350 Depreciation and retirement accounts.** The commission shall have power after hearing to require any or all public service companies to carry proper and adequate depreciation or retirement accounts in accordance with such rules, regulations and forms of accounts as the commission may prescribe. The commission may from time to time ascertain and by order fix the proper and adequate rates of depreciation or retirement of the several classes of property of each public service company. Each public service company shall conform its depreciation or retirement accounts to the rates so prescribed. In fixing the rate of the annual depreciation or retirement charge, the commission may consider the rate and amount theretofore charged by the company for depreciation or retirement.

The commission shall have and exercise like power and authority over all other reserve accounts of public service companies.

**80.04.360 Excessive earnings to reserve fund.** If any public service company earns in the period of five consecutive years immediately preceding the commission order fixing rates for such company a net utility operating income in excess of a reasonable rate of return upon the fair value of its property used and useful in the public service, the commission shall take official notice of such fact and of whether any such excess earnings shall have been invested in such company's plant or otherwise used for purposes beneficial to the consumers of such company and may consider such facts in fixing rates for such company.

**80.04.380 Penalties—Violations by public service companies.** Every public service company, and all officers, agents and employees

of any public service company, shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title, so long as the same shall be and remain in force. Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, direction or requirement of this title shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

**80.04.385** ————**Violations by officers, agents, and employees of public service companies.** Every officer, agent or employee of any public service company, who shall violate or fail to comply with, or who procures, aids or abets any violation by any public service company of any provision of this title, or who shall fail to obey, observe or comply with any order of the commission, or any provision of any order of the commission, or who procures, aids or abets any such public service company in its failure to obey, observe and comply with any such order or provision, shall be guilty of a gross misdemeanor.

**80.04.387** ————**Violations by other corporations.** Every corporation, other than a public service company, which shall violate any provision of this title, or which shall fail to obey, observe or comply with any order of the commission under authority of this title, so long as the same shall be and remain in force, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every such violation shall be a separate and distinct offense, and the penalty shall be recovered in an action as provided in RCW 80.04.400.

**80.04.390** ————**Violations by persons.** Every person who, either individually, or acting as an officer or agent of a corporation other than a public service company, shall violate any provision of this title, or fail to observe, obey or comply with any order made by the commission under this title, so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this title, or in its failure to obey, observe or comply with any such order, shall be guilty of a gross misdemeanor.

**80.04.400** **Actions to recover penalties.** Actions to recover penalties under this title shall be brought in the name of the state of Washington in the superior court of Thurston county, or in the

superior court of any county in or through which such public service company may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this title shall be paid into the treasury of the state and credited to the state general fund or such other fund as provided by law.

**80.04.410 Orders and rules conclusive.** In all actions between private parties and public service companies involving any rule or order of the commission, and in all actions for the recovery of penalties provided for in this title, or for the enforcement of the orders or rules issued and promulgated by the commission, the said orders and rules shall be conclusive unless set aside or annulled in a review as in this title provided.

**80.04.420 Intervention by commission where order or rule is involved.** In all court actions involving any rule or order of the commission, where the commission has not been made a party, the commission shall be served with a copy of all pleadings, and shall be entitled to intervene. Where the fact that the action involves a rule or order of the commission does not appear until the time of trial, the court shall immediately direct the clerk to notify the commission of the pendency of such action, and shall permit the commission to intervene in such action.

The failure to comply with the provisions of this section shall render void and of no effect any judgment in such action, where the effect of such judgment is to modify or nullify any rule or order of the commission.

**80.04.430 Findings of commission prima facie correct.** Whenever the commission has issued or promulgated any order or rule, in any writ of review brought by a public service company to determine the reasonableness of such order or rule, the findings of fact made by the commission shall be prima facie correct, and the burden shall be upon said public service company to establish the order or rule to be unreasonable or unlawful.

**80.04.440 Companies liable for damages.** In case any public service company shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by any law of this state, by this title or by any order or rule of the commission, such public service company shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery if the court shall find that such act or omission was wilful, it may, in its discretion, fix a reasonable counsel or at-



torney's fee, which shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation.

**80.04.450 Certified copies of orders, rules, etc.—Evidentiary effect.** Upon application of any person the commission shall furnish certified copies of any classification, rate, rule, regulation or order established by such commission, and the printed copies published by authority of the commission, or any certified copy of any such classification, rate, rule, regulation or order, with seal affixed, shall be admissible in evidence in any action or proceeding, and shall be sufficient to establish the fact that the charge, rate, rule, order or classification therein contained is the official act of the commission. When copies of any classification, rate, rule, regulation or order not contained in the printed reports, or copies of papers, accounts or records of public service companies filed with the commission shall be demanded from the commission for proper use, the commission shall charge a reasonable compensation therefor.

**80.04.460 Investigation of accidents.** Every public service company shall give immediate notice to the commission of every accident resulting in death or injury to any person occurring in its plant or system, in such manner as the commission may prescribe. Such notice shall not be admitted as evidence or used for any purpose against the company giving it in any action for damages growing out of any matter mentioned in the notice.

The commission may investigate any accident resulting in death or injury to any person occurring in connection with the plant or system of any public service company. Notice of the investigation shall be given in all cases for a sufficient length of time to enable the company affected to participate in the hearing and may be given orally or in writing, in such manner as the commission may prescribe.

Such witnesses may be examined as the commission deems necessary and proper to thoroughly ascertain the cause of the accident and fix the responsibility therefor. The examination and investigation may be conducted by an inspector or deputy inspector, and they may administer oaths, issue subpoenas, and compel the attendance of witnesses, and when the examination is conducted by an inspector or deputy inspector, he shall make a full and complete report thereof to the commission.

**80.04.470 Commission to enforce public service laws.** It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies,

the enforcement of which is not specifically vested in some other officer or tribunal.

Note: See also section 1, chapter 173, Laws of 1961.

**80.04.480 Rights of action not released—Penalties cumulative.** This title shall not have the effect to release or waive any right of action by the state or any person for any right, penalty or forfeiture which may have arisen or may hereafter arise under any law of this state; and all penalties accruing under this title shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to the recovery of any other.

**80.04.500 Application to municipal utilities.** Nothing in this title shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the safety, adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any telephone line, gas plant, electrical plant or water system owned and operated by any city or town, but all other provisions enumerated herein shall apply to public utilities owned by any city or town.

**80.04.510 Duties of attorney general.** It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are complied with, and that all laws, the enforcement of which devolves upon the commission, are enforced, and to that end he is authorized to institute, prosecute and defend all necessary actions and proceedings.

## Chapter 80.08

### SECURITIES

**80.08.010 Definition.** The term "public service company", as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the public service commission under the provisions of this title.

**80.08.020 Control vested in state.** The power of public service companies to issue stocks and stock certificates or other evidence of interest or ownership, and bonds, notes and other evidences of indebtedness and to create liens on their property situated within

this state is a special privilege, the right of supervision, regulation, restriction, and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe.

**80.08.030 Authority to issue.** A public service company may issue stock and stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness payable on demand or at periods of more than twelve months after the date thereof, for the following purposes only: The acquisition of property, or the construction, completion, extension, or improvement of its facilities, or the improvement or maintenance of its service, or the issuance of stock dividends, or the discharge or refunding of its obligations, or the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the company not secured by or obtained from the issue of stock or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness of the company for any of the aforesaid purposes except maintenance of service, in cases where the applicant keeps its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of money so expended and the purpose for which the expenditure was made.

**80.08.040 Application for authority—Hearing—Joint action.** Application for authorization to issue such stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness shall be made to the commission stating the amount, character, terms and purpose of each proposed issue thereof, and stating such other pertinent details as the commission may require.

To enable it to determine whether it will issue such order, the commission may hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts, and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issuance of such stocks or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary.

If a commission or other agency or agencies is empowered by another state to regulate and control the amount and character of securities to be issued by any public service company within such other state, then the commission shall have the power to agree with

such commission or other agency or agencies of such other state on the issuance of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness by a public service company owning or operating a public utility both in such state and in this state, and shall have the power to approve such issue jointly with such commission or other agency or agencies and to issue a joint certificate of such approval: *Provided, however,* That no such joint approval shall be required in order to express the consent to and approval of such issue by the state of Washington if said issue is separately approved by the commission.

The public service company making the application may have the decision or order of the commission reviewed in the courts in the same manner and by the same procedure as any other order or decision of the commission, when the public service company shall deem such decision or order to be in any respect or manner improper, unjust or unreasonable.

**80.08.050 Use of proceeds limited.** No public service company shall, without the consent of the commission, apply the issue of any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, or any part thereof, or any proceeds thereof, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof.

**80.08.060 Short term notes excepted.** A public service company may issue notes, except demand notes, for proper purposes and not in violation of any provision of this chapter, or any other law, payable at periods of not more than twelve months after the date of issuance, without the consent of the commission, but no such note shall, in whole or in part, be refunded by any issue of stock or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness, without the consent of the commission: *Provided,* That the consent of the commission shall be required for the issuance of any note or notes issued as part of a single borrowing transaction of one million dollars or more payable at periods of less than twelve months after date of issuance by any public service company which is subject to the Federal Power Act unless such note or notes aggregates together with all other then outstanding notes and drafts of a maturity of twelve months or less on which such public service company is primarily or secondarily liable not more than five percent of the par value of other securities of such company then outstanding, computed, in the case of securi-

ties having no par value, on the basis of the fair market value as of the date of issue.

**80.08.070 Fee schedule.** Each public service company making application to the commission for authority to issue stock and stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness, shall pay to the commission the following fees: For each order authorizing an issue of bonds, notes or other evidence of indebtedness, one dollar for each one thousand dollars of the principal amount of the authorized issue or fraction thereof up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and ten cents for each one thousand dollars over ten million dollars, with a minimum fee in any case of ten dollars; for each order authorizing an issue of stock, stock certificates, or other evidence of interest or ownership, one dollar for each one thousand dollars of the par or stated value of the authorized issue or fraction thereof up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and ten cents for each one thousand dollars over ten million dollars, with a minimum fee in any case of ten dollars: *Provided*, That only twenty-five percent of the specified fees need be paid on any issue or on such portion thereof as may be used to guarantee, take over, refund, or discharge any stock issue or stock certificates, bonds, notes, or other evidence of interest, ownership, or indebtedness on which a fee has theretofore been paid: *Provided further*, That if the property of the public utility subject to the provisions of this title, proposing to issue such securities shall be located in part in the state of Washington and in part in some other state or states, the fees payable to the public service commission of Washington under this section shall be computed only on such amount of such securities as shall bear the same proportion to the total amount so authorized, as the book value of such property located within the state of Washington shall bear to the total book value of the property of such public utility proposing to issue such securities; for the purpose of computing such fees the book value of the property shall be determined as of the close of business of the last quarter preceding the application: *And provided further*, That if the commission modifies the amount of the issues requested and the applicant elects not to avail itself of the authorization, no fee need be paid. All fees collected under this section shall be paid at least once each month to the state treasurer and deposited in the public service revolving fund.

**80.08.080 Capitalization of franchises or merger contracts prohibited.** The commission shall have no power to authorize the capi-

talization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit, in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right; nor shall any contract for consolidation or lease be capitalized, nor shall any public service company hereafter issue any bonds, notes or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

**80.08.090 Accounting for disposition of proceeds.** The commission shall have the power to require public service companies to account for the disposition of the proceeds of all sales of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes and other evidences of indebtedness, in such form and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

**80.08.100 Unauthorized and nonconforming issues void.** All stock and every stock certificate or other evidence of interest or ownership, and every bond, note or other evidence of indebtedness, of a public service company, issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate or other evidence of interest or ownership, and every bond, note or other evidence of indebtedness, of a public service company, issued with the authorization of the commission, but not conforming in substance in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission and no defect in, or in connection with the application for or issuance of, such order shall render void any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice.

**80.08.105 ———Issues after effective date of chapter 151, Laws of 1933 based upon corporate authority prior to said date.** All stocks and stock certificates or other evidence of interest or ownership, and bonds, notes and other evidences of indebtedness issued by any public service company after chapter 151, Laws of 1933 takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had,

or other proceedings taken or had, previous to the taking effect of chapter 151, Laws of 1933, shall be void, unless an order of the department authorizing the issuance of such stock or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness shall have been obtained from the department prior to such issue; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the department and no defect in, or in connection with the application for or issuance of, such order shall render void any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice. The department may by its order impose such condition or conditions as it may deem reasonable and necessary.

For the purposes of this section "department" shall mean the department of public works or such body as shall have succeeded to the powers and duties thereof.

**80.08.110 Penalty against companies.** Every public service company which, directly or indirectly, issues or causes to be issued, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, in nonconformity with the order of the commission authorizing the same, or contrary to the provisions of this chapter, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order, as herein provided or to any purpose specified in the commission's order in excess of the amount in said order authorized for such purpose shall be subject to a penalty of not more than one thousand dollars for each offense. Every violation of any such order, rules, direction, demand or requirement of the commission, or of any provision of this chapter, shall be a separate and distinct offense and in case of a continuing violation every day's continuance thereof shall be deemed to be a separate and distinct offense.

The act, omission or failure of any officer, agent or employee of any public service company acting within the scope of his official duties or employment, shall in every case be deemed to be the act, omission or failure of such public service company.

**80.08.120 Penalty against individuals.** Every officer, agent or employee of a public service company, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, in nonconformity with the order of the commission authorizing the same, or contrary to the provisions of this chapter,

or who, in any proceedings before the commission, knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issuance of any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission in any proceedings tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this chapter, negotiates, or causes the same to be negotiated, shall be guilty of a gross misdemeanor.

**80.08.130 Permit to assume liability as guarantor, etc.** No public service company shall henceforth assume any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than twelve months after the date thereof, without having first secured from the commission an order authorizing it so to do. Every such assumption made other than in accordance with the order of the commission authorizing the same shall be void.

**80.08.140 State not obligated.** No provision of this chapter, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Washington to pay or guarantee, in any manner whatsoever, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this chapter.



**Chapter 80.12****TRANSFERS OF PROPERTY**

**80.12.010 Definition.** The term "public service company," as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the public service commission under the provisions of this title.

**80.12.020 Order required to sell, merge, etc.** No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it so to do: *Provided*, That this section shall not apply to any sale, lease, assignment or other disposal of such franchises, properties or facilities to a public utility district.

**80.12.030 Disposal without authorization void.** Any such sale, lease, assignment, or other disposition, merger or consolidation made without authority of the commission shall be void.

**80.12.040 Authority required to acquire property or securities of utility.** No public service company shall, directly or indirectly, purchase, acquire, or become the owner of any of the franchises, properties, facilities, capital stocks or bonds of any other public service company unless authorized so to do by the commission. Nothing contained in this chapter shall prevent the holding of stocks or other securities heretofore lawfully acquired or prohibit, upon the surrender or exchange of said stocks or other securities pursuant to a reorganization plan, the purchase, acquisition, taking or holding by the owner of a proportionate amount of the stocks or other securities of any new corporation organized to take over at foreclosure or other sale, the property of the corporation the stocks or securities of which have been thus surrendered or exchanged. Any contract by any public service company for the purchase, acquisition, assignment or transfer to it of any of the stocks or other securities of any other public service company, directly or indirectly, without the approval of the commission shall be void and of no effect.

**80.12.050 Rules and regulations.** The commission shall have power to promulgate rules and regulations to make effective the provisions of this chapter.

**80.12.060 Penalty.** The provisions of RCW 80.04.380 and 80.04.385 as to penalties shall be applicable to public service companies, their officers, agents and employees failing to comply with the provisions of this chapter.

## Chapter 80.16

### AFFILIATED INTERESTS

**80.16.010 Definitions.** As used in this chapter the term "public service company" shall include every corporation engaged in business as a public utility and subject to regulation as to rates and service by the public service commission under the provisions of this title.

As used in this chapter, the term "affiliated interest" means:

Every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of any public service company engaged in any intrastate business in this state;

Every corporation and person, other than those above specified, in any chain of successive ownership of five percent or more of voting securities, the chain beginning with the holder of the voting securities of such public service company;

Every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such public service company or by any person or corporation in any such chain of successive ownership of five percent or more of voting securities;

Every corporation or person with which the public service company has a management or service contract; and

Every person who is an officer or director of such public service company or of any corporation in any chain of successive ownership of five percent or more of voting securities.

**80.16.020 Dealings with affiliated interests must be approved.** No contract or arrangement providing for the furnishing of management, supervisory construction, engineering, accounting, legal, financial or similar services, and no contract or arrangement for the purchase, sale, lease or exchange of any property, right, or thing, or for the furnishing of any service, property, right, or thing, other than those above enumerated, hereafter made or entered into between a public service company and any affiliated interest as defined in this chapter, including open account advances from or to such affiliated interests, shall be valid or effective unless and until such contract or arrangement shall have received the approval of the commission. It shall be the duty of every public service company to file with the commission, a verified copy or a verified summary of any such unwritten contract or arrangement, and also of all such

contracts and arrangements, whether written or unwritten, entered into prior to March 18, 1933 and in force and effect at that time. The commission shall approve such contract or arrangement hereafter made or entered into only if it shall clearly appear and be established upon investigation that it is reasonable and consistent with the public interest; otherwise the contract or arrangement shall not be approved. The commission shall not be required to approve any such contract or arrangement unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service described herein.

**80.16.030 Payments to affiliated interest disallowed if not reasonable.** In any proceeding, whether upon the commission's own motion or upon complaint, involving the rates or practices of any public service company, the commission may exclude from the accounts of such public service company any payment or compensation to an affiliated interest for any services rendered or property or service furnished, as above described, under existing contracts or arrangements with such affiliated interest unless such public service company shall establish the reasonableness of such payment or compensation. In such proceeding the commission shall disallow such payment or compensation, in whole or in part, in the absence of satisfactory proof that it is reasonable in amount. In such proceeding any payment or compensation may be disapproved or disallowed by the commission, in whole or in part, unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the service or furnishing the property or service above described.

**80.16.040 Satisfactory proof, what constitutes.** No proof shall be satisfactory, within the meaning of RCW 80.16.010 through 80.16.030, unless it includes the original (or verified copies) of the relevant cost records and other relevant accounts of the affiliated interest, or such abstract thereof or summary taken therefrom, as the commission may deem adequate, properly identified and duly authenticated: *Provided, however,* That the commission may, where reasonable, approve or disapprove such contracts or arrangements without the submission of such cost records or accounts.

**80.16.050 Commission's control is continuing.** The commission shall have continuing supervisory control over the terms and conditions of such contracts and arrangements as are herein described so far as necessary to protect and promote the public interest. The commission shall have the same jurisdiction over the modifications or amendment of contracts or arrangements as are herein described as it has over such original contracts or arrangements. The fact that the commission shall have approved entry into such contracts or

arrangements as described herein shall not preclude disallowance or disapproval of payments made pursuant thereto, if upon actual experience under such contract or arrangement, it appears that the payments provided for or made were or are unreasonable. Every order of the commission approving any such contract or arrangement shall be expressly conditioned upon the reserved power of the commission to revise and amend the terms and conditions thereof, if, when and as necessary to protect and promote the public interest.

**80.16.060 Summary order on nonapproved payments.** Whenever the commission shall find upon investigation that any public service company is giving effect to any such contract or arrangement without such contract or arrangement having received the commission's approval, the commission may issue a summary order prohibiting the public service company from treating any payments made under the terms of such contract or arrangement as operating expenses or as capital expenditures for rate or valuation purposes, unless and until such payments shall have received the approval of the commission.

**80.16.070 Summary order on payments after disallowance.** Whenever the commission shall find upon investigation that any public service company is making payments to an affiliated interest, although such payments have been disallowed and disapproved by the commission in a proceeding involving the public service company's rates or practices, the commission shall issue a summary order directing the public service company from treating such payments as operating expenses or capital expenditures for rate or valuation purposes, unless and until such payments shall have received the approval of the commission.

**80.16.080 Court action to enforce orders.** The superior court of Thurston county is authorized to enforce such orders to cease and desist by appropriate process, including the issuance of a preliminary injunction, upon the suit of the commission.

**80.16.090 Review of orders.** Any public service company or affiliated interest deeming any decision or order of the commission to be in any respect or manner improper, unjust or unreasonable may have the same reviewed in the courts in the same manner and by the same procedure as is now provided by law for review of any other order or decision of the commission.

## Chapter 80.20

### INVESTIGATION OF PUBLIC SERVICE COMPANIES

**80.20.010 Definition.** As used in this chapter, the term "public service company" means any person, firm, association, or corpora-

tion, whether public or private, operating a utility or public service enterprise subject in any respect to regulation by the commission under the provisions of this title.

**80.20.020 Cost of investigation may be assessed against company.**

Whenever the commission in any proceeding upon its own motion or upon complaint shall deem it necessary in order to carry out the duties imposed upon it by law to investigate the books, accounts, practices and activities of, or make any valuation or appraisal of the property of any public service company, or to investigate or appraise any phase of its operations, or to render any engineering or accounting service to or in connection with any public service company, and the cost thereof to the commission exceeds in amount the ordinary regulatory fees paid by such public service company during the preceding calendar year or estimated to be paid during the current year, whichever is more, such public service company shall pay the expenses reasonably attributable and allocable to such investigation, valuation, appraisal or services. The commission shall ascertain such expenses, and, after giving notice and an opportunity to be heard, shall render a bill therefor by registered mail to the public service company, either at the conclusion of the investigation, valuation, appraisal or services, or from time to time during its progress. Within thirty days after a bill has been mailed such public service company shall pay to the commission the amount of the bill, and the commission shall transmit such payment to the state treasurer who shall credit it to the public service revolving fund. The total amount which any public service company shall be required to pay under the provisions of this section in any calendar year shall not exceed one percent of the gross operating revenues derived by such public service company from its intrastate operations during the last preceding calendar year. If such company did not operate during all of the preceding year the calculations shall be based upon estimated gross revenues for the current year.

**80.20.030 Interest on unpaid assessment — Action to collect.**

Amounts so assessed against any public service company not paid within thirty days after mailing of the bill therefor, shall draw interest at the rate of six percent per annum from the date of mailing of the bill. Upon failure of the public service company to pay the bill, the attorney general shall proceed in the name of the state by civil action in the superior court for Thurston county against such public service company to collect the amount due, together with interest and costs of suit.

**80.20.040 Commission's determination of necessity as evidence.**

In such action the commission's determination of the necessity of

the investigation, valuation, appraisal or services shall be conclusive evidence of such necessity, and its findings and determination of facts expressed in bills rendered pursuant to RCW 80.20.020 through 80.20.060 or in any proceedings determinative of such bills shall be prima facie evidence of such facts.

**80.20.050 Order of commission not subject to review.** In view of the civil action provided for in RCW 80.20.020 through 80.20.060 any order made by the commission in determining the amount of such bill shall not be reviewable in court, but the mere absence of such right of review shall not prejudice the rights of defendants in the civil action.

**80.20.060 Limitation on frequency of investigation.** Expenses of a complete valuation, rate and service investigation shall not be assessed against a public service company under this chapter if such company shall have been subjected to and paid the expenses of a complete valuation, rate and service investigation during the preceding five years, unless the properties or operations of the company have materially changed or there has been a substantial change in its value for rate making purposes or in other circumstances and conditions affecting rates and services.

## Chapter 80.24

### REGULATORY FEES

**80.24.010 Companies to file reports of gross revenue and pay fees.** Every public service company subject to regulation by the commission shall, on or before the first day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year or portion thereof and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars: *Provided*, That the fee shall in no case be less than one dollar.

The percentage rates of gross operating revenue to be paid in any year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows:

Electrical, gas, water, telephone, telegraph, and irrigation companies shall constitute class one. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

**80.24.020 Fees to approximate reasonable cost of regulation.** In fixing the percentage rates of gross operating revenue to be paid in any year, the commission shall consider all moneys then in the public service revolving fund and the fees currently to be paid into such fund, to the end that the fees collected from the several classes of companies shall be approximately the same as the reasonable cost of supervising and regulating such classes of companies.

**80.24.030 Intent of legislature—Regulatory cost records to be kept by commission.** It is the intent and purpose of the legislature that the several groups of public service companies shall each contribute sufficient in fees to the commission to pay the reasonable cost of regulating the several groups respectively. The commission shall keep accurate records of the costs incurred in regulating and supervising the several groups of companies subject to regulation or supervision and such records shall be open to inspection by all interested parties. The records and data upon which the commission's determination is made shall be considered prima facie correct in any proceeding instituted to challenge the reasonableness or correctness of any order of the commission fixing fees and distributing regulatory expenses.

**80.24.040 Disposition of fees.** All moneys collected under the provisions of this chapter shall within thirty days be paid to the state treasurer and by him deposited to the public service revolving fund.

**80.24.050 Penalty for failure to pay fees.** Every person, firm, company or corporation, or the officers, agents or employees thereof, failing or neglecting to pay the fees herein required shall be guilty of a misdemeanor, and in addition thereto shall be subject to a penalty of twenty-five dollars for each and every day that the fee remains unpaid after it becomes due, said penalty to be collected by the commission in a civil action. All fines and penalties collected under the provisions of this chapter shall be deposited into the public service revolving fund of the state treasury.

## Chapter 80.28

### GAS, ELECTRICAL AND WATER COMPANIES

**80.28.010 Duties as to rates, services and facilities.** All charges made, demanded or received by any gas company, electrical company or water company for gas, electricity or water, or for any service rendered or to be rendered in connection therewith, shall be just, fair, reasonable and sufficient.

Every gas company, electrical company and water company shall furnish and supply such service, instrumentalities and facilities as

shall be safe, adequate and efficient, and in all respects just and reasonable.

All rules and regulations issued by any gas company, electrical company or water company, affecting or pertaining to the sale or distribution of its product, shall be just and reasonable.

Every gas company, electrical company and water company shall construct and maintain such facilities in connection with the manufacture and distribution of its product as will be efficient and safe to its employees and the public.

**80.28.020 Commission to fix just, reasonable and compensatory rates.** Whenever the commission shall find, after a hearing had upon its own motion, or upon complaint, that the rates or charges demanded, exacted, charged or collected by any gas company, electrical company or water company, for gas, electricity or water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of the law, or that such rates or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable, or sufficient rates, charges, regulations, practices or contracts to be thereafter observed and in force, and shall fix the same by order.

**80.28.030 Commission may order improved quality of commodity.** Whenever the commission shall find, after such hearing, that the illuminating or heating power, purity or pressure of gas, the efficiency of electric lamp supply, the voltage of the current supplied for light, heat or power, or the purity, volume and pressure of water, supplied by any gas company, electrical company or water company, as the case may be, is insufficient, impure, inadequate or inefficient, it shall order such improvement in the manufacture, distribution or supply of gas, in the manufacture, transmission or supply of electricity, or in the storage, distribution or supply of water, or in the methods employed by such gas company, electrical company or water company, as will in its judgment be efficient, adequate, just and reasonable.

**80.28.040 Commission may order improved service.** Whenever the commission shall find, after hearing, that any rules, regulations, measurements or the standard thereof, practices, acts or services of any such gas company, electrical company or water company are unjust, unreasonable, improper, insufficient, inefficient or inadequate, or that any service which may be reasonably demanded is not furnished, the commission shall fix the reasonable rules, regulations, measurements or the standard thereof, practices, acts



or service to be thereafter furnished, imposed, observed and followed, and shall fix the same by order or rule.

**80.28.050 Tariff schedules to be filed with commission—Public schedules.** Every gas company, electrical company and water company shall file with the commission and shall print and keep open to public inspection schedules in such form as the commission may prescribe, showing all rates and charges made, established or enforced, or to be charged or enforced, all forms of contract or agreement, all rules and regulations relating to rates, charges or service, used or to be used, and all general privileges and facilities granted or allowed by such gas company, electrical company or water company.

**80.28.060 Tariff changes—Statutory notice—Exception.** Unless the commission otherwise orders, no change shall be made in any rate or charge or in any form of contract or agreement or in any rule or regulation relating to any rate, charge or service, or in any general privilege or facility which shall have been filed and published by a gas company, electrical company or water company in compliance with the requirements of RCW 80.28.050 except after thirty days' notice to the commission and publication for thirty days, which notice shall plainly state the changes proposed to be made in the schedule then in force and the time when the change will go into effect and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission, for good cause shown, may allow changes without requiring the thirty days' notice by duly filing, in such manner as it may direct, an order specifying the changes so to be made and the time when it shall take effect. All such changes shall be immediately indicated upon its schedules by the company affected. When any change is made in any rate or charge, form of contract or agreement, or any rule or regulation relating to any rate or charge or service, or in any general privilege or facility, the effect of which is to increase any rate or charge, then in existence, attention shall be directed on the copy filed with the commission to such increase by some character immediately preceding or following the item in such schedule, such character to be in form as designated by the commission.

**80.28.070 Sliding scale of charges permitted.** Nothing in this chapter shall be taken to prohibit a gas company, electrical company or water company from establishing a sliding scale of charges, whereby a greater charge is made per unit for a lesser than a greater quantity for gas, electricity or water, or any service rendered or to be rendered.

**80.28.080 Published rates to be charged—Exceptions.** No gas company, electrical company or water company shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges applicable to such service as specified in its schedule filed and in effect at the time, nor shall any such company directly or indirectly refund or remit in any manner or by any device any portion of the rates or charges so specified, or furnish its product at free or reduced rates except to its employees and their families, and its officers, attorneys, and agents; to hospitals, charitable and eleemosynary institutions and persons engaged in charitable and eleemosynary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes: *Provided*, That the term "employees" as used in this paragraph shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of any such company; and the term "families," as used in this paragraph, shall include the families of those persons named in this proviso, the families of persons killed or dying in the service, also the families of persons killed, and the widows during widowhood, and the minor children during minority of persons who died while in the service of any of the companies named in this paragraph: *And provided, further*, That water companies may furnish free or at reduced rates water for the use of the state, or for any project in which the state is interested.

No gas company, electrical company or water company shall extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are regularly and uniformly extended to all persons and corporations under like circumstances.

**80.28.090 Unreasonable preferences prohibited.** No gas company, electrical company or water company shall make or grant any undue or unreasonable preference or advantage to any person, corporation, or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

**80.28.100 Rate discrimination prohibited—Exception.** No gas company, electrical company or water company shall, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas, electricity or water, or for any service rendered or to be rendered, or in connection therewith, except as authorized in this chapter, than it

charges, demands, collects or receives from any other person or corporation for doing a like or contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

**80.28.110 Service to be furnished on reasonable notice.** Every gas company, electrical company or water company, engaged in the sale and distribution of gas, electricity or water, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity and water as demanded.

**80.28.120 Effect on existing contracts.** Every gas, water or electrical company owning, operating or managing a plant or system for the distribution and sale of gas, water or electricity to the public for hire shall be and be held to be a public service company as to such plant or system and as to all gas, water or electricity distributed or furnished therefrom, whether such gas, water or electricity be sold wholesale or retail or be distributed wholly to the general public or in part as surplus gas, water or electricity to manufacturing or industrial concerns or to other public service companies or municipalities for redistribution. Nothing in this title shall be construed to prevent any gas company, electrical company or water company from continuing to furnish its product or the use of its lines, equipment or service under any contract or contracts in force on June 7, 1911, at the rates fixed in such contract or contracts: *Provided*, That the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the company party thereto and thereupon such contract or contracts shall be terminated by such company as and when directed by such order.

**80.28.130 Repairs, improvements, changes, additions or extensions may be directed.** Whenever the commission shall find, after hearing had upon its own motion or upon complaint, that repairs or improvements, to, or changes in, any gas plant, electrical plant or water system ought to be made, or that any additions or extensions should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for manufacturing, distributing or supplying gas, electricity or water, the commission may enter an order directing that such reasonable repairs, improvements, changes, additions or extensions of such gas plant, electrical plant or water system be made.

**80.28.140 Inspection of gas and water meters.** The commission may appoint inspectors of gas and water meters whose duty it shall

be when required by the commission to inspect, examine, prove and ascertain the accuracy of any and all gas and water meters used or intended to be used for measuring or ascertaining the quantity of gas for light, heat or power, or the quantity of water furnished for any purpose by any public service company to or for the use of any person or corporation, and when found to be or made to be correct such inspectors shall seal all such meters and each of them with some suitable device to be prescribed by the commission.

No public service company shall thereafter furnish, set or put in use any gas or water meter which shall not have been inspected, proved and sealed by an inspector of the commission under such rules and regulations as the commission may prescribe.

**80.28.150 Inspection of electric meters.** The commission may appoint inspectors of electric meters whose duty it shall be when required by the commission to inspect, examine, prove and ascertain the accuracy of any and all electric meters used or intended to be used for measuring and ascertaining the quantity of electric current furnished for light, heat or power by any public service company to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device to be prescribed by the commission. No public service company shall furnish, set or put in use any electric meters the type of which shall not have been approved by the commission.

**80.28.160 Testing apparatus to be furnished.** Every gas company, electrical company and water company shall prepare and maintain such suitable premises, apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of gas, electric or water meters furnished for use by it by which apparatus every meter may be tested.

**80.28.170 Testing at consumer's request.** If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested, and if the same, on being so tested, shall be found to be more than four percent if an electric meter, or more than two percent if a gas meter, or more than two percent if a water meter, defective or incorrect to the prejudice of the consumer, the expense of such inspection and test shall be borne by the gas company, electrical company or water company, and if the same, on being so tested shall be found to be correct within the limits of error prescribed by the provisions of this section, the expense of such inspection and test shall be borne by the consumer.

**80.28.180 Rules and regulations.** The commission shall prescribe such rules and regulations to carry into effect the provisions of RCW 80.28.140 through 80.28.170 as it may deem necessary, and shall fix the uniform and reasonable charges for the inspection and testing of meters upon complaint.

**80.28.190 Gas companies—Certificate—Violations—Commission powers—Penalty—Fees.** No gas company shall, after January 1, 1956, operate in this state any gas plant for hire without first having obtained from the commission under the provisions of this chapter a certificate declaring that public convenience and necessity requires or will require such operation and setting forth the area or areas within which service is to be rendered; but a certificate shall be granted where it appears to the satisfaction of the commission that such gas company was actually operating in good faith, within the confines of the area for which such certificate shall be sought, on June 8, 1955. Any right, privilege, certificate held, owned or obtained by a gas company may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the commission. The commission shall have power, after hearing, when the applicant requests a certificate to render service in an area already served by a certificate holder under this chapter only when the existing gas company or companies serving such area will not provide the same to the satisfaction of the commission and in all other cases, with or without hearing, to issue said certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require.

The commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proven that such holder wilfully violates or refuses to observe any of its proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of this section, but the holder of such certificate shall have all the rights of rehearing, review and appeal as to such order of the commission as is provided herein.

In all respects in which the commission has power and authority under this chapter applications and complaints may be made and filed with it, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review to the superior court filed therewith, appeals or mandate filed with the supreme court of this state considered and disposed of by said courts in the manner, under

the conditions, and subject to the limitations and with the effect specified in the public service commission laws of this state.

Every officer, agent, or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any of the provisions of this section or who fails to obey, observe or comply with any order, decision, rule or regulation, directive, demand or requirements, or any provision of this section, is guilty of a gross misdemeanor and punishable as such.

Neither this section, RCW 80.28.200, 80.28.210, nor any provisions thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union except insofar as the same may be permitted under the provisions of the Constitution of the United States and acts of congress.

The commission shall collect the following miscellaneous fees from gas companies: Application for a certificate of public convenience and necessity or to amend a certificate, twenty-five dollars; application to sell, lease, mortgage or transfer a certificate of public convenience and necessity or any interest therein, ten dollars.

**80.28.200 Gas companies—Refunds of charges.** Whenever any gas company whose rates are subject to the jurisdiction of the commission shall receive any refund of amounts charged and collected from it on account of natural gas purchased by it, by reason of any reduction of rates or disallowance of an increase in rates of the seller of such natural gas pursuant to an order of the federal power commission, whether such refund shall be directed by the federal power commission or by any court upon review of such an order or shall otherwise accrue to such company, the commission shall have power after a hearing, upon its own motion, upon complaint, or upon the application of such company, to determine whether or not such refund should be passed on, in whole or in part, to the consumers of such company and to order such company to pass such refund on to its consumers, in the manner and to the extent determined just and reasonable by the commission.

**80.28.210 Safety rules—Pipeline transporters—Penalty.** Every person or corporation, except a city or town, transporting natural gas by pipeline, or having for one or more of its principal purposes the construction, maintenance or operation of pipelines for transporting natural gas, in this state, even though such person or corporation not be a public service company under chapter 80.28, and even though such person or corporation does not deliver, sell or furnish any such gas to any person or corporation within this state, shall be subject to regulation by the public service commission insofar as the construction and operation of such facilities shall affect matters of public safety, and every such company shall con-

struct and maintain such facilities as will be safe and efficient. The commission shall have the authority to prescribe rules and regulations in the manner prescribed in RCW 80.04.160 to effectuate the purpose of this enactment. Every such person and every such officer, agent and employee of a corporation who, as an individual or as an officer or agent of such corporation, violates or fails to comply with, or who procures, aids, or abets another, or his company, in the violation of, or noncompliance with, any provision of this section or any order, rule or requirement of the commission hereunder, shall be guilty of a gross misdemeanor.

**80.28.220 Gas companies—Right of eminent domain—Purposes.** Every corporation having for one of its principal purposes the transmission, distribution, sale, or furnishing of natural gas or other type gas for light, heat, or power and holding and owning a certificate of public convenience and necessity from the public service commission authorizing the operation of a gas plant, may appropriate, by condemnation, lands and property and interests therein, for the transmission, distribution, sale, or furnishing of such natural gas or other type gas through gas mains or pipelines under the provisions of chapter 8.20.

**80.28.230 ————Use for purpose acquired exclusive—Disposition of property.** Any property or interest acquired as provided in RCW 80.28.220 shall be used exclusively for the purposes for which it was acquired: *Provided, however,* That if any such property be sold or otherwise disposed of by said corporations, such sale or disposition shall be by public sale or disposition and advertised in the manner of public sales in the county where such property is located.

## Chapter 80.32

### ELECTRIC FRANCHISES AND RIGHTS OF WAY

**80.32.010 Cities and counties may grant franchises—Procedure—Liability to restore road for travel.** The legislative authority of the city or town having control of any public street or road, or, where such street or road is not within the limits of any incorporated city or town, then the board of county commissioners of the county wherein such road or street is situated, may grant authority for the construction, maintenance and operation of transmission lines for transmitting electric power, together with poles, wires and other appurtenances, upon, over, along and across any such public street or road, and in granting such authority the legislative authority of such city or town, or the board of county commissioners, as the case may be, may prescribe the terms and conditions on which such transmission line and its appurtenances, shall be constructed, maintained and operated upon, over, along and across such road or street, and

the grade or elevation at which the same shall be constructed, maintained and operated: *Provided*, That on application being made to the board of county commissioners for such authority, the board shall fix a time and place for hearing the same, and shall cause the county auditor to give public notice thereof at the expense of the applicant, by posting written or printed notices in three public places in the county seat of the county, and in at least one conspicuous place on the road or street or part thereof, for which application is made, at least fifteen days before the day fixed for such hearing, and by publishing a like notice three times in some daily newspaper published in the county, or if no daily newspaper is published in the county, then the newspaper doing the county printing, the last publication to be at least five days before the day fixed for such hearing, which notice shall state the name or names of the applicant or applicants, a description of the roads or streets or parts thereof for which the application is made, and the time and place fixed for the hearing. Such hearing may be adjourned from time to time by order of the board. If after such hearing the board shall deem it to be for the public interest to grant such authority in whole or in part, the board may make and enter the proper order granting the authority applied for or such part thereof as the board deems to be for the public interest, and shall require such transmission line and its appurtenances to be placed in such location on or along the road or street as the board finds will cause the least interference with other uses of the road or street. In case any such transmission line is or shall be located in part on private right of way, the owner thereof shall have the right to construct and operate the same across any county road or county street which intersects such private right of way, if such crossing is so constructed and maintained as to do no unnecessary damage: *Provided*, That any person or corporation constructing such crossing or operating such transmission line on or along such county road or county street shall be liable to the county for all necessary expense incurred in restoring such county road or county street to a suitable condition for travel.

**80.32.040 Grant of franchise subject to referendum.** All grants of franchises or rights for the conduct or distribution of electric energy, electric power, or electric light within any city or town of the state of Washington by the city council or other legislative body or legislative authority thereof, whether granted by ordinance, resolution, or other form of grant, contract, permission or license, shall be subject to popular referendum under the general laws of this state heretofore or hereafter enacted, or as may be provided by the charter provisions, heretofore or hereafter adopted, of any such city or town: *Provided*, That no petition for referendum may be filed after six months from the date of ordinance, resolution, or



other form of grant, contract, permission, or license granting such franchise.

**80.32.050 Sale or lease of plant and franchises.** Any corporation incorporated or that may hereafter be incorporated under the laws of this state or any state or territory of the United States, for the purpose of manufacturing, transmitting or selling electric power, may lease or purchase and operate (except in cases where such lease or purchase is prohibited by the constitution of this state) the whole or any part of the plant for manufacturing or distributing electric power or energy of any other corporation, heretofore or hereafter constructed, together with the franchises, powers, immunities and all other property or appurtenances appertaining thereto: *Provided*, That such lease or purchase has been or shall be consented to by stockholders of record holding at least two-thirds in amount of the capital stock or the lessor or grantor corporation; and all such leases and purchases made or entered into prior to the effective date of chapter 173, Laws of 1903, by consent of stockholders as aforesaid are for all intents and purposes hereby ratified and confirmed, saving, however, any vested rights of private parties.

**80.32.060 Eminent domain.** Every corporation, incorporated or that may hereafter be incorporated under the laws of this state, or of any other state or territory of the United States, and doing business in this state, for the purpose of manufacturing or transmitting electric power, shall have the right to appropriate real estate and other property for right-of-way or for any corporate purpose, in the same manner and under the same procedure as now is or may hereafter be provided by law in the case of ordinary railroad corporations authorized by the laws of this state to exercise the right of eminent domain: *Provided*, That such right of eminent domain shall not be exercised with respect to any public road or street until the location of the transmission line thereon has been authorized in accordance with RCW 80.32.010.

**80.32.070 Right of entry.** Every such corporation shall have the right to enter upon any land between the termini of the proposed lines for the purpose of examining, locating and surveying such lines, doing no unnecessary damage thereby.

**80.32.080 Duties of electrical companies exercising power of eminent domain.** Any corporation authorized to do business in this state, which, under the present laws of the state, is authorized to condemn property for the purpose of generating and transmitting electrical power for the operation of railroads or railways, or for municipal lighting, and which by its charter or articles of incorporation, assumes the additional right to sell electric power and electric light to private consumers outside the limits of a municipality and

to sell electric power to private consumers within the limits of a municipality, which shall provide in its articles that in respect of the purposes mentioned in this section it will assume and undertake to the state and to the inhabitants thereof the duties and obligations of a public service corporation, shall be deemed to be in respect of such purposes a public service corporation, and shall be held to all the duties, obligations and control, which by law are or may be imposed upon public service corporations. Any such corporation shall have the right to sell electric light outside the limits of a municipality and electric power both inside and outside such limits to private consumers from the electricity generated and transmitted by it for public purposes and not needed by it therefor: *Provided*, That such corporation shall furnish such excess power at equal rates, quantity and conditions considered, to all consumers alike, and shall supply it to the first applicants therefor until the amount available shall be exhausted: *Provided further*, That no such corporation shall be obliged to furnish such excess power to any one consumer to an amount exceeding twenty-five percent of the total amount of such excess power generated or transmitted by it. In exercising the power of eminent domain for public purposes it shall not be an objection thereto that a portion of the electric current generated will be applied to private purposes, provided the principal uses intended are public: *Provided*, That all public service or quasi public service corporations shall at no time sell, deliver and dispose of electrical power in bulk to manufacturing concerns at the expense of its public service functions, and any person, firm or corporation that is a patron of such corporation as to such public function, shall have the right to apply to any court of competent jurisdiction to correct any violation of the provisions of RCW 80.32-.080 through 80.32.100.

**80.32.090 Limitation on use of electricity.** Whenever any corporation has acquired any property by decree of appropriation based on proceedings in court under the provisions of RCW 80.32.080 through 80.32.100, no portion of the electricity generated or transmitted by it by means of the property appropriated under the provisions of RCW 80.32.080 through 80.32.100 shall be used or applied by such corporation for or to a business or trade not under the present laws deemed public or quasi public conducted by itself.

**80.32.100 Remedy for violations.** In the event of the violation of any of the requirements of RCW 80.32.080 and 80.32.090 by any corporation availing itself of its provisions, an appropriate suit may be maintained in the name of the state upon the relation of the attorney general, or, if he shall refuse or neglect to act, upon the relation of any individual aggrieved by the violation, or violations, complained of, to compel such corporation to comply with the requirements of

RCW 80.32.080 and 80.32.090. A violation of RCW 80.32.080 and 80.32.090 shall cause the forfeiture of the corporate franchise if the corporation refuses or neglects to comply with the orders with respect thereto made in the suit herein provided for.

### Chapter 80.36

#### TELEPHONE AND TELEGRAPH COMPANIES

**80.36.010 Eminent domain.** The right of eminent domain is hereby extended to all telegraph and telephone corporations and companies organized or doing business in this state.

**80.36.020 Right of entry.** Every corporation incorporated under the laws of this state or any state or territory of the United States for the purpose of constructing, operating or maintaining any telegraph or telephone in this state shall have the right to enter upon any land between the termini of its proposed lines of telegraph or telephone for the purpose of examining, locating and surveying the line of such telegraph or telephone, doing no unnecessary damage thereby.

**80.36.030 Extent of appropriation.** Such telegraph or telephone company may appropriate so much land as may be actually necessary for its line of telegraph or telephone, with the right to enter upon lands immediately adjacent thereto, for the purpose of constructing, maintaining and operating its line and making all necessary repair. Such telegraph or telephone company may also, for the purpose aforesaid, enter upon and appropriate such portion of the right-of-way of any railroad company as may be necessary for the construction, maintenance and operation of its telegraph or telephone line: *Provided*, That such appropriation shall not obstruct such railroad of the travel thereupon, nor interfere with the operation of such railroad.

**80.36.040 Use of roads, streets and railroad right-of-way—When consent of city necessary.** Any telegraph or telephone corporation or company, or the lessees thereof, doing business in this state, shall have the right to construct and maintain all necessary lines of telegraph or telephone for public traffic along and upon any public road, street or highway, along or across the right-of-way of any railroad corporation, and may erect poles, posts, piers or abutments for supporting the insulators, wires and any other necessary fixture of their lines, in such manner and at such points as not to incommode the public use of the railroad or highway, or interrupt the navigation of the waters: *Provided*, That when the right-of-way of such corporation has not been acquired by or through any grant or donation from the United States, or this state, or any county, city or

town therein, then the right to construct and maintain such lines shall be secured only by the exercise of right of eminent domain, as provided by law: *Provided further*, That where the right-of-way as herein contemplated is within the corporate limits of any incorporated city, the consent of the city council thereof shall be first obtained before such telegraph or telephone lines can be erected thereon.

**80.36.050 Use of railroad rights-of-way—Penalty for refusal by railroad.** Every railroad operated in this state, and carrying freight and passengers for hire, or doing business in this state, is and shall be designated a "post road," and the corporation or company owning the same shall allow telegraph and telephone companies to construct and maintain telegraph and telephone lines on and along the right-of-way of such railroad.

In case of the refusal or neglect of any railroad company or corporation to comply with the provisions of this section, said company or corporation shall be liable for damages in the sum of not less than one thousand dollars nor more than five thousand dollars for each offense, and one hundred dollars per day during the continuance thereof.

**80.36.060 Liability for wilful injury to telephone or telegraph property.** Any person who wilfully and maliciously does any injury to any telegraph or telephone property mentioned in RCW 80.36.070, is liable to the corporation or company for five times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction.

**80.36.070 Liability for negligent injury to property—Notice of underwater cable.** Any person who injures or destroys, through want of proper care, any necessary or useful fixtures of any telegraph or telephone corporation or company, is liable to the corporation or company for all damages sustained thereby. Any vessel which, by dragging its anchor or otherwise, breaks, injures or destroys the subaqueous cable of a telegraph or telephone corporation or company, subjects its owners to the damages hereinbefore specified.

No telegraph or telephone corporation or company can recover damages for the breaking or injury of any subaqueous telegraph cable, unless such corporation or company has previously erected on either bank of the waters under which the cable is placed, a monument indicating the place where the cable lies, and publishes for one month, in some newspaper most likely to give notice to navigators, a notice giving a description and the purpose of the monuments, and the general course, landings and termini of the cable.

**80.36.080 Rates, services and facilities.** All rates, tolls, contracts and charges, rules and regulations of telephone and telegraph companies, for messages, conversations, services rendered and equipment and facilities supplied, whether such message, conversation or service to be performed be over one company or line or over or by two or more companies or lines, shall be fair, just, reasonable and sufficient, and the service so to be rendered any person, firm or corporation by any telephone or telegraph company shall be rendered and performed in a prompt, expeditious and efficient manner and the facilities, instrumentalities and equipment furnished by it shall be safe, kept in good condition and repair, and its appliances, instrumentalities and service shall be modern, adequate, sufficient and efficient.

**80.36.090 Service to be furnished on demand.** Every telephone and telegraph company operating in this state shall provide and maintain suitable and adequate buildings and facilities therein, or connected therewith, for the accommodation, comfort and convenience of its patrons and employees.

Every telephone company shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto suitable and proper facilities and connections for telephonic communication and furnish telephone service as demanded.

**80.36.100 Tariff schedules to be filed and open to public.** Every telephone and telegraph company shall file with the commission and shall print and keep open to public inspection at such points as the commission may designate, schedules showing the rates, tolls, rentals, contracts and charges of such companies for messages, conversations and services rendered and equipment and facilities supplied for messages and services to be performed within the state between each point upon its line and all other points thereon, and between each point upon its line and all points upon every other similar line operated or controlled by it, and between each point on its line or upon any line leased, operated or controlled by it and all points upon the line of any other similar company, whenever a through service and joint rate shall have been established or ordered between any two such points. If no joint rate covering a through service has been established, the several companies in such through service shall file, print and keep open to public inspection as aforesaid the separately established rates, tolls, rentals, contracts and charges applicable for such through service. The schedules printed as aforesaid shall plainly state the places between which telephone or telegraph service, or both, will be rendered, and shall also state separately all charges and all privileges or facilities granted or allowed, and any rules or regulations or forms of contract which

may in anywise change, affect or determine any of the aggregate of the rates, tolls, rentals or charges for the service rendered. A schedule shall be plainly printed in large type, and a copy thereof shall be kept by every telephone company and telegraph company readily accessible to and for convenient inspection by the public at such places as may be designated by the commission, which schedule shall state the rates charged from such station to every other station on such company's line, or on any line controlled and used by it within the state. All or any of such schedules kept as aforesaid shall be immediately produced by such telephone company or telegraph company upon the demand of any person. A notice printed in bold type, and stating that such schedules are on file and open to inspection by any person, the places where the same are kept, and that the agent will assist such person to determine from such schedules any rate, toll, rental, rule or regulation which is in force shall be kept posted by every telephone company and telegraph company in a conspicuous place in every station or office of such company.

**80.36.110 Tariff changes—Statutory notice—Exception.** Unless the commission otherwise orders, no change shall be made in any rate, toll, rental, contract or charge, which shall have been filed and published by any telephone or telegraph company in compliance with the requirements of RCW 80.36.100, except after thirty days' notice to the commission and publication for thirty days as required in the case of original schedules in RCW 80.36.100, which notice shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate, toll, contract or charge will go into effect, and all proposed changes shall be shown by printing, filing and publishing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission for good cause shown may allow changes in rates, charges, tolls, rentals or contracts without requiring the thirty days' notice and publication herein provided for, by an order specifying the change so to be made and the time when it shall take effect, and the manner in which the same shall be filed and published. When any change is made in any rate, toll, contract, rental or charge, the effect of which is to increase any rate, toll, rental or change then existing, attention shall be directed on the copy filed with the commission to such increase by some character immediately preceding or following the item in such schedule, which character shall be in such form as the commission may designate.

**80.36.120 Joint rates, contracts, etc.** The names of the several companies which are parties to any joint rates, tolls, contracts or charges of telephone companies and telegraph companies for messages, conversations and service to be rendered shall be specified therein, and each of the parties thereto, other than the one filing the

same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the companies filing the same to also file copies of the tariff in which they are named as parties.

**80.36.130 Published rates to be charged—Exceptions.** No telephone or telegraph company shall charge, demand, collect or receive different compensation for any service rendered or to be rendered than the charge applicable to such service as specified in its schedule on file and in effect at that time, nor shall any telephone company or telegraph company refund or remit, directly or indirectly, any portion of the rate or charge so specified, nor extend to any person or corporation any form of contract or agreement or any rule or regulation or any privilege or facility except such as are specified in its schedule filed and in effect at the time, and regularly and uniformly extended to all persons and corporations under like circumstances for like or substantially similar service.

No telephone company or telegraph company subject to the provisions of this title shall, directly or indirectly, give any free or reduced service or any free pass or frank for the transmission of messages by either telephone or telegraph between points within this state, except to its officers, employees, agents, pensioners, surgeons, physicians, attorneys at law, and their families, and persons and corporations exclusively engaged in charitable and eleemosynary work, and ministers of religion, Young Men's Christian Associations, Young Women's Christian Associations; to indigent and destitute persons, and to officers and employees of other telephone companies, telegraph companies, railroad companies and street railroad companies.

**80.36.140 Commission to fix rates and services.** Whenever the commission shall find, after a hearing had upon its own motion or upon complaint, that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telegraph company or telephone company for the transmission of messages by telegraph or telephone, or for the rental or use of any telegraph line, telephone line or any telegraph instrument, wire, appliance, apparatus or device or any telephone receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device, or any telephone extension or extension system, or that the rules, regulations or practices of any telegraph company or telephone company affecting such rates, charges, tolls, rentals or service are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in anywise in violation of law, or that such rates, charges, tolls or rentals are insufficient to yield reasonable compensation for the service ren-

dered, the commission shall determine the just and reasonable rates, charges, tolls or rentals to be thereafter observed and in force, and fix the same by order as provided in this title.

Whenever the commission shall find, after such hearing that the rules, regulations or practices of any telegraph company or telephone company are unjust or unreasonable, or that the equipment, facilities or service of any telegraph company or telephone company is inadequate, inefficient, improper or insufficient, the commission shall determine the just, reasonable, proper, adequate and efficient rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order or rule as provided in this title.

**80.36.150 Contracts to be filed with commission.** Every telephone and telegraph company shall file with the commission, as and when required by it, a copy of any contract, agreement or arrangement in writing with any other telephone company or telegraph company, or with any other corporation, association or person relating in any way to the construction, maintenance or use of a telephone line or telegraph line or service by, or rates and charges over and upon, any such telephone line or telegraph line.

**80.36.160 Physical connections may be ordered, routing prescribed and joint rates established.** In order to provide toll telephone service where no such service is available, or to promote the most expeditious handling or most direct routing of toll messages and conversations, or to prevent arbitrary or unreasonable practices which may result in the failure to utilize the toll facilities of all telephone companies equitably and effectively, the commission may, on its own motion, or upon complaint, notwithstanding any contract or arrangement between telephone companies, investigate, ascertain and, after hearing, by order (1) require the construction and maintenance of suitable connections between telephone lines for the transfer of messages and conversations at a common point or points and, if the companies affected fail to agree on the proportion of the cost thereof to be borne by each such company, prescribe said proportion of cost to be borne by each; and/or (2) prescribe the routing of toll messages and conversations over such connections and the practices and regulations to be followed with respect to such routing; and/or (3) establish reasonable joint rates or charges by or over said lines and connections and just, reasonable and equitable divisions thereof as between the telephone companies participating therein.

This section shall not be construed as conferring on the commission jurisdiction, supervision or control of the rates, service or facilities of any mutual, cooperative or farmer line company or



association, except for the purpose of carrying out the provisions of this section.

**80.36.170 Unreasonable preferences prohibited.** No telegraph company or telephone company shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

**80.36.180 Rate discrimination prohibited.** No telegraph or telephone company shall, directly or indirectly, or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to communication by telegraph or telephone or in connection therewith, except as authorized in this title or Title 81 than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to communication by telegraph or telephone under the same or substantially the same circumstances and conditions.

**80.36.190 Long and short distance provision.** No telephone or telegraph company subject to the provisions of this title shall charge or receive any greater compensation in the aggregate for the transmission of any long distance conversation or message of like kind for a shorter than for a longer distance over the same line, in the same direction, within this state, the shorter being included within the longer distance, or charge any greater compensation for a through service than the aggregate of the intermediate rates subject to the provision of this title, but this shall not be construed as authorizing any such telephone company or telegraph company to charge and receive as great a compensation for a shorter as for a longer distance. Upon application of any telephone company or telegraph company the commission may, by order, authorize it to charge less for longer than for a shorter distance service for the transmission of conversation or messages in special cases after investigation, but the order must specify and prescribe the extent to which the telephone company or telegraph company making such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any telephone company or telegraph company be relieved from the requirements of this section.

**80.36.200 Transmission of messages of other lines.** Every telephone company or telegraph company operating in this state shall receive, transmit and deliver, without discrimination or delay, the messages of any other telephone or telegraph company.

**80.36.210 Order of sending messages.** It shall be the duty of any telegraph company, doing business in this state, to transmit all dispatches in the order in which they are received, under the penalty of one hundred dollars, to be recovered with costs of suit, by the person or persons whose dispatch is postponed out of its order: *Provided*, That communications to and from public officers on official business, may have precedence over all other communications: *And, provided further*, That intelligence of general and public interest may be transmitted for publication out of its order.

**80.36.220 Duty to transmit messages—Penalty for refusal or neglect.** Telegraph and telephone companies shall receive, exchange and transmit each other's messages without delay or discrimination, and all telephone companies shall receive and transmit messages for any person.

In case of the refusal or neglect of any telegraph or telephone company to comply with the provisions of this section, the penalty for the same shall be a fine of not more than five hundred nor less than one hundred dollars for each offense.

**80.36.230 Exchange areas for telephone companies.** The commission is hereby granted the power to prescribe exchange area boundaries and/or territorial boundaries for telephone companies.

**80.36.240 ————Procedure to establish.** The commission in conducting hearings, promulgating rules, and otherwise proceeding to make effective the provisions of RCW 80.36.230 and 80.36.240, shall be governed by, and shall have the powers provided in this title, as amended; all provisions as to review of the commission's orders and appeals to the supreme court contained in said title, as amended, shall be available to all companies and parties affected by the commission's orders issued under authority of RCW 80.36.230 and 80.36.240.

**80.36.250 Commission may complain of interstate rates.** The commission may investigate all interstate rates and charges, classifications, or rules or practices relating thereto, for or in relation to the transmission of messages or conversations. Where any acts in relation thereto take place within this state, which, in the opinion of the commission, are excessive or discriminatory, or are levied or laid in violation of the federal communications act of June 19, 1934, and acts amendatory thereof or supplementary thereto, or are in conflict with the rulings, orders, or regulations of the Federal Communications Commission, the commission shall apply by petition to the Federal Communications Commission for relief, and may present to such federal commission all facts coming to its knowledge respecting violations of such act or the rulings, orders, or regulations of the federal commission.

**80.36.260 Betterments may be ordered.** Whenever the commission shall find, after a hearing had on its own motion or upon complaint, that repairs or improvements to, or changes in, any telegraph line or telephone line ought reasonably be made, or that any additions or extensions should reasonably be made thereto in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for telegraphic or telephonic communications, the commission shall make and serve an order directing that such repairs, improvements, changes, additions or extensions be made in the manner to be specified therein.

**80.36.270 Effect on existing contracts.** Nothing in this title shall be construed to prevent any telegraph company or telephone company from continuing to furnish the use of its line, equipment or service under any contract or contracts in force on June 7, 1911 or upon the taking effect of any schedule or schedules of rates subsequently filed with the commission, as herein provided, at the rates fixed in such contract or contracts: *Provided*, That the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the telephone company or telegraph company party thereto, and thereupon such contract or contracts shall be terminated by such telephone company or telegraph company as and when directed by such order.

## Chapter 80.98

### CONSTRUCTION

**80.98.010 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.

**80.98.020 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.

**80.98.030 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.

**80.98.040 Repeals and saving.** The following acts or parts of acts are repealed:

- (1) Section 2361, Code 1881;
- (2) Chapter 33, Laws of 1888;
- (3) Sections 1 through 3, page 292, and 5 through 11, pages 292 through 294, Laws of 1890;

- (4) Chapter 47, Laws of 1895;
- (5) Chapter 94, Laws of 1899;
- (6) Chapter 173, Laws of 1903;
- (7) Chapter 159, Laws of 1907;
- (8) Chapter 117, Laws of 1911;
- (9) Chapter 145, Laws of 1913;
- (10) Chapter 182, Laws of 1913;
- (11) Chapter 133, Laws of 1915;
- (12) Sections 21, 22, 23, 25, 26 and 27, chapter 7, Laws of 1921;
- (13) Chapter 110, Laws of 1921;
- (14) Chapter 113, Laws of 1921;
- (15) Chapter 107, Laws of 1923;
- (16) Chapter 110, Laws of 1923;
- (17) Chapter 116, Laws of 1923;
- (18) Chapter 118, Laws of 1923;
- (19) Chapter 164, Laws of 1925, extraordinary session;
- (20) Chapter 177, Laws of 1925, extraordinary session;
- (21) Chapter 107, Laws of 1929;
- (22) Chapter 223, Laws of 1929;
- (23) Chapter 119, Laws of 1931;
- (24) Chapter 148, Laws of 1933;
- (25) Chapter 151, Laws of 1933;
- (26) Chapter 152, Laws of 1933;
- (27) Chapter 165, Laws of 1933;
- (28) Chapter 8, Laws of 1935;
- (29) Chapter 29, Laws of 1937;
- (30) Chapter 30, Laws of 1937;
- (31) Chapter 158, Laws of 1937;
- (32) Chapter 169, Laws of 1937;
- (33) Chapter 123, Laws of 1939;
- (34) Chapter 203, Laws of 1939;
- (35) Chapter 114, Laws of 1941;
- (36) Chapter 137, Laws of 1941;
- (37) Chapter 159, Laws of 1941;
- (38) Chapter 160, Laws of 1941;
- (39) Chapter 162, Laws of 1941;
- (40) Chapter 67, Laws of 1943;
- (41) Chapter 68, Laws of 1943;
- (42) Chapter 258, Laws of 1943;
- (43) Chapter 75, Laws of 1945;
- (44) Chapter 267, Laws of 1945;
- (45) Chapter 117, Laws of 1949;
- (46) Section 1, chapter 227, Laws of 1951;
- (47) Chapter 260, Laws of 1951;
- (48) Sections 4 through 8, chapter 95, Laws of 1953;
- (49) Sections 1 and 2, chapter 104, Laws of 1953;

- (50) Section 1, chapter 120, Laws of 1953;
- (51) Sections 1 and 2, chapter 79, Laws of 1955;
- (52) Sections 1 through 3, chapter 125, Laws of 1955;
- (53) Sections 1, 2, and 4 through 6, chapter 316, Laws of 1955;
- (54) Section 7, chapter 340, Laws of 1955;
- (55) Chapter 191, Laws of 1957;
- (56) Sections 1, 2, 10 through 14, 19 through 21, chapter 248, Laws of 1959;
- (57) Sections 1 and 2, chapter 285, Laws of 1959.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder.

**80.98.050 Emergency.** 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.

## TITLE 81

### TRANSPORTATION

#### Chapter 81.01

#### GENERAL PROVISIONS

**81.01.010 Adoption of provisions of chapter 80.01.** The provisions of chapter 80.01, as now or hereafter amended, apply to Title 81 as fully as though they were set forth herein.

#### Chapter 81.04

#### REGULATIONS—GENERAL

**81.04.010 Definitions.** As used in this title, unless specially defined otherwise or unless the context indicates otherwise:

“Commission” means the public service commission.

“Commissioner” means one of the members of such commission.

“Corporation” includes a corporation, company, association or joint stock association.

“Person” includes an individual, a firm or copartnership.

“Street railroad” includes every railroad by whatsoever power operated, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons or property for hire, being mainly upon, along, above or below any street, avenue, road, high-

way, bridge or public place within any one city or town, and includes all equipment, switches, spurs, tracks, bridges, right of trackage, subways, tunnels, stations, terminals and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such street railroad, within this state.

“Street railroad company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, controlling, operating or managing any street railroad or any cars or other equipment used thereon or in connection therewith within this state.

“Railroad” includes every railroad, other than street railroad, by whatsoever power operated for public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, tracks, stations and terminal facilities of every kind used, operated, controlled or owned by or in connection with any such railroad.

“Railroad company” includes every corporation, company, association, joint stock association, partnership or person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any railroad or any cars or other equipment used thereon or in connection therewith within this state.

“Express company” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, who shall engage in or transact the business of carrying any freight, merchandise or property for hire on the line of any common carrier operated in this state.

“Common carrier” includes all railroads, railroad companies, street railroads, street railroad companies, steamboat companies, express companies, car companies, sleeping car companies, freight companies, freight line companies, and every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, and every city or town, owning, operating, managing or controlling any such agency for public use in the conveyance of persons or property for hire within this state.

“Vessel” includes every species of watercraft, by whatsoever power operated, for public use in the conveyance of persons or property for hire over and upon the waters within this state, excepting all towboats, tugs, scows, barges, and lighters, and excepting rowboats and sailing boats under twenty gross tons burden, open steam launches of five tons gross and under, and vessels under five tons gross propelled by gas, fluid, naphtha or electric motors.

“Steamboat company” includes every corporation, company, association, joint stock association, partnership and person, their lessees,

trustees or receivers, appointed by any court whatsoever, owning, controlling, leasing, operating or managing any vessel over and upon the waters of this state.

“Transportation of property” includes any service in connection with the receiving, delivery, elevation, transfer in transit, ventilation, refrigeration, icing, storage and handling of the property transported, and the transmission of credit.

“Transportation of persons” includes any service in connection with the receiving, carriage and delivery of the person transported and his baggage and all facilities used, or necessary to be used in connection with the safety, comfort and convenience of the person transported.

“Public service company” includes every common carrier, wharfinger and warehouseman.

The term “service” is used in this title in its broadest and most inclusive sense.

**81.04.020 Procedure before commission and courts.** Each commissioner shall have power to administer oaths, certify to all official acts, and to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents and testimony in any inquiry, investigation, hearing or proceeding in any part of the state.

The superior court of the county in which any such inquiry, investigation, hearing or proceeding may be had, shall have power to compel the attendance of witnesses and the production of papers, waybills, books, accounts, documents and testimony as required by such subpoena. The commission or the commissioner before which the testimony is to be given or produced, in case of the refusal of any witness to attend or testify or produce any papers required by the subpoena, shall report to the superior court in and for the county in which the proceeding is pending by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, and that the witness has been summoned in the manner prescribed in this chapter, and that the fees and mileage of the witness have been paid or tendered to the witness for his attendance and testimony, and that the witness has failed and refused to attend or produce the papers required by the subpoena, before the commission, in the cause or proceedings named in the notice and subpoena, or has refused to answer questions propounded to him in the course of such proceeding, and ask an order of said court, compelling the witness to attend and testify before the commission. The court, upon the petition of the commission, shall enter an order directing the witness to appear before said court at a time and place to be fixed by the court in such order, and then and there show cause why he has not responded to said subpoena. A copy of said order shall be served upon said witness. If

it shall appear to the court that said subpoena was regularly issued by the commission, the court shall thereupon enter an order that said witness appear before the commission at said time and place as fixed in said order, and testify or produce the required papers, and upon failing to obey said order, said witness shall be dealt with as for contempt of court.

**81.04.030 Number of witnesses may be limited.** In all proceedings before the commission the commission shall have the right, in their discretion, to limit the number of witnesses testifying upon any subject or proceeding to be inquired of before the commission.

**81.04.040 Witness fees and mileage.** Each witness who appears under subpoena shall receive for his attendance four dollars per day and ten cents per mile traveled by the nearest practicable route in going to and returning from the place of hearing. No witness shall be entitled to fees or mileage from the state when summoned at the instance of the public service companies affected.

**81.04.050 Protection against self-incrimination.** The claim by any witness that any testimony sought to be elicited may tend to incriminate him shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding, excepting in a prosecution for perjury. The commissioner shall have power to compel the attendance of witnesses at any place within the state.

**81.04.060 Depositions—Service of process.** The commission shall have the right to take the testimony of any witness by deposition, and for that purpose the attendance of witnesses and the production of books, waybills, documents, papers and accounts may be enforced in the same manner as in the case of hearings before the commission, or any member thereof. Process issued under the provisions of this chapter shall be served as in civil cases.

**81.04.070 Inspection of books, papers and documents.** The commission and each commissioner, or any person employed by the commission, shall have the right, at any and all times, to inspect the accounts, books, papers and documents of any public service company, and the commission, or any commissioner, may examine under oath any officer, agent or employee of such public service company in relation thereto, and with reference to the affairs of such company: *Provided*, That any person other than a commissioner who shall make any such demand shall produce his authority from the commission to make such inspection.

**81.04.075 Manner of serving papers.** All notices, applications, complaints, findings of fact, opinions and orders required by this title to be served may be served by mail and service thereof shall be



deemed complete when a true copy of such paper or document is deposited in the post office properly addressed and stamped.

**81.04.080 Annual reports.** Every public service company shall annually furnish to the commission a report in such form as the commission may require, and shall specifically answer all questions propounded to it by the commission, upon or concerning which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor and the manner of payment for same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts and the interest paid thereon, the cost and value of the company's property, franchises and equipment, the number of employees and the salaries paid each class, the accidents to passengers, employees and other persons and the cost thereof, the amounts expended for improvements each year, how expended and the character of such improvements, the earnings or receipts from each franchise or business and from all sources, the proportion thereof earned from business moving wholly within the state and the proportion earned from interstate traffic, the nature of the traffic movement showing the percentage of the ton miles each class of commodity bears to the total ton mileage, the operating and other expenses and the proportion of such expense incurred in transacting business wholly within the state, and the proportion incurred in transacting interstate business, such division to be shown according to such rules of division as the commission may prescribe, the balances of profit and loss, and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such report shall also contain such information in relation to rates, charges or regulations concerning fares, charges or freights, or agreements, arrangements or contracts affecting the same, as the commission may require; and the commission may, in its discretion, for the purpose of enabling it the better to carry out the provisions of this title, prescribe the period of time within which all public service companies subject to the provisions of this title shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept. Such detailed report shall contain all the required statistics for the period of twelve months ending on the last day of any particular month prescribed by the commission for any public service company. Such reports shall be made out under oath and filed with the commission at its office in Olympia within three months after the close of the designated year for which such report is made, unless additional time be granted in any case by the commission. The commission shall have authority to require any public service company to file monthly reports of earnings and expenses, and to file periodical or special, or both

periodical and special, reports concerning any matter about which the commission is authorized or required by this or any other law, to inquire into or keep itself informed about, or which it is required to enforce, such periodical or special reports to be under oath whenever the commission so requires.

**81.04.090 Forms of records to be prescribed.** The commission may, in its discretion, prescribe the forms of any and all accounts, records and memoranda to be kept by public service companies, including the accounts, records and memoranda of the movement of traffic, sales of its product, the receipts and expenditures of money. The commission shall at all times have access to all accounts, records and memoranda kept by public service companies, and may employ special agents or examiners, who shall have power to administer oaths and authority, under the order of the commission, to examine witnesses and to inspect and examine any and all accounts, records and memoranda kept by such companies. The commission may, in its discretion, prescribe the forms of any and all reports, accounts, records and memoranda to be furnished and kept by any public service company whose line or lines extend beyond the limits of this state, which are operated partly within and partly without the state, so that the same shall show any information required by the commission concerning the traffic movement, receipts and expenditures appertaining to those parts of the line within the state.

**81.04.100 Production of out-of-state books and records.** The commission may by order with or without hearing require the production within this state, at such time and place as it may designate, of any books, accounts, papers or records kept by any public service company in any office or place without this state, or at the option of the company verified copies thereof, so that an examination thereof may be made by the commission or under its direction.

**81.04.110 Complaints—Hearings.** Complaint may be made by the commission of its own motion or by any person or corporation, chamber of commerce, board of trade, or any commercial, mercantile, agricultural or manufacturing society, or any body politic or municipal corporation, by petition or complaint in writing, setting forth any act or thing done or omitted to be done by any public service corporation in violation, or claimed to be in violation, of any provision of law or of any order or rule of the commission.

When two or more public service corporations, (meaning to exclude municipal and other public corporations) are engaged in competition in any locality or localities in the state, either may make complaint against the other or others that the rates, charges, rules, regulations or practices of such other or others with or in

respect to which the complainant is in competition, are unreasonable, unremunerative, discriminatory, illegal, unfair or intending or tending to oppress the complainant, to stifle competition, or to create or encourage the creation of monopoly, and upon such complaint or upon complaint of the commission upon its own motion, the commission shall have power, after notice and hearing as in other cases, to, by its order, subject to appeal as in other cases, correct the abuse complained of by establishing such uniform rates, charges, rules, regulations or practices in lieu of those complained of, to be observed by all of such competing public service corporations in the locality or localities specified as shall be found reasonable, remunerative, nondiscriminatory, legal, and fair or tending to prevent oppression or monopoly or to encourage competition, and upon any such hearing it shall be proper for the commission to take into consideration the rates, charges, rules, regulations and practices of the public service corporation or corporations complained of in any other locality or localities in the state.

All matters upon which complaint may be founded may be joined in one hearing, and no motion shall be entertained against a complaint for misjoinder of complaints or grievances or misjoinder of parties; and in any review of the courts of orders of the commission the same rule shall apply and pertain with regard to the joinder of complaints and parties as herein provided: *Provided*, All grievances to be inquired into shall be plainly set forth in the complaint. No complaint shall be dismissed because of the absence of direct damage to the complainant.

Upon the filing of a complaint, the commission shall cause a copy thereof to be served upon the person or corporation complained of, which shall be accompanied by a notice fixing the time when and place where a hearing will be had upon such complaint. The time fixed for such hearing shall not be less than ten days after the date of the service of such notice and complaint, excepting as herein provided. Rules of practice and procedure not otherwise provided for in this title may be prescribed by the commission.

**81.04.120 Hearings—Order—Record.** At the time fixed for the hearing mentioned in RCW 81.04.110, the complainant and the person or corporation complained of shall be entitled to be heard and introduce such evidence as he or it may desire. The commission shall issue process to enforce the attendance of all necessary witnesses. At the conclusion of such hearing the commission shall make and render findings concerning the subject matter and facts inquired into and enter its order based thereon. A copy of such order, certified under the seal of the commission, shall be served upon the person or corporation complained of, or his or its attorney, which order shall, of its own force, take effect and become operative

twenty days after the service thereof, except as otherwise provided. Where an order cannot, in the judgment of the commission, be complied with within twenty days, the commission may prescribe such additional time as in its judgment is reasonably necessary to comply with the order, and may, on application and for good cause shown, extend the time for compliance fixed in its order. A full and complete record of all proceedings had before the commission, or any member thereof, on any formal hearing had, and all testimony shall be taken down by a stenographer appointed by the commission, and the parties shall be entitled to be heard in person or by attorney. In case of an action to review any order of the commission, a transcript of such testimony, together with all exhibits introduced, and of the record and proceedings in the cause, shall constitute the record of the commission.

**81.04.130 Suspension of tariff changes.** Whenever any public service company shall file with the commission any schedule, classification, rule or regulation, the effect of which is to change any rate, fare, charge, rental or toll theretofore charged, the commission shall have power, either upon its own motion or upon complaint, upon notice, to enter upon a hearing concerning such proposed change and the reasonableness and justness thereof, and pending such hearing and the decision thereon the commission may suspend the operation of such rate, fare, charge, rental or toll, if such change is proposed by a common carrier subject to the jurisdiction of the commission for a period not exceeding seven months, and, if proposed by a public service company other than such a common carrier, for a period not exceeding ten months from the time the same would otherwise go into effect, and after a full hearing the commission may make such order in reference thereto as would be provided in a hearing initiated after the same had become effective.

At any hearing involving any change in any schedule, classification, rule or regulation the effect of which is to increase any rate, fare, charge, rental or toll theretofore charged, the burden of proof to show that such increase is just and reasonable shall be upon the public service company: *Provided, however,* That when any common carrier subject to the jurisdiction of the commission shall file any tariff, classification, rule or regulation the effect of which is to decrease any rate, fare, or charge, the burden of proof to show that such decrease is just and reasonable shall be upon such common carrier.

**81.04.140 Order requiring joint action.** Whenever any order of the commission shall require joint action by two or more public service companies, such order shall specify that the same shall be made at their joint cost, and the companies affected shall have thirty days, or such further time, as the commission may prescribe,

within which to agree upon the part or division of cost which each shall bear, and costs of operation and maintenance in the future, or the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations. If at the expiration of such time such companies shall fail to file with the commission a statement that an agreement has been made for the division or apportionment of such cost, the division of costs of operation and maintenance to be incurred in the future and the proportion of charges or revenue each shall receive from such joint service and the rules to govern future operations, the commission shall have authority, after further hearing, to enter a supplemental order fixing the proportion of such cost or expense to be borne by each company, and the manner in which the same shall be paid and secured.

**81.04.150 Remunerative rates cannot be changed without approval.** Whenever the commission shall find, after hearing had upon its own motion or upon complaint as herein provided, that any rate, toll, rental or charge which has been the subject of complaint and inquiry is sufficiently remunerative to the public service company affected thereby, it may order that such rate, toll, rental or charge shall not be changed, altered, abrogated or discontinued, nor shall there be any change in the classification which will change or alter such rate, toll, rental or charge without first obtaining the consent of the commission authorizing such change to be made.

**81.04.160 Rules and regulations.** The commission is hereby authorized and empowered to adopt, promulgate and issue rules and regulations covering the bulletining of trains, showing the time of arrival and departure of all trains, and the probable arrival and departure of delayed trains; the conditions to be contained in and become a part of contracts for transportation of persons and property, and any and all services concerning the same, or connected therewith; the time that station rooms and offices shall be kept open; rules governing demurrage and reciprocal demurrage, and to provide reasonable penalties to expedite the prompt movement of freight and release of cars, the limits of express deliveries in cities and towns, and generally such rules as pertain to the comfort and convenience of the public concerning the subjects treated of in this title. Such rules and regulations shall be promulgated and issued by the commission on its own motion, and shall be served on the public service company affected thereby as other orders of the commission are served. Any public service company affected thereby, and deeming such rules and regulations, or any of them, improper, unjust, unreasonable, or contrary to law, may within twenty days from the date of service of such order upon it file objections thereto with the commission, specifying the particular grounds of such objections. The commission shall, upon receipt of such objec-

tions, fix a time and place for hearing the same, and after a full hearing may make such changes or modifications thereto, if any, as the evidence may justify. The commission shall have, and it is hereby given, power to adopt rules to govern its proceedings, and to regulate the mode and manner of all investigations and hearings: *Provided*, No person desiring to be present at such hearing shall be denied permission. Actions may be instituted to review rules and regulations promulgated under this section as in the case of orders of the commission.

**81.04.165 Reconsideration of orders—Review.** After any order has been made by the commission, any public service company affected thereby may apply for a writ of review as provided in RCW 81.04.170, or within ten days after service of the order, file with the commission and serve upon all other parties to the proceeding a petition for reconsideration of said order or any part thereof. The petition shall be in such form as the commission may prescribe and shall set forth specifically the portion or portions on which reconsideration is requested and the grounds and reasons therefor.

If the commission does not grant or deny the petition within ten days from the date of filing, it shall be deemed denied. Application for a writ of review may be made as provided for in RCW 81.04.170, within thirty days after the date of service of the order denying the petition or if no order of denial is entered within thirty days after the date when the petition shall be deemed denied. Should the commission grant the petition for reconsideration, it shall thereafter take such further proceedings and issue such further order or orders as may be appropriate, and application for a writ of review as provided in RCW 81.04.170, may be made within thirty days after the date of service of the order on reconsideration.

A writ of review applied for within the time provided herein may include for review the original order and all supplemental orders relevant thereto: *Provided*, That an order limited to granting a petition for reconsideration may not be reviewed.

**81.04.170 Review of orders.** Any complainant or any public service company affected by any findings or order of the commission, and deeming such findings or order to be contrary to law, may, within thirty days after the service of the findings or order upon him or it, apply to the superior court of Thurston county for a writ of review, for the purpose of having the reasonableness and lawfulness of such findings or order inquired into and determined. Such writ shall be made returnable not later than thirty days from and after the date of the issuance thereof, unless upon notice to all parties affected further time be allowed by the court, and shall direct the commission to certify its record in the case to the court. Such cause shall be heard by the court without the intervention of a jury

on the evidence and exhibits introduced before the commission and certified to by it. Upon such hearing the superior court shall enter judgment either affirming or setting aside or remanding for further action the findings or order of the commission under review. The reasonable cost of preparing the transcript of testimony taken before the commission shall be assessable as part of the statutory court costs, and the amount thereof, if collected by the commission, shall be deposited in the public service revolving fund. In case such findings or order be set aside, or reversed and remanded, the court shall make specific findings based upon evidence in the record indicating clearly all respects in which the commission's findings or order are erroneous.

**81.04.180 Supersedeas.** The pendency of any writ of review shall not of itself stay or suspend the operation of the order of the commission, but the superior court in its discretion may restrain or suspend, in whole or in part, the operation of the commission's order pending the final hearing and determination of the suit.

No order so restraining or suspending an order of the commission relating to rates, fares, charges, tolls or rentals, or rules or regulations, practices, classifications or contracts affecting the same, shall be made by the superior court otherwise than upon three days' notice and after hearing, and if a supersedeas is granted the order granting the same shall contain a specific finding, based upon evidence submitted to the court making the order, and identified by reference thereto, that great or irreparable damage would otherwise result to the petitioner, and specifying the nature of the damage.

In case the order of the commission under review is superseded by the court, it shall require a bond, with good and sufficient surety, conditioned that such company petitioning for such review shall answer for all damages caused by the delay in the enforcement of the order of the commission, and all compensation for whatever sums for transportation any person or corporation shall be compelled to pay pending the review proceedings in excess of the sum such person or corporations would have been compelled to pay if the order of the commission had not been suspended.

The court may, in addition to or in lieu of the bond herein provided for, require such other or further security for the payment of such excess charges or damages as it may deem proper.

**81.04.190 Appeal to supreme court.** The commission, any public service company or any complainant may, within twenty days after the entry of judgment in the superior court in any action of review, prosecute an appeal to the supreme court of the state of Washington. The appellant shall have fifty days after the entry of such judgment in which to serve and file his opening brief, and the respondent shall have thirty days after the service of such opening brief in which to

answer the same. The appellant shall have twenty days after the service of respondent's brief in which to reply to the same. After the filing of such brief, or the expiration of the time for filing briefs, the cause shall be assigned for hearing at the earliest motion day of the court, or at such other time as the court shall fix, and the clerk of the court shall notify the attorneys for the respective parties of the date set for the hearing in time to permit the parties to participate in the hearing. Such appeal shall be taken by giving a notice of appeal in open court at the time of the rendition of judgment, or by the service and filing of a notice of appeal within twenty days from and after the entry of the judgment.

The original transcript of the record and testimony filed in the superior court in any action to review an order of the commission, together with a transcript of the proceedings in the superior court, shall constitute the record on appeal to the supreme court.

No appeal shall be effective, when taken by a public service company or a complainant, unless a cost bond on appeal in the sum of two hundred dollars shall be filed within five days after the service of the notice of appeal.

The superior court may, in its discretion, suspend its judgment pending the hearing in the supreme court, upon the filing of a bond, with good and sufficient surety, conditioned as provided for bonds upon actions for review, or upon such other or further terms and conditions as it may deem proper. The general laws relating to appeals to the supreme court shall, so far as applicable and not in conflict with the provisions of this title, apply to appeals taken under the provisions of this title.

**81.04.200 Rehearings before commission.** Any public service company affected by any order of the commission, and deeming itself aggrieved, may, after the expiration of two years from the date of such order taking effect, petition the commission for a rehearing upon the matters involved in such order, setting forth in such petition the grounds and reasons for such rehearing, which grounds and reasons may comprise and consist of changed conditions since the issuance of such order, or by showing a result injuriously affecting the petitioner which was not considered or anticipated at the former hearing, or that the effect of such order has been such as was not contemplated by the commission or the petitioner, or for any good and sufficient cause which for any reason was not considered and determined in such former hearing. Upon the filing of such petition, such proceedings shall be had thereon as are provided for hearings upon complaint, and such orders may be reviewed as are other orders of the commission: *Provided*, That no order superseding the order of the commission denying such rehearing shall be granted by the court pending the review. In case any order of the commission



shall not be reviewed, but shall be complied with by the public service company, such petition for rehearing may be filed within six months from and after the date of the taking effect of such order, and the proceedings thereon shall be as in this section provided. The commission, may, in its discretion, permit the filing of a petition for rehearing at any time. No order of the commission upon a rehearing shall affect any right of action or penalty accruing under the original order unless so ordered by the commission.

**81.04.210 Commission may change orders.** The commission may at any time, upon notice to the public service company affected, and after opportunity to be heard as provided in the case of complaints rescind, alter or amend any order or rule made, issued or promulgated by it, and any order or rule rescinding, altering or amending any prior order or rule shall, when served upon the public service company affected, have the same effect as herein provided for original orders and rules.

**81.04.220 Reparations.** When complaint has been made to the commission concerning the reasonableness of any rate, fare, toll, rental or charge for any service performed by any public service company, and the same has been investigated by the commission, and the commission has determined that the public service company has charged an excessive or exorbitant amount for such service, and the commission has determined that any party complainant is entitled to an award of damages, the commission shall order that the public service company pay to the complainant the excess amount found to have been charged, whether such excess amount was charged and collected before or after the filing of said complaint, with interest from the date of the collection of said excess amount.

**81.04.230 Overcharges—Refund of.** When complaint has been made to the commission that any public service company has charged an amount for any service rendered in excess of the lawful rate in force at the time such charge was made, and the same has been investigated and the commission has determined that the overcharge allegation is true, the commission may order that the public service company pay to the complainant the amount of the overcharge so found, whether such overcharge was made before or after the filing of said complaint, with interest from the date of collection of such overcharge.

**81.04.235 Limitation of actions.** All complaints against public service companies for the recovery of damages not based on overcharges shall be filed with the commission within six months from the time the cause of action accrues, and not after, except as hereinafter provided.

All complaints against public service companies for recovery of overcharges shall be filed with the commission within two years from the time the cause of action accrues, and not after, except as hereinafter provided, and except that if claim for the overcharge has been presented in writing to the public service company within the two-year period of limitation, said period shall be extended to include six months from the time notice in writing is given by the public service company to the claimant of disallowance of the claim, or any part or parts thereof, specified in the notice.

If on or before expiration of the six-month period of limitation for the recovery of damages not based on overcharges or of the two-year period of limitation for the recovery of overcharges, a public service company begins action under RCW 81.28.270 for recovery of charges in respect of the same transportation service, or, without beginning action, collects charges in respect of that service, said period of limitation shall be extended to include ninety days from the time such action is begun or such charges are collected by the carrier.

**81.04.236 When cause of action deemed to accrue.** The cause of action for the purposes of RCW 81.04.235, 81.04.240, and 81.28.270 shall be deemed to accrue: (a) In respect of a shipment of property, upon delivery or tender of delivery thereof by the carrier, and not after; (b) in respect of goods or service or services other than a shipment of property, upon the rendering of an invoice or statement of charges by the public service company, and not after.

The provisions of this section shall extend to and embrace cases in which the cause of action has heretofore accrued as well as cases in which the cause of action may hereafter accrue.

**81.04.240 Action in court on reparations and overcharges.** If the public service company does not comply with the order of the commission for the payment of damages or overcharges within the time limited in the order, action may be brought in any superior court where service may be had upon the company to recover the amount of damages or overcharges with interest. The commission shall certify and file its record in the case, including all exhibits, with the clerk of the court within thirty days after such action is started and the action shall be heard on the evidence and exhibits introduced before the commission and certified to by it.

If the complainant shall prevail in the action, the court shall enter judgment for the amount of damages or overcharges with interest and shall allow complainant a reasonable attorney's fee, and the cost of preparing and certifying the record for the benefit of and to be paid to the commission by complainant, and deposited by the commission in the public service revolving fund, said sums to be fixed and collected as a part of the costs of the action.

If the order of the commission is found contrary to law or erroneous by reason of the rejection of testimony properly offered, the court shall remand the cause to the commission with instructions to receive the testimony so proffered and rejected and enter a new order based upon the evidence theretofore taken and such as it is directed to receive.

The court may remand any action which is reversed by it to the commission for further action.

Appeals to the supreme court shall lie as in other civil cases. Action to recover damages or overcharges shall be filed in the superior court within one year from the date of the order of the commission.

The procedure provided in this section is exclusive, and neither the supreme court nor any superior court shall have jurisdiction save in the manner hereinbefore provided.

**81.04.250 Determination of rates.** The commission shall have the power upon complaint or upon its own motion to prescribe and authorize just and reasonable rates for the transportation of persons or property by carriers, and shall exercise such power whenever and as often as it shall deem necessary or proper. The commission shall, before any hearing is had upon such complaint or motion, notify the complainants and the carrier concerned of the time and place of such hearing by giving at least ten days' written notice thereof, specifying that at the time and place designated a hearing will be held for the purpose of prescribing and authorizing such rates, which notice shall be sufficient to authorize the commission to inquire into and pass upon the matters designated in this section.

In exercising its aforesaid power the commission may use any standard, formula, method or theory of valuation reasonably calculated to arrive at the objective of prescribing and authorizing just and reasonable rates.

In the exercise of said power the commission may in its discretion give consideration in lieu of other factors to the following:

(1) To the effect of such rates upon movement of traffic by such carriers;

(2) To the public need for adequate transportation facilities, equipment and service at the lowest level of charges consistent with the provision, maintenance and renewal of such facilities, equipment and service; and

(3) To the carrier need for revenue of a level which under honest, efficient and economical management is sufficient to cover the cost (including all operating expenses, depreciation accruals, rents and taxes of every kind) of providing adequate transportation service, plus an amount equal to such percentage of said cost as shall be reasonably necessary for the provision, maintenance and

renewal of said transportation facilities or equipment and a reasonable profit to the carrier. The relation of carrier expenses to carrier revenues may be deemed the proper test of a reasonable profit.

**81.04.260 Summary proceedings.** Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. An appeal may be taken to the supreme court from such final judgment in the same manner and with the same effect as appeals from judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of appeal, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court under the provisions of this section.

**81.04.270 Merchandise accounts to be kept separate.** Any public service company engaging in the sale of merchandise or appliances or equipment shall keep separate accounts, as prescribed by the

commission, of its capital employed in such business and of its revenues therefrom and operating expenses thereof. The capital employed in such business shall not constitute a part of the fair value of said company's property for rate making purposes, nor shall the revenues from or operating expenses of such business constitute a part of the operating revenues and expenses of said company as a public service company.

**81.04.280 Purchase and sale of stock by employees.** No public service company shall permit any employee to sell, offer for sale, or solicit the purchase of any security of any other person or corporation during such hours as such employee is engaged to perform any duty of such public service company; nor shall any public service company by any means or device require any employee to purchase or contract to purchase any of its securities or those of any other person or corporation; nor shall any public service company require any employee to permit the deduction from his wages or salary of any sum as a payment or to be applied as a payment of any purchase or contract to purchase any security of such public service company or of any other person or corporation.

**81.04.290 Sales of stock to employees and patrons.** A corporate public service company, either heretofore or hereafter organized under the laws of this state, may sell to its employees and patrons any increase of its capital stock, or part thereof, without first offering it to existing stockholders: *Provided*, That such sale is approved by the holders of a majority of the capital stock, at a regular or special meeting held after notice given as to the time, place, and object thereof as provided by law and the bylaws of the company. Such sales shall be at prices and in amounts for each purchaser and upon terms and conditions as set forth in the resolution passed at the stockholders' meeting, or in a resolution passed at a subsequent meeting of the board of trustees if the resolution passed at the stockholders' meeting shall authorize the board to determine prices, amounts, terms, and conditions, except that in either event a minimum price for the stock must be fixed in the resolution passed at the stockholders' meeting.

**81.04.300 Budgets to be filed by companies—Supplementary budgets.** The commission may regulate, restrict, and control the budgets of expenditures of public service companies. Each company shall prepare a budget showing the amount of money which, in its judgment, will be needed during the ensuing year for maintenance, operation, and construction, classified by accounts as prescribed by the commission, and shall within ten days of the date it is approved by the company file it with the commission for its investigation and approval or rejection. When a budget has been filed

with the commission it shall examine into and investigate it to determine whether the expenditures therein proposed are fair and reasonable and not contrary to public interest.

Adjustments or additions to budget expenditures may be made from time to time during the year by filing a supplementary budget with the commission for its investigation and approval or rejection.

**81.04.310 Commission's control over expenditures.** The commission may, both as to original and supplementary budgets, prior to the making or contracting for the expenditure of any item therein, and after notice to the company and a hearing thereon, reject any item of the budget. The commission may require any company to furnish further information, data, or detail as to any proposed item of expenditure.

Failure of the commission to object to any item of expenditure within sixty days of the filing of any original budget or within thirty days of the filing of any supplementary budget shall constitute authority to the company to proceed with the making of or contracting for such expenditure, but such authority may be terminated at any time by objection made thereto by the commission prior to the making of or contracting for such expenditure.

Examination, investigation, and determination of the budget by the commission shall not bar or estop it from later determining whether any of the expenditures made thereunder are fair, reasonable, and commensurate with the service, material, supplies, or equipment received.

**81.04.320 Budget rules and regulations.** The commission may prescribe the necessary rules and regulations to place RCW 81.04.300 through 81.04.330 in operation. It may by general order, exempt in whole or in part from the operation thereof companies whose gross operating revenues are less than twenty-five thousand dollars a year. The commission may upon request of any company withhold from publication during such time as the commission may deem advisable, any portion of any original or supplementary budget relating to proposed capital expenditures.

**81.04.330 Effect of unauthorized expenditures—Emergencies.** Any public service company may make or contract for any rejected item of expenditure, but in such case the same shall not be allowed as an operating expense, or as to items of construction, as a part of the fair value of the company's property used and useful in serving the public: *Provided*, That such items of construction may at any time thereafter be so allowed in whole or in part upon proof that they are used and useful. Any company may upon the happening of any emergency caused by fire, flood, explosion, storm, earthquake, riot, or insurrection, or for the immediate preservation

or restoration to condition of usefulness of any of its property, the usefulness of which has been destroyed by accident, make the necessary expenditure therefor free from the operation of RCW 81.04.300 through 81.04.330.

Any finding and order entered by the commission shall be in effect until vacated and set aside in proper proceedings for review thereof.

**81.04.340 Dividends, control of.** No public service company engaged in intrastate business in this state shall pay any dividend upon its common stock until:

1. The public service company's earnings and earned surplus are sufficient to declare and pay the same after provisions are made for reasonable and proper reserves.

2. The dividend then proposed to be paid upon such common stock can reasonably be paid without impairing the ability of the public service company to perform its duty to render reasonable and adequate service at reasonable rates.

Before any common stock dividend is paid, the public service company shall make application to the commission for approval thereof, and shall furnish to the commission such information and data relating thereto as the commission shall require.

If the commission finds after notice and an opportunity to be heard that the payment of such dividend will not be in violation of the provisions of this section it shall approve the declaration and payment thereof, otherwise it shall disapprove the same. No such dividend so disapproved shall be paid unless and until the findings and order of the commission with respect thereto, have been vacated and set aside in proper proceeding for review thereof.

If at any time the commission shall find that the capital of any public service company is impaired, it may, after due notice, investigation and hearing, issue an order directing such company to cease paying dividends on its common stock until reasonable proof has been made to the commission that such impairment has been made good, and the status of the public service company has become such that common stock dividends may reasonably and properly be paid in full compliance with this section.

**81.04.350 Depreciation and retirement accounts.** The commission shall have power after hearing to require any or all public service companies to carry proper and adequate depreciation or retirement accounts in accordance with such rules, regulations and forms of accounts as the commission may prescribe. The commission may from time to time ascertain and by order fix the proper and adequate rates of depreciation or retirement of the several classes of property of each public service company. Each public

service company shall conform its depreciation or retirement accounts to the rates so prescribed. In fixing the rate of the annual depreciation or retirement charge, the commission may consider the rate and amount theretofore charged by the company for depreciation or retirement.

The commission shall have and exercise like power and authority over all other reserve accounts of public service companies.

**81.04.360 Excessive earnings to reserve fund.** If any public service company earns in the period of five consecutive years immediately preceding the commission order fixing rates for such company a net utility operating income in excess of a reasonable rate of return upon the fair value of its property used and useful in the public service, the commission shall take official notice of such fact and of whether any such excess earnings shall have been invested in such company's plant or otherwise used for purposes beneficial to the consumers of such company and may consider such facts in fixing rates for such company.

**81.04.380 Penalties—Violations by public service companies.** Every public service company, and all officers, agents and employees of any public service company, shall obey, observe and comply with every order, rule, direction or requirement made by the commission under authority of this title, so long as the same shall be and remain in force. Any public service company which shall violate or fail to comply with any provision of this title, or which fails, omits or neglects to obey, observe or comply with any order, rule, or any direction, demand or requirement of the commission, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, direction or requirement of this title shall be a separate and distinct offense, and in case of a continuing violation every day's continuance thereof shall be and be deemed to be a separate and distinct offense.

**81.04.385 ———Violations by officers, agents, and employees of public service companies.** Every officer, agent or employee of any public service company, who shall violate or fail to comply with, or who procures, aids or abets any violation by any public service company of any provision of this title, or who shall fail to obey, observe or comply with any order of the commission, or any provision of any order of the commission, or who procures, aids or abets any such public service company in its failure to obey, observe and comply with any such order or provision, shall be guilty of a gross misdemeanor.

**81.04.387 ———Violations by other corporations.** Every corporation, other than a public service company, which shall violate



any provision of this title, or which shall fail to obey, observe or comply with any order of the commission under authority of this title, so long as the same shall be and remain in force, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every such violation shall be a separate and distinct offense, and the penalty shall be recovered in an action as provided in section 81.04.400.

**81.04.390** ————**Violations by persons.** Every person who, either individually, or acting as an officer or agent of a corporation other than a public service company, shall violate any provision of this title, or fail to observe, obey or comply with any order made by the commission under this title, so long as the same shall be or remain in force, or who shall procure, aid or abet any such corporation in its violation of this title, or in its failure to obey, observe or comply with any such order, shall be guilty of a gross misdemeanor.

**81.04.400** **Actions to recover penalties.** Actions to recover penalties under this title shall be brought in the name of the state of Washington in the superior court of Thurston county, or in the superior court of any county in or through which such public service company may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions, except as otherwise herein provided. All fines and penalties recovered by the state under this title shall be paid into the treasury of the state and credited to the state general fund or such other fund as provided by law.

**81.04.410** **Orders and Rules conclusive.** In all actions between private parties and public service companies involving any rule or order of the commission, and in all actions for the recovery of penalties provided for in this title, or for the enforcement of the orders or rules issued and promulgated by the commission, the said orders and rules shall be conclusive unless set aside or annulled in a review as in this title provided.

**81.04.420** **Commission intervention where order or rule is involved.** In all court actions involving any rule or order of the commission, where the commission has not been made a party, the commission shall be served with a copy of all pleadings, and shall be entitled to intervene. Where the fact that the action involves a rule or order of the commission does not appear until the time of trial, the court shall immediately direct the clerk to notify the commission of the pendency of such action, and shall permit the commission to intervene in such action.

The failure to comply with the provisions of this section shall render void and of no effect any judgment in such action, where

the effect of such judgment is to modify or nullify any rule or order of the commission.

**81.04.430 Findings of department prima facie correct.** Whenever the commission has issued or promulgated any order or rule, in any writ of review brought by a public service company to determine the reasonableness of such order or rule, the findings of fact made by the commission shall be prima facie correct, and the burden shall be upon said public service company to establish the order or rule to be unreasonable or unlawful.

**81.04.440 Companies liable for damages.** In case any public service company shall do, cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or thing required to be done, either by any law of this state, by this title or by any order or rule of the commission, such public service company shall be liable to the persons or corporations affected thereby for all loss, damage or injury caused thereby or resulting therefrom, and in case of recovery if the court shall find that such act or omission was wilful, it may, in its discretion, fix a reasonable counsel or attorney's fee, which shall be taxed and collected as part of the costs in the case. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation.

**81.04.450 Certified copies of orders, rules, etc.—Evidentiary effect.** Upon application of any person the commission shall furnish certified copies of any classification, rate, rule, regulation or order established by such commission, and the printed copies published by authority of the commission, or any certified copy of any such classification, rate, rule, regulation or order, with seal affixed, shall be admissible in evidence in any action or proceeding, and shall be sufficient to establish the fact that the charge, rate, rule, order or classification therein contained is the official act of the commission. When copies of any classification, rate, rule, regulation or order not contained in the printed reports, or copies of papers, accounts or records of public service companies filed with the commission shall be demanded from the commission for proper use, the commission shall charge a reasonable compensation therefor.

**81.04.460 Commission to enforce public service laws.** It shall be the duty of the commission to enforce the provisions of this title and all other acts of this state affecting public service companies, the enforcement of which is not specifically vested in some other officer or tribunal.

Note: See also section 2, chapter 173, Laws of 1961.

**81.04.470 Rights of action not released—Penalties cumulative.** This title shall not have the effect to release or waive any right

of action by the state or any person for any right, penalty or forfeiture which may have arisen or may hereafter arise under any law of this state; and all penalties accruing under this title shall be cumulative of each other, and a suit for the recovery of one penalty shall not be a bar to the recovery of any other: *Provided*, That no contract, receipt, rule or regulation shall exempt any corporation engaged in transporting livestock by railway from liability of a common carrier, or carrier of livestock which would exist had no contract, receipt, rule or regulation been made or entered into.

**81.04.490 Application to municipal utilities.** Nothing in this title shall authorize the commission to make or enforce any order affecting rates, tolls, rentals, contracts or charges or service rendered, or the safety, adequacy or sufficiency of the facilities, equipment, instrumentalities or buildings, or the reasonableness of rules or regulations made, furnished, used, supplied or in force affecting any street railroad owned and operated by any city or town, but all other provisions enumerated herein shall apply to public utilities owned by any city or town.

**81.04.500 Duties of attorney general.** It shall be the duty of the attorney general to represent and appear for the people of the state of Washington and the commission in all actions and proceedings involving any question under this title, or under or in reference to any act or order of the commission; and it shall be the duty of the attorney general generally to see that all laws affecting any of the persons or corporations herein enumerated are compiled with, and that all laws, the enforcement of which devolves upon the commission, are enforced, and to that end he is authorized to institute, prosecute and defend all necessary actions and proceedings.

## Chapter 81.08

### SECURITIES

**81.08.010 Definition.** The term "public service company", as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the public service commission under the provisions of this title: *Provided*, That it shall not include any such company the issuance of stocks and securities of which is subject to regulation by the Interstate Commerce Commission: *Provided further*, That it shall not include any "motor carrier" as that term is defined in RCW 81.80.010 or any "storage warehouse", "storage warehouseman" or "warehouseman" as those terms are defined in RCW 22.20.010.

**81.08.012 “Evidence of indebtedness”—Limitation of term.** The term “evidence of indebtedness,” as used in this chapter, shall not include conditional sales contracts or purchase money chattel mortgages.

**81.08.020 Control vested in state.** The power of public service companies to issue stocks and stock certificates or other evidence of interest or ownership, and bonds, notes and other evidences of indebtedness and to create liens on their property situated within this state is a special privilege, the right of supervision, regulation, restriction, and control of which is and shall continue to be vested in the state, and such power shall be exercised as provided by law and under such rules and regulations as the commission may prescribe.

**81.08.030 Authority to issue.** A public service company may issue stock and stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness payable on demand or at periods of more than twelve months after the date thereof, for the following purposes only: The acquisition of property, or the construction, completion, extension, or improvement of its facilities, or the improvement or maintenance of its service, or the issuance of stock dividends, or the discharge or refunding of its obligations, or the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the company not secured by or obtained from the issue of stock or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidence of indebtedness of the company for any of the aforesaid purposes except maintenance of service, in cases where the applicant keeps its accounts and vouchers for such expenditures in such manner as to enable the commission to ascertain the amount of money so expended and the purpose for which the expenditure was made.

**81.08.040 Application for authority—Hearing—Joint action.** Application for authorization to issue such stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness shall be made to the commission stating the amount, character, terms and purpose of each proposed issue thereof, and stating such other pertinent details as the commission may require.

To enable it to determine whether it will issue such order, the commission may hold a hearing and may make such additional inquiry or investigation, and examine such witnesses, books, papers, documents and contracts, and require the filing of such data as it may deem of assistance. The commission may by its order grant permission for the issuance of such stocks or stock certificates or

other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness in the amount applied for, or in a lesser amount, or not at all, and may attach to the exercise of its permission such condition or conditions as it may deem reasonable and necessary.

If a commission or other agency or agencies is empowered by another state to regulate and control the amount and character of securities to be issued by any public service company within such other state, then the commission shall have the power to agree with such commission or other agency or agencies of such other state on the issuance of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes or other evidences of indebtedness by a public service company owning or operating a public utility both in such state and in this state, and shall have the power to approve such issue jointly with such commission or other agency or agencies and to issue a joint certificate of such approval: *Provided, however,* That no such joint approval shall be required in order to express the consent to and approval of such issue by the state of Washington if said issue is separately approved by the commission.

The public service company making the application may have the decision or order of the commission reviewed in the courts in the same manner and by the same procedure as any other order or decision of the commission, when the public service company shall deem such decision or order to be in any respect or manner improper, unjust or unreasonable.

**81.08.050 Use of proceeds limited.** No public service company shall, without the consent of the commission, apply the issue of any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, or any part thereof, or any proceeds thereof, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or issue or dispose of the same on any terms less favorable than those specified in such order, or a modification thereof.

**81.08.060 Short term notes excepted.** A public service company may issue notes, except demand notes, for proper purposes and not in violation of any provision of this chapter, or any other law, payable at periods of not more than twelve months after the date of issuance, without the consent of the commission, but no such note shall, in whole or in part, be refunded by any issue of stock or stock certificates or other evidence of interest or ownership, or bonds, notes, or other evidence of indebtedness, without the consent of the commission.

**81.08.070 Fee Schedule.** Each public service company making application to the commission for authority to issue stock and stock certificates or other evidence of interest or ownership and bonds, notes or other evidence of indebtedness, shall pay to the commission the following fees: For each order authorizing an issue of bonds, notes or other evidence of indebtedness, one dollar for each one thousand dollars of the principal amount of the authorized issue or fraction thereof up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and ten cents for each one thousand dollars over ten million dollars, with a minimum fee in any case of ten dollars; for each order authorizing an issue of stock, stock certificates, or other evidence of interest or ownership, one dollar for each one thousand dollars of the par or stated value of the authorized issue or fraction thereof up to one million dollars, and fifty cents for each one thousand dollars over one million dollars and up to ten million dollars, and ten cents for each one thousand dollars over ten million dollars, with a minimum fee in any case of ten dollars: *Provided*, That only twenty-five percent of the specified fees need be paid on any issue or on such portion thereof as may be used to guarantee, take over, refund, or discharge any stock issue or stock certificates, bonds, notes or other evidence of interest, ownership or indebtedness on which a fee has theretofore been paid: *Provided further*, That if the commission modifies the amount of the issue requested and the applicant elects not to avail itself of the authorization, no fee need be paid. All fees collected under this section shall be paid at least once each month to the state treasurer and deposited in the public service revolving fund.

**81.08.080 Capitalization of franchises or merger contracts prohibited.** The commission shall have no power to authorize the capitalization of the right to be a corporation, or to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to a political subdivision thereof as the consideration for the grant of such franchise, permit or right; nor shall any contract for consolidation or lease be capitalized, nor shall any public service company hereafter issue any bonds, notes or other evidences of indebtedness against or as a lien upon any contract for consolidation or merger.

**81.08.090 Accounting for disposition of proceeds.** The commission shall have the power to require public service companies to account for the disposition of the proceeds of all sales of stocks and stock certificates or other evidence of interest or ownership, and bonds, notes and other evidences of indebtedness, in such form

and detail as it may deem advisable, and to establish such rules and regulations as it may deem reasonable and necessary to insure the disposition of such proceeds for the purpose or purposes specified in its order.

**81.08.100 Unauthorized and nonconforming issues void.** All stock and every stock certificate or other evidence of interest or ownership, and every bond, note or other evidence of indebtedness, of a public service company, issued without an order of the commission authorizing the same then in effect shall be void, and likewise all stock and every stock certificate or other evidence of interest or ownership, and every bond, note or other evidence of indebtedness, of a public service company, issued with the authorization of the commission, but not conforming in substance in its provisions to the provisions, if any, which it is required by the order of authorization of the commission to contain, shall be void; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the commission and no defect in, or in connection with the application for or issuance of, such order shall render void any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice.

**81.08.105 ————Issues after effective date of chapter 151, Laws of 1933 based upon corporate authority prior to said date.** All stocks and stock certificates or other evidence of interest or ownership, and bonds, notes and other evidences of indebtedness issued by any public service company after chapter 151, Laws of 1933 takes effect, upon the authority of any articles of incorporation or amendments thereto or vote of the stockholders or directors filed, taken or had, or other proceedings taken or had, previous to the taking effect of chapter 151, Laws of 1933, shall be void, unless an order of the department authorizing the issuance of such stock or stock certificates or other evidence of interest or ownership, or bonds, notes or other evidences of indebtedness shall have been obtained from the department prior to such issue; but no failure in any other respect to comply with the terms or conditions of the order of authorization of the department and no defect in, or in connection with the application for or issuance of, such order shall render void any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, except as to a corporation or person taking the same otherwise than in good faith and for value and without actual notice. The department may by its order impose such condition or conditions as it may deem reasonable and necessary.

For the purposes of this section "department" shall mean the department of public works or such body as shall have succeeded to the powers and duties thereof.

**81.08.110 Penalty against companies.** Every public service company which, directly or indirectly, issues or causes to be issued, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, in nonconformity with the order of the commission authorizing the same, or contrary to the provisions of this chapter, or which applies the proceeds from the sale thereof, or any part thereof, to any purpose other than the purpose or purposes specified in the commission's order, as herein provided or to any purpose specified in the commission's order in excess of the amount in said order authorized for such purpose shall be subject to a penalty of not more than one thousand dollars for each offense. Every violation of any such order, rules, direction, demand or requirement of the department, or of any provision of this chapter, shall be a separate and distinct offense and in case of a continuing violation every day's continuance thereof shall be deemed to be a separate and distinct offense.

The act, omission or failure of any officer, agent or employee of any public service company acting within the scope of his official duties or employment, shall in every case be deemed to be the act, omission or failure of such public service company.

**81.08.120 Penalty against individuals.** Every officer, agent or employee of a public service company, and every other person who knowingly authorizes, directs, aids in, issues or executes, or causes to be issued or executed, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, in nonconformity with the order of the commission authorizing the same, or contrary to the provisions of this chapter, or who, in any proceedings before the commission, knowingly makes any false statement or representation or with knowledge of its falsity files or causes to be filed with the commission any false statement or representation which said statement or representation so made, filed or caused to be filed may tend in any way to influence the commission to make an order authorizing the issuance of any stock or stock certificate or other evidence of interest or ownership, or any bond, note or other evidence of indebtedness, or which results in procuring from the commission the making of any such order, or who, with knowledge that any false statement or representation was made to the commission in any proceedings tending in any way to influence the commission to make such order, issues or executes or negotiates, or causes to be issued, executed or negotiated any such stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebted-



ness, or who, directly or indirectly, knowingly applies, or causes or assists to be applied the proceeds or any part thereof, from the sale of any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, to any purpose not specified in the commission's order, or to any purpose specified in the commission's order in excess of the amount authorized for such purpose, or who, with knowledge that any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, has been issued or executed in violation of any of the provisions of this chapter negotiates, or causes the same to be negotiated, shall be guilty of a gross misdemeanor.

**81.08.130 Permit to assume liability as guarantor, etc.** No public service company shall henceforth assume any obligation or liability as guarantor, indorser, surety or otherwise in respect to the securities of any other person, firm or corporation, when such securities are payable at periods of more than twelve months after the date thereof, without having first secured from the commission an order authorizing it so to do. Every such assumption made other than in accordance with the order of the commission authorizing the same shall be void.

**81.08.140 State not obligated.** No provision of this chapter, and no deed or act done or performed under or in connection therewith, shall be held or construed to obligate the state of Washington to pay or guarantee, in any manner whatsoever, any stock or stock certificate or other evidence of interest or ownership, or bond, note or other evidence of indebtedness, authorized, issued or executed under the provisions of this chapter.

## Chapter 81.12

### TRANSFERS OF PROPERTY

**81.12.010 Definition.** The term "public service company," as used in this chapter, shall mean every company now or hereafter engaged in business in this state as a public utility and subject to regulation as to rates and service by the public service commission under the provisions of this title or Title 22: *Provided*, That it shall not include common carriers subject to regulation by the Interstate Commerce Commission: *Provided further*, That it shall not include motor freight carriers subject to the provisions of chapter 81.80.

**81.12.020 Order required to sell, merge, etc.** No public service company shall sell, lease, assign or otherwise dispose of the whole or any part of its franchises, properties or facilities whatsoever, which are necessary or useful in the performance of its duties

to the public, and no public service company shall, by any means whatsoever, directly or indirectly, merge or consolidate any of its franchises, properties or facilities with any other public service company, without having secured from the commission an order authorizing it so to do: *Provided*, That this section shall not apply to any sale, lease, assignment or other disposal of such franchises, properties or facilities to a public utility district.

**81.12.030 Disposal without authorization void.** Any such sale, lease, assignment, or other disposition, merger or consolidation made without authority of the commission shall be void.

**81.12.040 Authority required to acquire property or securities of company.** No public service company shall, directly or indirectly, purchase, acquire, or become the owner of any of the franchises, properties, facilities, capital stocks or bonds of any other public service company unless authorized so to do by the commission. Nothing contained in this chapter shall prevent the holding of stocks or other securities heretofore lawfully acquired or prohibit, upon the surrender or exchange of said stocks or other securities pursuant to a reorganization plan, the purchase, acquisition, taking or holding by the owner of a proportionate amount of the stocks or other securities of any new corporation organized to take over at foreclosure or other sale, the property of the corporation the stocks or securities of which have been thus surrendered or exchanged. Any contract by any public service company for the purchase, acquisition, assignment or transfer to it of any of the stocks or other securities of any other public service company, directly or indirectly, without the approval of the commission shall be void and of no effect.

**81.12.050 Rules and regulations.** The commission shall have power to promulgate rules and regulations to make effective the provisions of this chapter.

**81.12.060 Penalty.** The provisions of sections 81.04.380 and 81-.04.385 as to penalties shall be applicable to public service companies, their officers, agents and employees failing to comply with the provisions of this chapter.

## Chapter 81.16

### AFFILIATED INTERESTS

**81.16.010 Definitions.** As used in this chapter, the term "public service company" shall include every corporation engaged in business as a public utility and subject to regulation as to rates and service by the public service commission under the provisions of this title or Title 22.

As used in this chapter, the term "affiliated interest," means:

Every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of any public service company engaged in any intrastate business in this state;

Every corporation and person, other than those above specified, in any chain of successive ownership of five percent or more of voting securities, the chain beginning with the holder of the voting securities of such public service company;

Every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such public service company or by any person or corporation in any such chain of successive ownership of five percent or more of voting securities;

Every corporation or person with which the public service company has a management or service contract; and

Every person who is an officer or director of such public service company or of any corporation in any chain of successive ownership of five percent or more of voting securities.

**81.16.020 Dealings with affiliated interests must be approved.** No contract or arrangement providing for the furnishing of management, supervisory construction, engineering, accounting, legal, financial or similar services, and no contract or arrangement for the purchase, sale, lease or exchange of any property, right, or thing, or for the furnishing of any service, property, right, or thing, other than those above enumerated, hereafter made or entered into between a public service company and any affiliated interest as defined in this chapter, including open account advances from or to such affiliated interests, except open account advances from or to a common carrier subject to the provisions of part one of the interstate commerce act, shall be valid or effective unless and until such contract or arrangement shall have received the approval of the commission. It shall be the duty of every public service company to file with the commission, a verified copy or a verified summary of any such unwritten contract or arrangement, and also of all such contracts and arrangements, whether written or unwritten, entered into prior to March 18, 1933 and in force and effect at that time. The commission shall approve such contract or arrangement hereafter made or entered into only if it shall clearly appear and be established upon investigation that it is reasonable and consistent with the public interest; otherwise the contract or arrangement shall not be approved. The commission shall not be required to approve any such contract or arrangement unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service described herein.

**81.16.030 Payments to affiliated interest disallowed if not reasonable.** In any proceeding, whether upon the commission's own motion or upon complaint, involving the rates or practices of any public service company, the commission may exclude from the accounts of such public service company any payment or compensation to an affiliated interest for any services rendered or property or service furnished, as above described, under existing contracts or arrangements with such affiliated interest unless such public service company shall establish the reasonableness of such payment or compensation. In such proceeding the commission shall disallow such payment or compensation, in whole or in part, in the absence of satisfactory proof that it is reasonable in amount. In such proceeding any payment or compensation may be disapproved or disallowed by the commission, in whole or in part, unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the service or furnishing the property or service above described.

**81.16.040 Satisfactory proof, what constitutes.** No proof shall be satisfactory, within the meaning of RCW 81.16.010 through 81.16.030, unless it includes the original (or verified copies) of the relevant cost records and other relevant accounts of the affiliated interest, or such abstract thereof or summary taken therefrom, as the commission may deem adequate, properly identified and duly authenticated: *Provided, however,* That the commission may, where reasonable, approve or disapprove such contracts or arrangements without the submission of such cost records or accounts.

**81.16.050 Commission's control is continuing.** The commission shall have continuing supervisory control over the terms and conditions of such contracts and arrangements as are herein described so far as necessary to protect and promote the public interest. The commission shall have the same jurisdiction over the modifications or amendment of contracts or arrangements as are herein described as it has over such original contracts or arrangements. The fact that the commission shall have approved entry into such contracts or arrangements as described herein shall not preclude disallowance or disapproval of payments made pursuant thereto, if upon actual experience under such contract or arrangement, it appears that the payments provided for or made were or are unreasonable. Every order of the commission approving any such contract or arrangement shall be expressly conditioned upon the reserved power of the commission to revise and amend the terms and conditions thereof, if, when and as necessary to protect and promote the public interest.

**81.16.060 Summary order on nonapproved payments.** Whenever the commission shall find upon investigation that any public service company is giving effect to any such contract or arrangement without such contract or arrangement having received the commission's approval, the commission may issue a summary order prohibiting the public service company from treating any payments made under the terms of such contract or arrangement as operating expenses or as capital expenditures for rate or valuation purposes, unless and until such payments shall have received the approval of the commission.

**81.16.070 Summary order on payments after disallowance.** Whenever the commission shall find upon investigation that any public service company is making payments to an affiliated interest, although such payments have been disallowed and disapproved by the commission in a proceeding involving the public service company's rates or practices, the commission shall issue a summary order directing the public service company from treating such payments as operating expenses or capital expenditures for rate or valuation purposes, unless and until such payments shall have received the approval of the commission.

**81.16.080 Court action to enforce orders.** The superior court of Thurston county is authorized to enforce such orders to cease and desist by appropriate process, including the issuance of a preliminary injunction, upon the suit of the commission.

**81.16.090 Review of orders.** Any public service company or affiliated interest deeming any decision or order of the commission to be in any respect or manner improper, unjust or unreasonable may have the same reviewed in the courts in the same manner and by the same procedure as is now provided by law for review of any other order or decision of the commission.

## Chapter 81.20

### INVESTIGATION OF PUBLIC SERVICE COMPANIES

**81.20.010 Definition.** As used in this chapter, the term "public service company" means any person, firm, association, or corporation, whether public or private, operating a utility or public service enterprise subject in any respect to regulation by the public service commission under the provisions of this title or Title 22.

**81.20.020 Cost of investigation may be assessed against company.** Whenever the commission in any proceeding upon its own motion or upon complaint shall deem it necessary in order to carry out the duties imposed upon it by law to investigate the books, accounts, practices and activities of, or make any valuation or appraisal

of the property of any public service company, or to investigate or appraise any phase of its operations, or to render any engineering or accounting service to or in connection with any public service company, and the cost thereof to the commission exceeds in amount the ordinary regulatory fees paid by such public service company during the preceding calendar year or estimated to be paid during the current year, whichever is more, such public service company shall pay the expenses reasonably attributable and allocable to such investigation, valuation, appraisal or services. The commission shall ascertain such expenses, and, after giving notice and an opportunity to be heard, shall render a bill therefor by registered mail to the public service company, either at the conclusion of the investigation, valuation, appraisal or services, or from time to time during its progress. Within thirty days after a bill has been mailed such public service company shall pay to the commission the amount of the bill, and the commission shall transmit such payment to the state treasurer who shall credit it to the public service revolving fund. The total amount which any public service company shall be required to pay under the provisions of this section in any calendar year shall not exceed one percent of the gross operating revenues derived by such public service company from its intrastate operations during the last preceding calendar year. If such company did not operate during all of the preceding year the calculations shall be based upon estimated gross revenues for the current year.

**81.20.030 Interest on unpaid assessment — Action to collect.** Amounts so assessed against any public service company not paid within thirty days after mailing of the bill therefor, shall draw interest at the rate of six percent per annum from the date of mailing of the bill. Upon failure of the public service company to pay the bill, the attorney general shall proceed in the name of the state by civil action in the superior court for Thurston county against such public service company to collect the amount due, together with interest and costs of suit.

**81.20.040 Commission's determination of necessity as evidence.** In such action the commission's determination of the necessity of the investigation, valuation, appraisal or services shall be conclusive evidence of such necessity, and its findings and determination of facts expressed in bills rendered pursuant to sections 81.20.020 through 81.20.060 or in any proceedings determinative of such bills shall be prima facie evidence of such facts.

**81.20.050 Order of commission not subject to review.** In view of the civil action provided for in sections 81.20.020 through 81.20.060 any order made by the commission in determining the amount of

such bill shall not be reviewable in court, but the mere absence of such right of review shall not prejudice the rights of defendants in the civil action.

**81.20.060 Limitation on frequency of investigations.** Expenses of a complete valuation, rate and service investigation shall not be assessed against a public service company under this chapter if such company shall have been subjected to and paid the expenses of a complete valuation, rate and service investigation during the preceding five years, unless the properties or operations of the company have materially changed or there has been a substantial change in its value for rate making purposes or in other circumstances and conditions affecting rates and services.

### Chapter 81.24

#### REGULATORY FEES

**81.24.010 Companies to file reports of gross revenue and pay fees—General.** Every company subject to regulation by the commission, except auto transportation companies, steamboat companies, wharfingers or warehousemen, motor freight carriers, and storage warehousemen shall, on or before the first day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars, except railroad companies which shall each pay to the commission a fee equal to three-tenths of one percent of its intrastate gross operating revenue: *Provided further*, That the fee shall in no case be less than one dollar.

The percentage rates of gross operating revenue to be paid in any one year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows: Railroad, express, sleeping car, and toll bridge companies shall constitute class two. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

**81.24.020 Fees of auto transportation companies.** Every auto transportation company shall, between the first and fifteenth days of January, April, July and October of each year, file with the commission a statement showing its gross operating revenue from

intrastate operations for the preceding three months, or portion thereof, and pay to the commission a fee of two-fifths of one percent of the amount of gross operating revenue: *Provided*, That the fee paid shall in no case be less than two dollars and fifty cents.

The percentage rate of gross operating revenue to be paid in any period may be decreased by the commission by general order entered before the fifteenth day of the month preceding the month in which such fees are due.

**81.24.030 Fees of steamboat companies, wharfingers or warehousemen.** Every steamboat company and every wharfinger or warehouseman shall, on or before the first day of April of each year, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee of two-fifths of one percent of the amount of gross operating revenue: *Provided*, That the fee so paid shall in no case be less than five dollars. The percentage rate of gross operating revenue to be paid in any year may be decreased by the commission by general order entered before March 1st of such year.

**81.24.040 Fees of storage warehousemen.** Every storage warehouseman shall, on or before the thirty-first day of March, 1950, and of each year thereafter, file with the commission an annual report under oath, on forms to be provided by the commission, showing his gross operating revenue from intrastate operations for the preceding calendar year ending December 31st, or portion thereof, and pay to the commission one percent of such gross operating revenue: *Provided*, That the fee so paid shall in no case be less than ten dollars: *Provided further*, That for the year 1950 the amount yet remaining due shall be computed to give credit for amounts paid during that year. The percentage rate of gross operating revenue to be paid in any year may be decreased by the commission by general order entered before March 1st of such year.

**81.24.050 Fees to approximate reasonable cost of regulation.** In fixing the percentage rates of gross operating revenue to be paid by companies under RCW 81.24.010, 81.24.020, 81.24.030 and 81.24.040, the commission shall consider all moneys then in the public service revolving fund and the fees currently to be paid into such fund, to the end that the fees collected from the companies, or classes of companies, covered by each respective section shall be approximately the same as the reasonable cost of supervising and regulating such companies, or classes of companies, respectively.

**81.24.060 Intent of legislature—Regulatory cost records to be kept by commission.** It is the intent and purpose of the legislature



that the several groups of public service companies shall each contribute sufficient in fees to the commission to pay the reasonable cost of regulating the several groups respectively. The commission shall keep accurate records of the costs incurred in regulating and supervising the several groups of companies subject to regulation or supervision and such records shall be open to inspection by all interested parties. The records and data upon which the commission's determination is made shall be considered prima facie correct in any proceeding instituted to challenge the reasonableness or correctness of any order of the commission fixing fees and distributing regulatory expenses.

**81.24.070 Disposition of fees.** All moneys collected under the provisions of this chapter shall within thirty days be paid to the state treasurer and by him deposited to the public service revolving fund.

**81.24.080 Penalty for failure to pay fees.** Every person, firm, company or corporation, or the officers, agents or employees thereof, failing or neglecting to pay the fees herein required shall be guilty of a misdemeanor, and in addition thereto shall be subject to a penalty of twenty-five dollars for each and every day that the fee remains unpaid after it becomes due, said penalty to be collected by the commission in a civil action. All fines and penalties collected under the provisions of this chapter shall be deposited into the public service revolving fund of the state treasury.

## Chapter 81.28

### COMMON CARRIERS IN GENERAL

**81.28.010 Duties as to rates, services and facilities.** All charges made for any service rendered or to be rendered in the transportation of persons or property, or in connection therewith, by any common carrier, or by any two or more common carriers, shall be just, fair, reasonable and sufficient.

Every common carrier shall construct, furnish, maintain and provide, safe, adequate and sufficient service facilities, trackage, sidings, railroad connections, industrial and commercial spurs and equipment to enable it to promptly, expeditiously, safely and properly receive, transport and deliver all persons or property offered to or received by it for transportation, and to promote the safety, health, comfort and convenience of its patrons, employees and the public.

All rules and regulations issued by any common carrier affecting or pertaining to the transportation of persons or property shall be just and reasonable.

**81.28.020 Duty of carriers and shippers to expedite traffic.**

Every common carrier shall under reasonable rules and regulations promptly and expeditiously receive, transport and deliver all persons or property offered to or received by it for transportation. All persons receiving cars for loading shall promptly and expeditiously load the same, and all persons receiving property shall promptly and expeditiously receive and remove the same from the cars and freight rooms.

**81.28.030 Routing of freight—Connecting companies—Damages.**

All transportation companies doing business wholly or in part within this state shall, upon receipt of any article of freight, promptly forward the same to its marked destination, by the route directed by the shipper, or if no directions are given by shipper, then to any connecting company whose line or route reaches nearest to the point to which such freight is marked.

Any transportation company failing to comply with this section shall be liable for any damages that may be sustained, either to the shipper or consignee, from any cause, upon proof that said damages resulted on account of a failure of the transportation company to comply with this section.

Suit for damages may be instituted either at the place of shipping or destination, either by the shipper or consignee, and before any court competent and qualified to hear and determine like causes between individuals resident of the district in which said court is holding.

**81.28.040 Tariff schedules to be filed with commission—Public schedules—Commission's powers as to schedules.** Every common carrier shall file with the commission and shall print and keep open to the public inspection schedules showing the rates, fares, charges and classification for the transportation of persons and property within the state between each point upon its route and all other points thereon; and between each point upon its route and all points upon every route leased, operated or controlled by it; and between each point on its route or upon any route leased, operated or controlled by it and all points upon the route of any other common carrier, whenever a through route and joint rate shall have been established or ordered between any two such points. If no joint rate over a through route has been established, the several carriers in such through route shall file, print and keep open to the public inspection, as aforesaid, the separately established rates, fares, charges and classifications, applied to the through transportation. The schedules printed as aforesaid, shall plainly state the places between which property and persons will be carried, and shall also contain classification of passengers or property in force, and shall also state separately all terminal charges, storage

charges, icing charges, and all other charges which the commission may require to be stated, all privileges or facilities granted or allowed, and any rules or regulations which may in anywise change, affect, or determine any part, or the aggregate of, such aforesaid rates, fares and charges, or the value of the service rendered to the passenger, shipper or consignee. Such schedule shall be plainly printed in large type, and a copy thereof shall be kept by every such carrier readily accessible to and for inspection by the public in every station or office of such carrier where passengers or property are respectively received for transportation, when such station or office is in charge of any agent, and in every station or office of such carrier where passenger tickets for transportation or tickets covering sleeping or parlor car or other train accommodation are sold or bills of lading or receipts for property are issued. All or any of such schedules kept as aforesaid shall be immediately produced by such carrier for inspection upon the demand of any person. A notice printed in bold type and stating that such schedules are on file with the agent and open to inspection by any person and that the agent will assist any such person to determine from such schedules any transportation rates or fares or rules or regulations which are in force shall be kept posted by the carrier in two public and conspicuous places in every such station or office. The form of every such schedule shall be prescribed by the commission and shall conform in the case of railroad companies as nearly as may be to the form of schedules required by the interstate commerce commission under the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof, and supplementary thereto.

The commission shall have power, from time to time, in its discretion, to determine and prescribe by order such changes in the form of such schedules as may be found expedient, and to modify the requirements of this section in respect to publishing, posting and filing of schedules either in particular instances or by general rule or order applicable to special or peculiar circumstances or conditions.

The commission may, in its discretion, suspend the operation of this section in whole or in part as applied to vessels engaged in jobbing business not operating on regular routes.

**81.28.050 Tariff changes—Statutory notice—Exception.** Unless the commission otherwise orders, no change shall be made in any classification, rate, fare, charge, rule, or regulation filed and published by a common carrier, except after thirty days' notice to the commission and to the public published as provided in RCW 81.28-.040 which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the changed rate,

classification, fare, or charge will go into effect; and all proposed changes shall be shown by printing, filing and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. The commission, for good cause shown, may by order allow changes in rates without requiring the thirty days' notice and the publication. When any change is made in any rate, fare, charge, classification, rule, or regulation, attention shall be directed to such change by some character on the schedule, such character and its placement to be designated by the commission. The commission may, by order, for good cause shown, allow changes in any rate, fare, charge, classification, rule, or regulation without requiring any character to indicate each and every change to be made.

**81.28.060 Joint rates, contracts, etc.** The names of the several carriers which are parties to any joint tariff shall be specified therein, and each of the parties thereto, other than the one filing the same, shall file with the commission such evidence of concurrence therein or acceptance thereof as may be required or approved by the commission; and where such evidence of concurrence or acceptance is filed, it shall not be necessary for the carriers filing the same also to file copies of the tariffs in which they are named as parties.

Every common carrier shall file with the commission copies of every contract, agreement or arrangement with any other common carrier or common carriers relating in any way to the transportation of persons or property.

**81.28.070 Interstate tariffs.** Every common carrier shall print and file or cause to be filed with the commission schedules showing the rates, fare, charges and classifications for the transportation of persons and property between all points within the state and all points without the state upon its route, and between each point within the state and all points without the state upon every route leased, operated or controlled by it, and between each point upon its route within the state and all points without the state upon the route of any common carrier, whenever a through route and joint rate shall have been established between any two such points. If no joint rate over a through route has been established, the carrier operating within this state shall print and file with the commission the separately established rates, fares, charges and classifications applied to the through transportation. The schedules printed aforesaid shall plainly state the places between which property and persons will be carried, and shall also contain the classification of passengers or property in force, and shall also state separately all terminal charges, storage charges, icing charges or other charges which the commission may require to be stated, all privileges

granted or allowed, and any rules or regulations which may in any-wise change, affect or determine any part or the aggregate of such aforesaid rates, fares, and charges, or the value of the service rendered to the passenger, shipper or consignee.

**81.28.080 Published rates to be charged—Exceptions.** No common carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified excepting upon order of the commission as hereinafter provided, nor extend to any shipper or person any privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. No common carrier shall, directly or indirectly, issue or give any free ticket, free pass or free or reduced transportation for passengers between points within this state, except its employees and their families, surgeons and physicians and their families, its officers, agents and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk and fruit; to employees of sleeping car companies, express companies, and to linemen of telegraph and telephone companies; to railway mail service employees; post office inspectors, customs inspectors and immigration inspectors; to newsboys on trains; baggage agents, witnesses attending any legal investigation in which the common carrier is interested; to persons injured in accidents or wrecks and physicians and nurses attending such persons; to the National Guard of Washington when on official duty, and students going to and returning from state institutions of learning: *Provided*, That this provision shall not be construed to prohibit the interchange of passes for the officers, attorneys, agents and employees and their families, of railroad companies, steamboat companies, express companies and sleeping car companies with other railroad companies, steamboat companies, express companies and sleeping car

companies, nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: *And provided, further,* That this provision shall not be construed to prohibit the exchange of passes or franks for the officers, attorneys, agents, employees, and their families of such telegraph, telephone and cable lines, and the officers, attorneys, agents, employees, and their families of other telegraph, telephone or cable lines, or with railroad companies, express companies or sleeping car companies: *Provided, further,* That the term "employee" as used in this section shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed or dying in the employment of a carrier, those entering or leaving its service and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this section shall include the families of those persons named in this proviso, also the families of persons killed and the widows during widowhood and minor children during minority, of persons who died while in the service of any such common carrier: *And provided, further,* That nothing herein contained shall prevent the issuance of mileage, commutation tickets or excursion passenger tickets: *And provided, further,* That nothing in this section shall be construed to prevent the issuance of free or reduced transportation by any street railroad company for mail carriers, or policemen or members of fire departments, city officers, and employees when engaged in the performance of their duties as such city employees.

Common carriers subject to the provisions of this title may carry, store or handle, free or at reduced rates, property for the United States, state, county or municipal governments, or for charitable purposes, or to or from fairs and exhibitions for exhibition thereat, and may carry, store or handle, free or at reduced rates, the household goods and personal effects of its employees and those entering or leaving its service and those killed or dying while in its service.

Nothing in this title shall be construed to prohibit the making of a special contract providing for the mutual exchange of service between any railroad company and any telegraph or telephone company, where the line of such telegraph or telephone company is situated upon or along the railroad right of way and used by both of such companies.

**81.28.140 Free passage for "seeing eye" dogs.** Any sightless person who is a passenger for hire on any common carrier, motor vehicle, railroad train, motor bus, street car, boat or other public

conveyance or mode of transportation, operating within the state, shall be entitled to have with him as his "seeing eye" a dog specially trained for that purpose, without being required to pay any additional charge therefor and the transportation thereof shall be included in such passenger's regular standard fare.

**81.28.180 Rate discrimination prohibited.** No common carrier shall, directly or indirectly, by any special rate, rebate, drawback, or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered in the transportation of persons or property, except as authorized in this title, than it charges, demands, collects or receives from any person or corporation for doing a like and contemporaneous service in the transportation of a like kind of traffic under the same or substantially similar circumstances and conditions.

**81.28.190 Unreasonable preferences prohibited.** No common carrier shall make or give any undue or unreasonable preference or advantage to any person or corporation or to any locality or to any particular description of traffic in any respect whatsoever, or subject any particular person or corporation or locality or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

**81.28.200 Long and short haul.** No common carrier, subject to the provisions of this title, shall charge or receive any greater compensation in the aggregate for the transportation of persons or of a like kind of property, for a shorter than for a longer distance over the same line in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates, subject to the provisions of this title; but this shall not be construed as authorizing any such common carrier to charge and receive as great a compensation for a shorter as for a longer distance or haul. Upon application of a common carrier the commission may by order authorize it to charge less for a longer than for a shorter distance for the transportation of persons or property in special cases after investigation by the commission, but the order must specify and prescribe the extent to which the common carrier making such application is relieved from the operation of this section, and only to the extent so specified and prescribed shall any common carrier be relieved from the operation and requirements of this section.

**81.28.210 Transportation at less than published rates—Rebating.** No common carrier, or any officer or agent thereof, or any person acting for or employed by it, shall assist, suffer or permit any person or corporation to obtain transportation for any person or

property between points within this state at less than the rates then established and in force in accordance with the schedules filed and published in accordance with the provisions of this title, by means of false billing, false classification, false weight or weighing, or false report of weight, or by any other device or means. No person, corporation, or any officer, agent or employee of a corporation, who shall deliver property for transportation within the state to a common carrier, shall seek to obtain or obtain such transportation for such property at less than the rates then established and in force therefor, as aforesaid, by false billing, false or incorrect classification, false weight or weighing, false representation of the contents or substance of a package, or false report or statement of weight, or by any device or means, whether with or without the consent or connivance of a common carrier or any of its officers, agents or employees.

No person, corporation, or any officer, agent or employee, of a corporation, shall knowingly or wilfully, directly or indirectly, by false statement or representation as to the cost, value, nature or extent of injury, or by the use of any false billing, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit or deposition, knowing the same to be false, fictitious or fraudulent, or to upon any false, fictitious or fraudulent statement or entry, obtain or attempt to obtain any allowance, rebate or payment for damage, or otherwise, in connection with or growing out of the transportation of persons or property, or agreement to transport such persons or property, whether with or without the consent or connivance of such common carrier or any of its officers, agents or employees, whereby the compensation of such carrier for such transportation shall be in fact made less than the rates then established and in force therefor.

No person, corporation, or any officer, agent or employee of a corporation, who shall deliver property for transportation within the state to a common carrier, shall seek to obtain or obtain such transportation by any false representation, false statement or false paper or token as to the contents or substance thereof, where the transportation of such property is prohibited by law.

**81.28.220 Action for treble damages.** The attorney general of the state of Washington is authorized and directed, whenever he has reasonable grounds to believe that any person, firm or corporation has knowingly accepted or received from any carriers of persons or property subject to the jurisdiction of the commission, either directly or indirectly, any unlawful rebate, discount, deduction, concession, refund or remittance from the rates or charges filed and open to public inspection as provided for in the public service laws of this state, to prosecute a civil action in the name



of the people of the state of Washington in the superior court of Thurston county to collect three times the total sum of such rebates, discounts, deductions, concessions, refunds or remittances so accepted or received within three years prior to the commencement of such action.

All penalties imposed under the provisions of this section shall be paid to the state treasurer and by him deposited in the public service revolving fund.

**81.28.230 Commission to fix just, reasonable and compensatory rates.** Whenever the commission shall find, after a hearing had upon its own motion or upon complaint, as herein provided, that the rates, fares or charges demanded, exacted, charged or collected by any common carrier for the transportation of persons or property within the state or in connection therewith, or that the regulations or practices of such common carrier affecting such rates are unjust, unreasonable, unjustly discriminatory, or unduly preferential, or in anywise in violation of the provisions of law, or that such rates, fares or charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable or sufficient rates, fares or charges, regulations or practices to be thereafter observed and enforced and shall fix the same by order.

**81.28.240 Commission may order improved facilities and service.** Whenever the commission shall find, after such hearing, that the rules, regulations, practices, equipment, appliances, facilities or service of any such common carrier in respect to the transportation of persons or property are unjust, unreasonable, unsafe, improper, inadequate or insufficient, the commission shall determine the just, reasonable, safe, adequate, sufficient and proper rules, regulations, practices, equipment, appliances, facilities or service to be observed, furnished, constructed or enforced and be used in the transportation of persons and property by such common carrier, and fix the same by its order or rule.

**81.28.250 Commission may complain of interstate rates.** The commission shall have power, and it is hereby made its duty, to investigate all interstate, rates, fares, charges, classifications or rules or practices in relation thereto, for or in relation to the transportation of persons or property where any act in relation thereto shall take place within this state, and when the same are, in the opinion of the commission, excessive or discriminatory, or are levied or laid in violation of the act of congress entitled "An act to regulate commerce," approved February 4, 1887, and the acts amendatory thereof and supplementary thereto, or in conflict with the rulings, orders or regulations of the interstate commerce

commission, the commission shall apply, by petition, to the interstate commerce commission for relief, and may present to the interstate commerce commission all facts coming to its knowledge as to violations of the rulings, orders or regulations of that commission, or as to violations of the said act to regulate commerce or acts amendatory thereof or supplementary thereto.

**81.28.260 Bicycles as baggage.** Bicycles are hereby declared to be and are deemed baggage, and shall be transported as baggage for passengers by railroad corporations and steamboats, and subject to the same liabilities as other baggage; and no such passenger shall be required to crate, cover, or otherwise protect any such bicycle: *Provided*, That a railroad corporation or steamboat shall not be required to transport under the provisions of this section more than one bicycle for one person.

**81.28.270 Limitation of action for collection of transportation charges.** All actions at law by railroads, common and contract carriers by motor truck and all other public carriers for recovery of their charges, or any part of them, for any common carrier service performed by said carriers, shall be begun within two years from the time the cause of action accrues, and not after.

**81.28.280 Reports of wrecks, etc.** Every public service company shall give immediate notice to the commission of every accident resulting in death or injury to any person occurring on its lines or system, in such manner as the commission may prescribe.

Such notice shall not be admitted as evidence or used for any purpose against the company giving it in any action for damages growing out of any matter mentioned in the notice. The commission may require reports to be made by any common carrier of all wrecks, collisions, or derailments occurring on its line.

**81.28.290 Investigation of accidents, wrecks.** The commission shall investigate all accidents that may occur upon the lines of any common carrier resulting in loss of life, to any passenger or employee, and may investigate any and all accidents or wrecks occurring on the line of any common carrier. Notice of the investigation shall be given in all cases for a sufficient length of time to enable the company affected to participate in the hearing and may be given orally or in writing, in such manner as the commission may prescribe.

Such witnesses may be examined as the commission deems necessary and proper to thoroughly ascertain the cause of the accident or wreck and fix the responsibility therefor. The examination and investigation may be conducted by an inspector or deputy inspector, and they may administer oaths, issue subpoenas, and

compel the attendance of witnesses, and when the examination is conducted by an inspector or deputy inspector, he shall make a full and complete report thereof to the commission.

### Chapter 81.29

#### COMMON CARRIERS—LIMITATIONS ON LIABILITY

**81.29.010 Definition.** The term "common carrier" as used in this chapter shall include every individual, firm, copartnership, association or corporation, or their lessees, trustees or receivers, engaged in the transportation of property for the public for hire, whether by rail, water, motor vehicle, air or otherwise.

**81.29.020 Carrier's liability for loss—Limitation—Exceptions—Tariff schedule—Time for filing claims or instituting suits.** Any common carrier receiving property for transportation wholly within the state of Washington from one point in the state of Washington to another point in the state of Washington, shall issue a receipt or bill of lading therefor, and shall be liable to the lawful holder thereof for any loss, damage or injury to such property caused by it, or by any common carrier to which such property may be delivered, or over whose line or lines such property may pass when transported on a through bill of lading, and no contract, receipt, rule, regulation or other limitation of any character whatsoever, shall exempt such common carrier from the liability imposed; and any such common carrier so receiving property for transportation wholly within the state of Washington, or any common carrier delivering said property so received and transported, shall be liable to the lawful holder of said receipt or bill of lading, or to any party entitled to recover thereon, whether such receipt or bill of lading has been issued or not, for the full actual loss, damage or injury to such property caused by it or by any such common carrier to which such property may be delivered, or over whose line or lines such property may pass, when transported on a through bill of lading, notwithstanding any limitation of liability or limitation of the amount of recovery, or representation or agreement as to value in any such receipt or bill of lading, or in any contract, rule or regulation, or in any tariff filed with the commission; and any such limitation, without respect to the manner or form in which it is sought to be made, is hereby declared to be unlawful and void: *Provided, however,* That the provisions hereof respecting liability for full actual loss, damage or injury, notwithstanding any limitation of liability or recovery or representation or agreement or release as to value, and declaring any such limitation to be unlawful and void, shall not apply: First, to baggage carried on passenger trains, boats, motor

vehicles or aircraft, or trains, boats, motor vehicles or aircraft carrying passengers; second, to property, except ordinary livestock received for transportation concerning which the carrier shall have been or shall be expressly authorized or required by order of the commission, to establish and maintain rates dependent upon the value declared in writing by the shipper or agreed upon in writing as the released value of the property, in which case such declaration or agreement shall have no other effect than to limit liability and recovery to an amount not exceeding the value so declared or released; and any tariff schedule which may be filed with the commission pursuant to such order shall contain specific reference thereto and may establish rates varying with the value so declared and agreed upon; and the commission is hereby empowered to make such order in cases where rates dependent upon and varying with declared or agreed values would, in its opinion, be just and reasonable under the circumstances and conditions surrounding the transportation. The term "ordinary livestock" shall include all cattle, swine, sheep, goats, horses and mules, except such as are chiefly valuable for breeding, racing, show purposes, or other special uses: *Provided, further*, That nothing in this section shall deprive any holder of such receipt or bill of lading of any remedy or right of action which he has under the existing law: *Provided, further*, That it shall be unlawful for any such receiving or delivering common carrier to provide by rule, contract, regulation, or otherwise a shorter period for the filing of claims than nine months, and for the institution of suits than two years, such period for institution of suits to be computed from the day when notice in writing is given by the carrier to the claimant that the carrier has disallowed the claim or any part or parts thereof specified in the notice: *And provided, further*, That for the purposes of this section and of RCW 81.29.030 the delivering carrier in the case of rail transportation shall be construed to be the carrier performing the linehaul service nearest to the point of destination, and not a carrier performing merely a switching service at the point of destination: *And provided further*, That the liability imposed by this section shall also apply in the case of property reconsigned or diverted in accordance with the applicable tariffs filed with the commission.

**81.29.030 Carrier's right of action against other carrier.** The common carrier issuing such receipt or bill of lading, or delivering such property so received and transported, shall be entitled to recover from the common carrier on whose line the loss, damage, or injury shall have been sustained, the amount of such loss, damage, or injury as it may be required to pay to the owners of such property, as may be evidenced by any receipt, judgment or transcript thereof.

**81.29.040 Penalty for violations.** Any common carrier subject to the provisions of this chapter, or whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for or employed by such corporation, who, alone, or with any other corporation, company, person, or party, shall wilfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter, or thing in this chapter prohibited or declared to be unlawful, or who shall aid or abet therein, or shall wilfully omit or fail to do any act, matter or thing in this chapter required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this chapter to be done, or not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this chapter for which no penalty is otherwise provided, or who shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall upon conviction thereof in any court of competent jurisdiction, be subject to a fine of not to exceed five thousand dollars for each offense.

**81.29.050 Liability for baggage limited.** The liability of any common carrier subject to regulation by the commission for the loss of or damage to any baggage shall not exceed the sum of two hundred dollars for each trunk and its contents, fifty dollars for each valise, suitcase or traveling bag and its contents, or twenty-five dollars for each box, bundle or package and its contents unless a higher valuation is declared at the time of the delivery of such baggage to the carrier and assented thereto in writing by such carrier: *Provided*, That in the case of the originating carrier the limitation of liability defined in this section shall only apply when the passenger or shipper shall have had constructive notice that the common law liability of such carrier has been so limited.

## Chapter 81.32

### BILLS OF LADING

#### PART I. THE ISSUE OF BILLS OF LADING

**81.32.011 Bills governed by this chapter.** Bills of lading issued by any common carrier shall be governed by this chapter.

**81.32.021 Form of bills—Essential terms.** Every bill must embody within its written or printed terms:

- (1) The date of its issue,
- (2) The name of the person from whom the goods have been received,
- (3) The place where the goods have been received,
- (4) The place to which the goods are to be transported,

(5) A statement whether the goods received will be delivered to a specified person, or to the order of a specified person,

(6) A description of the goods or of the packages containing them which may, however, be in such general terms as are referred to in RCW 81.32.231, and

(7) The signature of the carrier.

A negotiable bill shall have the words "order of" printed thereon immediately before the name of the person upon whose order the goods received are deliverable.

A carrier shall be liable to any person injured thereby for the damage caused by the omission from a negotiable bill of any of the provisions required in this section.

**81.32.031 Form of bills—What terms may be inserted.** A carrier may insert in a bill, issued by him, any other terms and conditions, provided that such terms and conditions shall not—

(1) Be contrary to law or public policy, or

(2) In anywise impair his obligation to exercise at least that degree of care in the transportation and safekeeping of the goods entrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

**81.32.041 Definition of nonnegotiable or straight bill.** A bill in which it is stated that the goods are consigned or destined to a specified person, is a nonnegotiable or straight bill.

**81.32.051 Definition of negotiable or order bill.** A bill in which it is stated that the goods are consigned or destined to the order of any person named in such bill, is a negotiable or order bill.

Any provision in such a bill that it is nonnegotiable shall not affect its negotiability within the meaning of this chapter.

**81.32.061 Negotiable bills must not be issued in sets.** Negotiable bills issued in this state for the transportation of goods to any place in the United States on the continent of North America, except Alaska, shall not be issued in parts or sets.

If so issued the carrier issuing them shall be liable for failure to deliver the goods described therein to anyone who purchases a part for value in good faith, even though the purchase be after the delivery of the goods by the carrier to a holder of one of the other parts.

**81.32.071 Duplicate negotiable bills must be so marked.** When more than one negotiable bill is issued in this state for the same goods to be transported to any place in the United States on the continent of North America, except Alaska, the word "duplicate" or some other word or words indicating that the document is not an original bill shall be placed plainly upon the face of every such

bill, except the one first issued. A carrier shall be liable for the damage caused by his failure so to do to anyone who has purchased the bill for value in good faith as an original, even though the purchase be after the delivery of the goods by the carrier to the holder of the original bill.

**81.32.081 Nonnegotiable bills shall be so marked.** A nonnegotiable bill shall have placed plainly upon its face by the carrier issuing it "nonnegotiable" or "not negotiable."

This section shall not apply, however, to memoranda or acknowledgements of an informal character.

**81.32.091 Insertion of name of person to be notified.** The insertion in a negotiable bill of the name of a person to be notified of the arrival of the goods shall not limit the negotiability of the bill, or constitute notice to a purchaser thereof of any rights or equities of such person in the goods.

**81.32.101 Acceptance of bill indicates assent to its terms.** Except as otherwise provided in this chapter, where a consignor receives a bill and makes no objection to its terms or conditions at the time he receives it, neither the consignor nor any person who accepts delivery of the goods, nor any person who seeks to enforce any provision of the bill, shall be allowed to deny that he is bound by such terms and conditions, so far as they are not contrary to law or public policy.

## PART II. OBLIGATIONS AND RIGHTS OF CARRIERS UPON THEIR BILLS OF LADING

**81.32.111 Obligation of carrier to deliver.** A carrier, in the absence of some lawful excuse, is bound to deliver goods upon a demand made either by the consignee named in the bill for the goods, or if the bill is negotiable, by the holder thereof, if such demand is accompanied by—

(1) An offer in good faith to satisfy the carrier's lawful lien upon the goods,

(2) An offer in good faith to surrender, properly indorsed, the bill which was issued for the goods, if the bill is negotiable, and

(3) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the carrier.

In case the carrier refuses or fails to deliver the goods in compliance with a demand by the consignee or holder so accompanied, the burden shall be upon the carrier to establish the existence of a lawful excuse for such refusal or failure.

**81.32.121 Justification of carrier in delivering.** A carrier is justified, subject to the provisions of RCW 81.32.131, 81.32.141, and 81.32.151, in delivering goods to one who is

(1) A person lawfully entitled to the possession of the goods, or

(2) The consignee named in a nonnegotiable bill for the goods, or

(3) A person in possession of a negotiable bill for the goods by the terms of which the goods are deliverable to his order, or which has been indorsed to him or in blank by the consignee or by the mediate or immediate indorsee of the consignee.

**81.32.131 Carrier's liability for misdelivery.** Where a carrier delivers goods to one who is not lawfully entitled to the possession of them, the carrier shall be liable to anyone having a right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (2) and (3) of RCW 81.32-.121; and, though he delivered the goods as authorized by either of said subdivisions, he shall be so liable if prior to such delivery he—

(1) Had been requested, by or on behalf of a person having a right of property or possession in the goods, not to make such delivery, or

(2) Had information at the time of the delivery that it was to a person not lawfully entitled to the possession of the goods.

A request or information to be effective within the meaning of this section must be given to an officer or agent of the carrier, the actual or apparent scope of whose duties includes action upon such a request or information, and must be given in time to enable the officer or agent to whom it is given, acting with reasonable diligence, to stop delivery of the goods.

**81.32.141 Negotiable bills must be canceled when goods delivered.** Except as provided in RCW 81.32.271, and except when compelled by legal process, if a carrier delivers goods for which a negotiable bill had been issued, the negotiation of which would transfer the right to the possession of the goods, and fails to take up and cancel the bill, such carrier shall be liable for failure to deliver the goods to anyone who for value and in good faith purchases such bill, whether such purchaser acquired title to the bill before or after the delivery of the goods by the carrier and notwithstanding delivery was made to the person entitled thereto.

**81.32.151 Negotiable bills must be canceled or marked when parts of goods delivered.** Except as provided in RCW 81.32.271, and except when compelled by legal process, if a carrier delivers part of the goods for which a negotiable bill had been issued and fails either—

(1) To take up and cancel the bill, or

(2) To place plainly upon it a statement that a portion of the goods has been delivered, with a description, which may be in general terms, either of the goods or packages that have been so de-



livered or of the goods or packages which still remain in the carriers' possession, he shall be liable for failure to deliver all the goods specified in the bill, to anyone who for value and in good faith purchases it, whether such purchaser acquired title to it before or after the delivery of any portion of the goods by the carrier, and notwithstanding such delivery was made to the person entitled thereto.

**81.32.161 Altered bills.** Any alteration, addition or erasure in a bill after its issue without authority from the carrier issuing the same either in writing or noted on the bill shall be void, whatever be the nature and purpose of the change, and the bill shall be enforceable according to its original tenor.

**81.32.171 Lost or destroyed bills.** Where a negotiable bill has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond with sufficient surety to be approved by the court to protect the carrier or any person injured by such delivery from any liability or loss, incurred by reason of the original bill remaining outstanding. The court may also in its discretion order the payment of the carrier's reasonable costs and counsel fees.

The delivery of the goods under an order of the court as provided in this section, shall not relieve the carrier from liability to a person to whom the negotiable bill has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

**81.32.181 Effect of duplicate bills.** A bill upon the face of which the word "duplicate" or some other word or words indicating that the document is not an original bill is placed plainly shall impose upon the carrier issuing the same the liability of one who represents and warrants that such bill is an accurate copy of an original bill properly issued, but no other liability.

**81.32.191 Carrier cannot set up title in himself.** No title to goods or right to their possession, asserted by a carrier for his own benefit shall excuse him from liability for refusing to deliver the goods according to the terms of a bill issued for them, unless such title or right is derived directly or indirectly from a transfer made by the consignor or consignee after the shipment, or from the carrier's lien.

**81.32.201 Interpleader of adverse claimants.** If more than one person claims the title or possession of goods, the carrier may require all known claimants to interplead, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate.

**81.32.211 Carrier has reasonable time to determine validity of claims.** If some one other than the consignee or person in possession of the bill, has a claim to the title or possession of the goods, and the carrier has information of such claim, the carrier shall be excused from liability for refusing to deliver the goods either to the consignee or person in possession of the bill, or to the adverse claimant, until the carrier has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

**81.32.221 Adverse title is no defense—Exceptions.** Except as provided in RCW 81.32.121, 81.32.201 and 81.32.211, no right or title of a third person unless enforced by legal process shall be a defense to an action brought by the consignee of a nonnegotiable bill or by the holder of a negotiable bill against the carrier for failure to deliver the goods on demand.

**81.32.231 Liability for nonreceipt or misdescription of goods.** If a bill of lading has been issued by a carrier or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of bills of lading, the carrier shall be liable to

- (1) The consignee named in a nonnegotiable bill, or
- (2) The holder of a negotiable bill,

Who has given value in good faith relying upon the description therein of the goods for damages caused by the nonreceipt by the carrier or a connecting carrier of all or part of the goods or their failure to correspond with the description thereof in the bill at the time of its issue.

If, however, the goods are described in a bill merely by a statement of marks or labels upon them or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind or quantity, or in a certain condition, or it is stated in the bill that packages are said to contain goods of a certain kind or quantity or in a certain condition, or that the contents or condition of the contents of packages are unknown, or words of like purport are contained in the bill, such statements, if true, shall not make liable the carrier issuing the bill, although the goods are not of the kind or quantity or in the condition which the marks or labels upon them indicate, or of the kind or quantity or in the condition they were said to be by the consignor. The carrier may, also, by inserting in the bill the words "shipper's load and count" or other words of like purport indicate that the goods were loaded by the shipper and the description of them made by him; and if such statement be true, the carrier shall not be liable for damages caused by the improper loading or by the nonreceipt or by the misdescription of the goods described in the bill.

**81.32.241 Attachment or levy upon goods for which a negotiable bill has been issued.** If goods are delivered to a carrier by the owner or by a person whose act in conveying the title to them to a purchaser for value in good faith would bind the owner and a negotiable bill is issued for them, they cannot thereafter, while in the possession of the carrier, be attached by garnishment or otherwise, or be levied upon under an execution, unless the bill be first surrendered to the carrier or its negotiation enjoined. The carrier shall in no such case be compelled to deliver the actual possession of the goods until the bill is surrendered to him or impounded by the court.

**81.32.251 Creditor's remedies to reach negotiable bills.** A creditor whose debtor is the owner of a negotiable bill shall be entitled to such aid from courts of appropriate jurisdiction by injunction and otherwise in attaching such bill, or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

**81.32.261 Negotiable bill must state charges for which lien is claimed.** If a negotiable bill is issued the carrier shall have no lien on the goods therein mentioned, except for charges on those goods for freight, storage, demurrage and terminal charges, and expenses necessary for the preservation of the goods or incident to their transportation subsequent to the date of the bill, unless the bill expressly enumerates other charges for which a lien is claimed. In such case there shall also be a lien for the charges enumerated so far as they are allowed by law and the contract between the consignor and the carrier.

**81.32.271 Effect of sale.** After goods have been lawfully sold to satisfy a carrier's lien, or because they have not been claimed, or because they are perishable or hazardous, the carrier shall not thereafter be liable for failure to deliver the goods to the consignee or owner of the goods, or to a holder of the bill given for the goods when they were shipped, even if such bill be negotiable.

### PART III. NEGOTIATION AND TRANSFER OF BILLS

**81.32.281 Negotiation of negotiable bills by delivery.** A negotiable bill may be negotiated by delivery where, by the terms of the bill, the carrier undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the bill has indorsed it in blank.

**81.32.291 Negotiation of negotiable bills by indorsement.** A negotiable bill may be negotiated by the indorsement of the person to whose order the goods are deliverable by the tenor of the bill.

Such indorsement may be in blank or to a specified person. If indorsed to a specified person, it may be negotiated again by the indorser or such person in blank or to another specified person. Subsequent negotiation may be made in like manner.

**81.32.301 Transfer of bills.** A bill may be transferred by the holder by delivery, accompanied with an agreement, express or implied, to transfer the title to the bill or to the goods represented thereby.

A nonnegotiable bill cannot be negotiated, and the indorsement of such a bill gives the transferee no additional right.

**81.32.311 Who may negotiate a bill.** A negotiable bill may be negotiated by any person in possession of the same, however such possession may have been acquired if, by the terms of the bill, the carrier undertakes to deliver the goods to the order of such person, or if at the time of negotiation the bill is in such form that it may be negotiated by delivery.

**81.32.321 Rights of person to whom a bill has been negotiated.** A person to whom a negotiable bill has been duly negotiated acquires thereby—

(1) Such title to the goods as the person negotiating the bill to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the consignee and consignor had or had power to convey to a purchaser in good faith for value, and

(2) The direct obligation of the carrier to hold possession of the goods for him according to the terms of the bill as fully if the carrier had contracted directly with him.

**81.32.331 Rights of person to whom a bill has been transferred.** A person to whom a bill has been transferred but not negotiated acquires thereby as against the transferor, the title to the goods, subject to the terms of any agreement with the transferor. If the bill is nonnegotiable, such person also acquires the right to notify the carrier of the transfer to him of such bill, and thereby to become the direct obligee of whatever obligations the carrier owed to the transferor of the bill immediately before the notification.

Prior to the notification of the carrier by the transferor or transferee of a nonnegotiable bill, the title of the transferee to the goods and the right to acquire the obligation of the carrier may be defeated by garnishment or by attachment or execution upon the goods by a creditor of the transferor, or by a notification to the carrier by the transferor or a subsequent purchaser from the transferor of a subsequent sale of the goods by the transferor.

A carrier has not received notification within the meaning of this section unless an officer or agent of the carrier, the actual or

apparent scope of whose duties includes action upon such a notification, has been notified; and no notification shall be effective until the officer or agent to whom it is given has had time with the exercise of reasonable diligence to communicate with the agent or agents having actual possession or control of the goods.

**81.32.341 Transfer of negotiable bill without indorsement.** Where a negotiable bill is transferred for value by delivery, and the indorsement of the transferor is essential for negotiation, the transferee acquires a right against the transferor to compel him to indorse the bill, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made. This obligation may be specifically enforced.

**81.32.351 Warranties on sale of bill.** A person who negotiates or transfers for value a bill by indorsement or delivery, including one who assigns for value a claim secured by a bill, unless, a contrary intention appears, warrants—

- (1) That the bill is genuine,
- (2) That he has a legal right to transfer it,
- (3) That he has knowledge of no fact which would impair the validity or worth of the bill, and
- (4) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a bill the goods represented thereby.

In the case of an assignment of a claim secured by a bill, the liability of the assignor shall not exceed the amount of the claim.

**81.32.361 Indorser not a guarantor.** The indorsement of a bill shall not make the indorser liable for any failure on the part of the carrier or previous indorsers of the bill to fulfill their respective obligations.

**81.32.371 No warranty implied from accepting payment of a debt.** A mortgagee or pledgee, or other holder of a bill for security who in good faith demands or receives payment of the debt for which such bill is security, whether from a party to a draft drawn for such debt or from any other person, shall not be deemed by so doing to represent or to warrant the genuineness of such bill or the quantity or quality of the goods therein described.

**81.32.381 When negotiation not impaired by fraud, accident, mistake, duress or conversion.** The validity of the negotiation of a bill is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the bill was deprived of the possession

of the same by fraud, accident, mistake, duress or conversion, if the person to whom the bill was negotiated, or a person to whom the bill was subsequently negotiated, gave value therefor, in good faith, without notice of the breach of duty, or fraud, accident, mistake, duress or conversion.

**81.32.391 Subsequent negotiation.** Where a person having sold, mortgaged, or pledged goods which are in a carrier's possession and for which a negotiable bill has been issued, or having sold, mortgaged, or pledged the negotiable bill representing such goods, continues in possession of the negotiable bill, the subsequent negotiation thereof by that person under any sale, pledge, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, shall have the same effect as if the first purchaser of the goods or bill had expressly authorized the subsequent negotiation.

**81.32.401 Form of the bill as indicating rights of buyer and seller.** Where goods are shipped by the consignor in accordance with a contract or order for their purchase, the form in which the bill is taken by the consignor shall indicate the transfer or retention of the property or right to the possession of the goods as follows:

(1) Where by the bill the goods are deliverable to the buyer or to his agent, or to the order of the buyer or of his agent, the consignor thereby transfers the property in the goods to the buyer.

(2) Where by the bill the goods are deliverable to the seller or to his agent, or to the order of the seller or his agent, the seller thereby reserves the property in the goods. But if, except for the form of the bill, the property would have passed to the buyer on shipment of the goods, the seller's property in the goods shall be deemed to be only for the purpose of securing performance by the buyer of his obligations under the contract.

(3) Where by the bill the goods are deliverable to the order of the buyer or of his agent, but possession of the bill is retained by the seller or his agent, the seller thereby reserves a right to the possession of the goods, as against the buyer.

(4) Where the seller draws on the buyer for the price and transmits the draft and bill together to the buyer to secure acceptance or payment of the draft, the buyer is bound to return the bill if he does not honor the draft, and if he wrongfully retains the bill he acquires no added right thereby. If, however, the bill provides that the goods are deliverable to the buyer, or to the order of the buyer, or is indorsed in blank or to the buyer by the consignee named therein, one who purchases in good faith, for value, the bill or goods from the buyer, shall obtain the title to the goods, although the draft has not been honored, if such purchaser has received de-

livery of the bill indorsed by the consignee named therein, or of the goods, without notice of the facts making the transfer wrongful.

**81.32.411 Demand, presentation or sight draft must be paid, but draft on more than three days time merely accepted before buyer is entitled to the accompanying bill.** Where the seller of goods draws on the buyer for the price of the goods and transmits the draft and a bill of lading for the goods either directly to the buyer or through a bank or other agency, unless a different intention on the part of the seller appears, the buyer and all other parties interested shall be justified in assuming:

(1) If the draft is by its terms or legal effect payable on demand or presentation or at sight, or not more than three days thereafter (whether such three days be termed days of grace or not), that the seller intended to require payment of the draft before the buyer should be entitled to receive or retain the bill.

(2) If the draft is by its terms payable on time, extending beyond three days after demand, presentation or sight (whether such three days be termed days of grace or not), that the seller intended to require acceptance, but not payment of the draft before the buyer should be entitled to receive or retain the bill.

The provisions of this section are applicable whether by the terms of the bill the goods are consigned to the seller, or to his order, or to the buyer, or to his order, or to a third person, or to his order.

**81.32.421 Negotiation defeats vendor's lien.** Where a negotiable bill has been issued for goods, no seller's lien or right of stoppage in transitu shall defeat the rights of any purchaser for value in good faith to whom such bill has been negotiated, whether such negotiation be prior or subsequent to the notification to the carrier who issued such bill of the seller's claim to a lien or right of stoppage in transitu. Nor shall the carrier be obliged to deliver or justified in delivering the goods to an unpaid seller unless such bill is first surrendered for cancellation.

**81.32.431 When rights and remedies under mortgages and liens are not limited.** Except as provided in RCW 81.32.421, nothing in this chapter shall limit the rights and remedies of a mortgagee or lienholder whose mortgage or lien on goods would be valid, apart from this chapter, as against one who for value and in good faith purchased from the owner, immediately prior to the time of their delivery to the carrier, the goods which are subject to the mortgage or lien and obtained possession of them.

## PART IV. CRIMINAL OFFENSES

**81.32.441 Issue of bill for goods not received—Penalty.** Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill knowing that all or any part of the goods for which such bill is issued have not been received by such carrier, or by an agent of such carrier or by a connecting carrier, or are not under the carrier's control at the time of issuing such bill, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**81.32.451 Issue of bill containing false statement—Penalty.** Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a bill for goods knowing that it contains any false statement, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**81.32.461 Issue of duplicate bills not so marked—Penalty.** Any officer, agent, or servant of a carrier, who with intent to defraud issues or aids in issuing a duplicate or additional negotiable bill for goods in violation of the provisions of RCW 81.32.071, knowing that a former negotiable bill for the same goods or any part of them is outstanding and uncanceled, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**81.32.471 Negotiation of bill for mortgaged goods—Penalty.** Any person who ships goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable bill which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

**81.32.481 Negotiation of bill when goods are not in carrier's possession—Penalty.** Any person who with intent to deceive negotiates or transfers for value a bill knowing that any or all of the goods which by the terms of such bill appear to have been received for transportation by the carrier which issued the bill, are not in the possession or control of such carrier, or of a connecting carrier, without disclosing this fact, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not



exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**81.32.491 Inducing carrier to issue bill when goods have not been received—Penalty.** Any person who with intent to defraud secures the issue by a carrier of a bill knowing that at the time of such issue, any or all of the goods described in such bill as received for transportation have not been received by such carrier, or an agent of such carrier or a connecting carrier, or are not under the carrier's control, by inducing an officer, agent, or servant of such carrier falsely to believe that such goods have been received by such carrier, or are under its control, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years, or by a fine not exceeding five thousand dollars, or by both.

**81.32.501 Issue of nonnegotiable bill not so marked—Penalty.** Any person who with intent to defraud issues or aids in issuing a nonnegotiable bill without the words "not negotiable" placed plainly upon the face thereof, shall be guilty of a crime, and upon conviction shall be punished for each offense by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

#### PART V. INTERPRETATION

**81.32.511 Rule for cases not provided for in this chapter.** In any case not provided for in this chapter, the rules of law and equity including the law merchant, and in particular the rules relating to the law of principal and agent, executors, administrators and trustees, and to the effect of fraud, misrepresentation, duress or coercion, accident, mistake, bankruptcy, or other invalidating cause, shall govern.

**81.32.521 Interpretation shall give effect to purpose of uniformity.** This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

**81.32.531 Definitions.** (1) In this chapter, unless the context or subject matter otherwise requires—

"Action" includes counterclaim, setoff, and suit in equity.

"Bill" means bill of lading.

"Consignee" means the person named in the bill as the person to whom delivery of the goods is to be made.

"Consignor" means the person named in the bill as the person from whom the goods have been received for shipment.

"Goods" means merchandise or chattels in course of transportation, or which have been or are about to be transported.

“Holder” of a bill means a person who has both actual possession of such bill and a right of property therein.

“Order” means an order by indorsement on the bill.

“Owner” does not include mortgagee or pledgee.

“Person” includes a corporation or partnership of two or more persons having a joint or common interest.

To “purchase” includes to take as mortgagee and to take as pledgee.

“Purchaser” includes mortgagee and pledgee.

“Value” is any consideration sufficient to support a simple contract. An antecedent or pre-existing obligation, whether for money or not, constitutes value where a bill is taken either in satisfaction thereof or as security therefor.

(2) A thing is done “in good faith” within the meaning of this chapter, when it is in fact done honestly, whether it be done negligently or not.

**81.32.541 Chapter does not apply to bills prior to June 9, 1915.** The provisions of this chapter do not apply to bills made and delivered prior to June 9, 1915.

**81.32.561 Short title.** This chapter may be cited as the Uniform Bills of Lading Act.

### Chapter 81.36

#### RAILROADS—CORPORATE POWERS AND DUTIES

**81.36.010 Right of eminent domain.** Every corporation organized for the construction of any railway, macadamized road, plank road, clay road, canal or bridge, is hereby authorized and empowered to appropriate, by condemnation, land and any interest in land or contract right relating thereto, including any leasehold interest therein and any rights-of-way for tunnels beneath the surface of the land, and any elevated rights-of-way above the surface thereof, including lands granted to the state for university, school or other purposes, and also tide and shore lands belonging to the state (but not including harbor areas), which may be necessary for the line of such road, railway or canal, or site of such bridge, not exceeding two hundred feet in width, besides a sufficient quantity thereof for toll houses, workshops, materials for construction, excavations and embankments and a right-of-way over adjacent lands or property, to enable such corporation to construct and prepare its road, railway, canal or bridge, and to make proper drains; and in case of a canal, whenever the court shall deem it necessary, to appropriate a sufficient quantity of land, including lands granted to the state for university, school or other purposes, in addition to that before specified in this section, for the construction and excavation of such canal and of the slopes

and berms thereof, not exceeding one thousand feet in total width; and in case of a railway to appropriate a sufficient quantity of any such land, including lands granted to the state for university, schools and other purposes and also tide and shore lands belonging to the state (but not including harbor areas) in addition to that before specified in this section, for the necessary side tracks, depots and water stations, and the right to conduct water thereto by aqueduct, and for yards, terminal, transfer and switching grounds, docks and warehouses required for receiving, delivering, storage and handling of freight, and such land, or any interest therein, as may be necessary for the security and safety of the public in the construction, maintenance and operation of its railways; compensation therefor to be made to the owner thereof irrespective of any benefit from any improvement proposed by such corporation, in the manner provided by law: *And provided further*, That if such corporation locate the bed of such railway or canal upon any part of the track now occupied by any established state or county road, said corporation shall be responsible to the state or county in which such state or county road so appropriated is located, for all expenses incurred by the state or county in relocating and opening the part of such road so appropriated. The term land as herein used includes tide and shore lands but not harbor areas; it also includes any interest in land or contract right relating thereto, including any leasehold interest therein.

**81.36.020 Right of entry.** A corporation organized for the construction of any railway, macadamized road, plank road, clay road, canal or bridge, shall have a right to enter upon any land, real estate or premises, or any of the lands granted to the state of Washington for school, university or other purposes, between the termini thereof, for the purpose of examining, locating and surveying the line of such road or canal, or the site of such bridge, doing no unnecessary damage thereby.

**81.36.030 Intersections and connections with other roads or canals.** Every corporation formed under the laws of this state for the construction of a railroad shall have the power to cross, intersect, join and unite its railway with any other railway before constructed, at any point in its route, and upon the grounds of such other railway company, with the necessary turn-outs, sidings, switches and other conveniences in furtherance of the objects of its connections, and every corporation whose railway is or shall be hereafter intersected by any new railway shall unite with the corporation owning such new railway in forming such intersections and connections and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in the manner provided by law for

the taking of lands and other property which shall be necessary for the construction of its road, and every corporation formed under the laws of this state for the construction of a canal shall have the power to cross and intersect any railway before constructed at any point in its road and upon the grounds of such other railway company, and every corporation whose railway is or shall hereafter be crossed or intersected by any canal shall unite with the corporation owning such canal in forming such crossings and intersections and grant the facilities therefor; and if the two corporations cannot agree upon the compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined in the manner provided by law for the taking of lands and other property which shall be necessary for the construction of said canal.

**81.36.040 Lines or canals across or along watercourses.** Every corporation formed under the laws of this state for the construction of railroads or canals shall possess the power to construct its railway or canal, as the case may be, across, along or upon any river, stream of water, watercourses, plank road, turnpike or canal, which the route of such railway or canal shall intersect or touch; but such corporation shall restore the river, stream, watercourse, plank road or turnpike thus intersected or touched to its former state as near as may be, and pay any damages caused by such construction: *Provided*, That the construction of any railway or canal by such corporation along, across or upon any of the navigable rivers or waters of this state shall be in such manner as to not interfere with, impede or obstruct the navigation thereof; and all rights, privileges and powers of every description by law conferred upon road or railroad companies are hereby given and granted to canal companies so far as the same may be applicable, and all power and authority possessed by the public or municipal corporations of the state or their local authorities, with reference to road or railroad companies, may be exercised by them with reference to canal companies.

**81.36.050 Change of grade or location of road or canal.** Any corporation may change the grade or location of its road, or canal, not departing from the general route specified in the articles of incorporation, for the purpose of avoiding annoyances to public travel or dangerous or deficient curves or grades, or unsafe or unsubstantial grounds or foundation, or for other like reasonable causes, and for the accomplishment of such change, shall have the same right to enter upon, examine, survey and appropriate the necessary lands and materials, as in the original location and construction of such road or canal.

**81.36.060 Extensions, branch lines.** Any railroad corporation chartered by, or organized under, the laws of the state, or of any

state or territory, or under the laws of the United States, and authorized to do business in this state, may extend its railroads from any point named in its charter or articles of incorporation, or may build branch roads either from any point on its line of road or from any point on the line of any other railroad connecting, or to be connected, with its road, the use of which other road between such points and the connection with its own road such corporation shall have secured by lease or agreement for a term of not less than ten years from its date. Before making any such extension or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which said railroad is to be constructed, and the estimated length of such railroad, and the name of each county in this state through or into which it is constructed or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, who shall endorse thereon the date of the filing thereof and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch and receive aid thereto which it would have had if it had been authorized in its charter or articles of incorporation.

**81.36.070 Purchase, lease, sale, merger of railroads.** Any railroad company now or hereafter incorporated pursuant to the laws of this state or of the United States, or of any state or territory of the United States, may at any time by means of subscription to the capital stock of any other railroad company, or by the purchase of its stock or bonds, or by guaranteeing its bonds, or otherwise, aid such company in the construction of its railroad within or without this state; and any such company owning or operating a railroad within or without this state, may extend the same into this or any other state or territory, and may build, buy, or lease the whole or any part of any other railroad, together with the franchises, powers and immunities and all other property and appurtenances appertaining thereto, whether located within or without this state; or may consolidate with any railroad or railroads in such other state or territory, or with any other railroad in this state, and may operate the same, and may own such real estate and other property in such other state or territory as may be necessary or convenient in the operation of such road; and any such railroad company may sell or lease the whole or any part of its railroad and branches, within or without this state, constructed or to be constructed, together with all property, rights, privileges, and franchises appertaining thereto, to any railroad company organized or existing pursuant to the laws of the United States or of this state, or of any

other state or territory of the United States; and any railroad company incorporated or existing under the laws of the United States, or of any state or territory of the United States, may extend, construct, maintain and operate its railroad, or any portion or branch thereof, into and through this state, and may build branches from any point on such extension to any place or places within this state, and the railroad company of any other state or territory of the United States which shall so purchase or lease a railroad, or any part thereof in this state, or consolidate with any such railroad in this state, or shall extend or construct its road, or any portion or branch thereof in this state, shall possess and may exercise and enjoy as to the location, control, management and operation of the said road, and as to the location, construction and operation of any extension or branch thereof, all the rights, powers, privileges and franchises possessed by railroad corporations organized under the laws of this state, including the exercise of the power of eminent domain. Such purchase, sale, consolidation or lease may be made, or such aid furnished upon such terms or conditions as may be agreed upon by the directors and trustees of the respective companies; but, except in the case of sale or lease of branch line railroads, the same shall be approved or ratified by persons holding or representing seventy-five percent of the capital stock of the company so selling or disposing of its stock or bonds, or selling, leasing, or otherwise disposing of its railroad property and appurtenances pertaining thereto, at any annual stockholders' meeting or at a special meeting of the stockholders called for that purpose, or by the approval in writing of seventy-five percent of the stockholders of such company. Articles stating the name selected for such consolidated corporation and the terms of such consolidation shall be approved by each corporation by the vote of the stockholders holding seventy-five percent of the stock, in person or by proxy, at a regular meeting thereof or a special meeting called for that purpose in the manner provided by the bylaws of the respective consolidating corporations, or by the consent in writing of such seventy-five percent of such stockholders annexed to such articles; and a copy thereof, with a copy of the records of such approval or consent, duly certified by the respective presidents and secretaries, with the corporate seals of such corporations affixed thereto, shall be filed for record in the office of the secretary of state, and a copy thereof be furnished to the commission; and thereupon such consolidating corporations shall be and become one corporation, by the name so selected, which, within this state, shall possess all the powers, franchises, and immunities, including the right of further consolidation with other corporations, and be subject to all the liabilities and restrictions now or hereafter imposed by law: *Provided*, That no

railroad corporation shall consolidate its stock, property, or franchises with any other railroad corporation owning a competing line, or purchase, either directly or indirectly, any stock or interest in a railroad corporation owning or operating a competing line: *And, provided further,* That nothing in the foregoing provisions shall be held or construed as curtailing the right of this state, or of the counties through which any such road or roads may be located to levy and collect taxes upon the same, and upon the rolling stock thereof, in conformity with the provisions of the laws of this state upon that subject, and all roads or branches thereof in this state so consolidated with, purchased or leased, or aided, or extended into this state, shall be subject to taxation and to regulation and control of its operation by the laws of this state in all respects the same as if constructed by corporations organized under the laws of this state; and any corporation of another state or territory or of the United States, being the purchaser or lessee of a railroad within this state or extending its railroad or any portion thereof into or through this state, shall establish and maintain an office or offices in this state, at some point or points on its line, at which legal process and notice may be served as upon railroad corporations of this state: *Provided, further,* That before any railroad corporation organized under the laws of any other state or territory, or of the United States, shall be permitted to avail itself of the benefits of this section and RCW 81.36.075 with respect to any railroad constructed, or to be constructed within this state, such corporation shall file with the secretary of state, a true copy of its charter or articles of incorporation, and otherwise comply with the laws of this state respecting foreign corporations doing business within the state: *Provided,* That any such consolidation shall be approved by the commission: *Provided, further,* That in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof. Any sale or lease of a branch line railroad made in substantial compliance with the provisions of this section prior to April 8, 1926 is hereby legalized and made in all respects legal and binding from the date of its execution.

**81.36.075 Proceedings prior to March 18, 1909 validated.** Any sale or purchase of, and any consolidation by sale, or otherwise, or any lease, or agreement to sell, consolidate with or lease, the whole or any part of any railroad, or the branch lines of any company, whether organized or located within or without this state, with the franchises appertaining thereto, to, from or with any railroad company organized under the laws of the United States or of this state or any other state or territory, or any consolidation between such companies, executed prior to March 18, 1909 by the proper officers

of the respective companies, parties to such sale, lease or consolidation or contract, is hereby legalized and made in all respects valid and binding from the date of its execution: *Provided*, That the provisions of this section shall not apply when the railroads or transportation corporations involved are competing lines.

**81.36.090 Requisites to building extension or branch line.** Any railroad corporation chartered by or organized under the laws of the United States, or of any state or territory, whose constructed railroad shall reach or intersect the boundary line of this state at any point, may extend its railroad into this state from any such point or points to any place or places within the state, and may build branches from any point on such extension. Before making such extension or building any such branch road, such corporation shall, by resolution of its directors or trustees, to be entered in the record of its proceedings, designate the route of such proposed extension or branch by indicating the place from and to which such extension or branch is to be constructed, and the estimated length of such extension or branch, and the name of each county in this state through or into which it is constructed or intended to be constructed, and file a copy of such record, certified by the president and secretary, in the office of the secretary of state, who shall endorse thereon the date of filing thereof, and record the same. Thereupon such corporation shall have all the rights and privileges to make such extension or build such branch and receive such aid thereto as it would have had had it been authorized so to do by articles of incorporation duly filed in accordance with the laws of this state.

**81.36.100 Bridges over navigable streams.** Any railroad corporation heretofore duly incorporated and organized under the laws of this state or of the territory of Washington, or which may hereafter be duly incorporated and organized under the laws of this state, or heretofore or hereafter incorporated and organized under the laws of any other state or territory of the United States, and authorized to do business in this state and to construct and operate railroads therein, shall have and hereby is given the right to construct bridges across the navigable streams within this state over which the projected line or lines of railway of said railroad corporations will run: *Provided*, That said bridges are constructed in good faith for the purpose of being made a part of the constructed line of said railroad: *And provided*, That they shall be constructed in the course of the construction of said railroad or thereafter for the more convenient operation thereof: *And provided further*, That such bridges shall be so constructed as not to interfere with, impede or obstruct the navigation of such streams.



**81.36.120 May own securities of irrigation companies.** It shall be lawful for any corporation, whether such corporation is organized under the laws of the territory or state of Washington, the laws of any other state or territory, or the laws of the United States owning, leasing or operating any line or lines of railway within the state of Washington, or which may own, lease or operate in the future any such line or lines of railway within this state, to take, acquire, own, negotiate, sell and guarantee bonds and stocks of companies or corporations which are or may hereafter be organized for the purpose of irrigating and reclaiming lands within this state.

**81.36.130 May construct and operate canals and ditches.** It shall be lawful for any such corporation to build, own and operate irrigating ditches and canals in this state for the purpose of irrigating and reclaiming arid lands contiguous to or tributary to such line or lines of railway.

**81.36.140 Contracts for sale or lease of equipment.** In any contract of, or for the sale of railroad equipment or rolling stock, it shall be lawful to agree that the title to the property sold or contracted to be sold, although deliverable immediately, or at any future time, shall not vest in the purchaser until the purchase price shall be fully paid, or that the seller shall retain a lien thereon for the unpaid purchase money; if any such contract of or for the sale of railroad equipment or rolling stock, or any such contract of or for the leasing of such property, provides that the vendor, or lessor, as the case may be, in event of default by the purchaser or lessee may, in addition to and concurrently with the exercise of any and all other remedies provided in such contract, also have the right to sell such rolling stock or equipment at private or public sale and to recover from the purchaser or lessee any deficit remaining after application of the amount realized from such sale and from the exercise of such other remedies, the inclusion of such provision shall not operate to vest title in the purchaser or lessee or constitute such contract a chattel mortgage; and in any contract of, or for the leasing of such property, it shall be lawful to stipulate for a conditional sale thereof at the termination of the lease, and that the rentals received may, as paid, be applied and treated as purchase money, and that the title to the property shall not vest in the lessee or vendee until the purchase price is paid in full, notwithstanding delivery to and possession by the lessee or vendee; and the assignment of the vendor's or lessor's interest in any such contract shall give the assignee the right to all the vendor's or lessor's interest under such contract, and said assignee shall have such interest in the property covered thereby as the assignor had: *Provided*, That no such contract or assignment shall be valid as against any sub-

sequent judgment creditor, or any subsequent bona fide purchaser, for value and without notice, unless,—

(1) It is evidenced by an instrument duly acknowledged before some person authorized to take acknowledgments of deeds;

(2) It is filed for record in the office of the county auditor of the county in which, at the time of the execution thereof, is situated the principal office of the vendee or lessee within this state;

(3) Each locomotive engine or car so sold, or contracted to be sold, or leased, as aforesaid, shall have the name of the vendor or lessor plainly marked on each side thereof, followed by the word "owner" or "lessor," as the case may be.

**81.36.150 Recording of contract.** The contracts and assignments herein authorized and provided for shall be recorded by the said county auditor, in the book of records of mortgages of real estate in said county; and on payment in full of purchase money, and the performance of the terms and conditions stipulated in any such contract, a declaration in writing to that effect shall be made by the vendor, or his assignee, which declaration may be made on the margin of the record of the contract, attested by the said auditor, or it may be made by a separate instrument, to be acknowledged and recorded as aforesaid, and for such services the county auditor shall be entitled to the fees provided by law for the recording of deeds and mortgages of real estate.

**81.36.160 Effect of recording.** Compliance with the provisions of RCW 81.36.140, including the filing for record heretofore or hereafter, shall constitute notice to all persons of the rights of any such vendor, lessor or assignee, and no other filing or recording shall be required in order to validate any such instrument or to constitute such notice.

## Chapter 81.40

### RAILROADS—EMPLOYEE REQUIREMENTS AND REGULATIONS

**81.40.010 Full train crews—Passenger.** It shall be unlawful for any person, corporation, company, or officer of court operating any railroad or railway, or part of any railroad or railway, in the state of Washington, and engaged, as a common carrier, in the transportation of freight or passengers, to operate over its road or any part thereof, or suffer or permit to be run over its road outside of the yard limits, any passenger, mail or express train consisting of four or more cars with less than a full passenger crew consisting of five men, to wit: one engineer, one fireman, one conductor, one brakeman and one flagman (said flagman to have had at least one year's experience in train service) and none of the said crew shall

be required or permitted to perform the duties of train baggageman or express messenger while on the road.

**81.40.020 Full train crews—Freight.** It shall be unlawful for any person, corporation, company, or officer of court operating any railroad or railway, or part of any railroad or railway, in the state of Washington, and engaged, as a common carrier, in the transportation of freight or passengers, to operate over its road or any part thereof, or suffer or permit to be run over its road outside of the yard limits, any freight train consisting of twenty-five or more cars exclusive of engine and caboose, with less than a full train crew consisting of six men, to wit: one engineer, one fireman, one conductor, two brakemen and one flagman (said flagman to have had at least one year's experience in train service): *Provided*, That light engine, without cars, shall have the following crew, to wit: one engineer, one fireman and one conductor.

**81.40.030 Penalty — Exceptions from requirements — Enforcement.** Each train or engine run in violation of RCW 81.40.010 or 81.40.020 shall constitute a separate offense: *Provided*, That nothing in RCW 81.40.010 through 81.40.030 shall be construed as applying in the case of disability of one or more of any train crew while out on the road between division terminals, wrecking trains, or to any line, or part of line, where not more than two trains are run in each twenty-four hours.

Any person, corporation, company, or officer of court operating any railroad or railway, or part of any railroad or railway in the state of Washington, and engaged as a common carrier, in the transportation of freight or passengers, who shall violate any of the provisions of RCW 81.40.010 through 81.40.030 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense.

It shall be the duty of the commission to enforce RCW 81.40.010 through 81.40.030.

**81.40.040 Trainmen—Hours of service.** It shall be unlawful for any common carrier by railroad or any of its officers or agents, to require or permit any employee engaged in or connected with the movement of any train to remain on duty more than sixteen consecutive hours, except when by casualty occurring after such employee has started on his trip; or, except by accident or unavoidable delay of trains scheduled to make connection with the train on which such employee is serving, he is prevented from reaching his terminal; or, to require or permit any such employee who has been on duty sixteen consecutive hours to go on duty without having had at least ten hours off duty; or, to require or permit any such

employee who has been on duty sixteen hours in the aggregate in any twenty-four hour period to continue on duty without having had at least eight hours off duty within the twenty-four hour period.

**81.40.050 Enforcement.** Any such common carrier, or any of its officers or agents violating any of the provisions of RCW 81.40.040 is hereby declared to be guilty of a misdemeanor, and upon conviction thereof shall be liable to a penalty of not less than one hundred or more than one thousand dollars for each and every such violation to be recovered in a suit or suits to be brought by the attorney general; and it shall be the duty of the attorney general to bring such suits upon duly verified information being lodged with him of such violation having occurred, in any superior court; and it shall also be the duty of the commission to fully investigate all cases of the violation of RCW 81.40.040, and to lodge with the attorney general information of any such violation as may come to its knowledge.

**81.40.060 Purchase of apparel by employees.** It shall be unlawful for any railroad or other transportation company doing business in the state of Washington, or of any officer, agent or servant of such railroad or other transportation company, to require any conductor, engineer, brakeman, fireman, purser, or other employee, as a condition of his continued employment, or otherwise to require or compel, or attempt to require or compel, any such employees to purchase of any such railroad or other transportation company or of any particular person, firm or corporation or at any particular place or places, any uniform or other clothing or apparel, required by any such railroad or other transportation company to be used by any such employee in the performance of his duties as such; and any such railroad or transportation company or any officer, agent or servant thereof, who shall order or require any conductor, engineer, brakeman, fireman, purser, or other person in its employ, to purchase any uniform or other clothing or apparel as aforesaid, shall be deemed to have required such purchase as a condition of such employee's continued employment.

**81.40.070 Penalty.** Any railroad or other transportation company doing business in the state of Washington, or any officer, agent or servant thereof, violating any of the provisions of RCW 81.40.060 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail of the county where the misdemeanor is committed, not exceeding six months.

**81.40.080 Employee shelters.** It shall be unlawful for any railroad company, corporation, association or other person owning, con-

trolling or operating any line of railroad in the state of Washington, to build, construct, reconstruct, or repair railroad car equipment or motive power in this state without first erecting and maintaining at every point where five employees or more are regularly employed on such work, a shed over a sufficient portion of the tracks used for such work, so as to provide that all men regularly employed in such work shall be sheltered and protected from rain and other inclement weather: *Provided*, That the provisions of this section shall not apply at points where it is necessary to make light repairs only on equipment or motive power, nor to equipment loaded with time or perishable freight, nor to equipment when trains are being held for the movement of equipment, nor to equipment on tracks where trains arrive or depart or are assembled or made up for departure. The term "light repairs," as herein used, shall not include repairs usually made in roundhouse, shop or shed upon well equipped railroads.

**81.40.090 Penalty.** Any railroad company or officer or agent thereof, or any other person, who shall violate the provisions of RCW 81.40.080, by failing or refusing to comply with its provisions, shall be deemed guilty of a misdemeanor, and each day's failure or refusal to comply with the provisions of RCW 81.40.080 shall be considered a separate offense.

**81.40.095 Rules and regulations—Railroad employees—Sanitation, shelter.** The public service commission shall adopt and enforce rules and regulations relating to sanitation and adequate shelter as it affects the health of all railroad employees, including but not limited to railroad trainmen, enginemen, yardmen, maintenance of way employees, highway crossing watchmen, clerical, platform, freight house and express employees.

**81.40.100 Penalty for employing illiterate engineer—Penalty for illiterate person to act as engineer.** Every person who, as an officer of a corporation or otherwise, shall knowingly employ as an engineer or engine driver, to run a locomotive or train on any railway, any person who cannot read time tables and ordinary handwriting; and every person who, being unable to read time tables and ordinary handwriting, shall act as an engineer or run a locomotive or train on any railway, shall be guilty of a gross misdemeanor.

**81.40.110 Flagman must read, write and speak English.** Any railroad operating within this state, shall not employ or use as flagman any person or persons who cannot read, write and speak the English language.

**81.40.120 Cost of records or medical examinations—Definitions.** As used in RCW 81.40.120 through 81.40.140:

(1) "Employer" means any common carrier by rail, doing business in or operating within the state, and any subsidiary thereof.

(2) "Employee" means every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment.

**81.40.130** ————**Unlawful to require employee or applicant to pay.** It is unlawful for any employer to require any employee or applicant for employment to pay the cost of a medical examination or the cost of furnishing any records required by the employer as a condition of employment.

**81.40.140** ————**P e n a l t y.** Any employer who violates the provisions of RCW 81.40.120 through 81.40.140 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than one hundred dollars. Each violation shall constitute a separate offense.

## Chapter 81.44

### COMMON CARRIERS—EQUIPMENT

**81.44.010 Commission may order improved facilities.** Whenever the commission shall, after a hearing had upon its own motion or upon complaint, find that, additional tracks, switches, terminals, terminal facilities, stations, motive power or any other property, apparatus, equipment, facilities or device for use by any common carrier in, or in connection with the transportation of persons or property, ought reasonably to be provided, or any repairs or improvements to, or changes in, any theretofore in use ought reasonably to be made, or any additions or changes in construction should reasonably be made thereto, in order to promote the security or convenience of the public or employees, or in order to secure adequate service or facilities for the transportation of passengers or property, the commission may, after a hearing, either on its own motion or after complaint, make and serve an order directing such repairs, improvements, changes or additions to be made.

**81.44.020 Correction of unsafe or defective conditions.** If upon investigation the commission shall find that the equipment or appliances in connection therewith, or the apparatus, tracks, bridges or other structures of any common carrier are defective, and that the operation thereof is dangerous to the employees of such common carrier or to the public, it shall immediately give notice to the superintendent or other officer of such common carrier of the repairs or reconstruction necessary to place the same in a safe condition, and may also prescribe the rate of speed for trains or cars passing over such dangerous or defective track, bridge or other structure

until the repairs or reconstruction required are made, and may also prescribe the time within which the same shall be made. Or if, in its opinion, it is needful or proper, it may forbid the running of trains or cars over any defective track, bridge or structure until the same be repaired and placed in a safe condition.

There shall be no appeal from or action to review any order of the commission made under the provisions of this section.

**81.44.030 Safety appliances—Locomotives.** Each locomotive on every railroad in this state shall be equipped with power driving wheel brakes and appliances for operating the train brake system, so equipped that the engineer on the locomotive drawing such train can control its speed without requiring brakeman to use the common hand brakes for that purpose, with couplers coupling automatically by impact, which can be coupled or uncoupled without the necessity of men going between the locomotive and the locomotive or car to which the same is being coupled or from which it is being uncoupled, and with proper flanges, sill steps and grab irons, or uncoupling levers in lieu of such grab irons, and, excepting such as may be assigned to daylight runs or switching service exclusively, with electric headlights of approved design and capacity (except that locomotives may be operated without such headlight upon permission and order of the commission), with proper cocks, valves, pistons, valve stems and appliances which will prevent the escape of steam in such volume as to obstruct the view of the engineman operating such locomotive, and, in the case of locomotives used in the switching service, with proper foot boards and toe boards, and with a headlight on each end, and with such other appliances, apparatus and machinery necessary for safe operation of the locomotive or the train to which the same is attached, as the commission may prescribe: *Provided*, That in case of emergency the commission may permit the use of road engines in switching service.

**81.44.040 Safety appliances—Cars—Street cars.** Each car shall be equipped with couplers coupling automatically, which can be coupled or uncoupled without the necessity of men going between the ends of the cars, with power brakes, with proper hand brakes, sill steps and grab irons, and, where secure ladders and running boards are required, with such ladders and running boards, and all cars having ladders shall also be equipped with secure hand holds or grab irons on their roofs at the tops of such ladders, and with such other appliances necessary for the safe operation of such cars, and the trains containing such cars, as may be prescribed by the commission: *Provided*, That in the loading and hauling of long commodities requiring more than one car, hand brakes may be omitted from all save one of the cars, while they are thus combined for such

purpose: *And provided further*, That in the operation of trains not less than eighty-five percent of the cars in such train, which are associated together, shall have their power brakes used and operated by the engineer of the locomotive drawing such train.

Every street car shall be equipped with proper and efficient brakes, steps, grab irons or hand rails, fenders or aprons or pilots, and with such other appliances, apparatus and machinery necessary for the safe operation of such street car as the commission may prescribe.

**81.44.050 Power of commission as to appliances.** The commission shall, as soon as practicable, after the taking effect of chapter 117, Laws of 1911, designate the number, dimensions, location and manner of application of the appliances provided for in RCW 81.44.030 and 81.44.040, or such as may be prescribed by the commission, and shall give notice of such designation to all railroad companies and street railroad companies subject to the provisions of this title, by such means as the commission may deem proper, and thereafter such number, dimensions, location and manner of application as designated by the commission shall remain as the standards of equipment to be used on all cars and locomotives subject to the provisions of this title. The commission shall have power to add to, change or modify said standards of equipment at any time or to provide different standards under different circumstances and conditions: *Provided*, That the commission may, upon full hearing, for good cause, extend the period within which any railroad or street railroad may comply with the provisions of RCW 81.44.030 through 81.44.060 with respect to the equipment of locomotives or cars actually in service on the date of passage of chapter 117, Laws of 1911. The commission is hereby given authority to fix the time within which such modification or change shall become effective or obligatory. After the time so fixed it shall be unlawful to use any car, motor, or locomotive which does not comply with the standards so prescribed by the commission: *Provided*, That when any car, motor or locomotive shall have been properly equipped as provided in this title, and such equipment shall have become defective or insecure while such car, motor or locomotive was being used by such railroad company upon its line of railroad, such car, motor or locomotive may be hauled from the place where such equipment was first discovered to be defective or insecure to the nearest available point where such car, motor or locomotive can be repaired, without liability for the penalties imposed herein if such movement is necessary to make such repairs, and such repairs cannot reasonably be made except at such repair point. Nothing in this proviso shall be construed to permit the hauling of defective cars by means of chains instead



of drawbars in revenue trains, or in association with other cars that are commercially used, unless such defective cars contain livestock or perishable freight.

**81.44.060 Penalty.** It shall be unlawful for any railroad company or street railroad company to use or operate any car, motor, locomotive or train that is defective, or any car, motor, locomotive or train upon which any appliance, machinery or attachment thereto belonging is defective, or to knowingly operate its train over any defective track, bridge or other structure, excepting in cases of emergency and under proper precautions: *Provided*, That RCW 81.44.030 through 81.44.060 shall not apply to boarding and outfit cars when moved as work trains, or to trains consisting wholly of logging trucks or of logging trucks and a passenger car or caboose at the rear end thereof, or of logging trucks and not to exceed five freight cars at the rear end thereof.

**81.44.065 Devolution of powers and duties relative to safety of railroads.** The public service commission shall exercise all powers and duties in relation to the inspection of tracks, bridges, structures, equipment, apparatus, and appliances of railroads with respect to the safety of employees and the public and the administration and enforcement of all laws providing for the protection of the public and employees of railroads which prior to April 1, 1955 were vested in and required to be performed by the director of labor and industries.

**81.44.070 Duties of inspector of safety appliances.** It shall be the duty of the inspector of tracks, bridges, structures, and equipment, and such deputies as may be appointed, to inspect all equipment, and appliances connected therewith, and all apparatus, tracks, bridges and structures, depots and facilities and accommodations connected therewith, and facilities and accommodations furnished for the use of employees, and make such reports of his inspection to the commission as may be required. He shall, on discovering any defective equipment or appliances connected therewith, rendering the use of such equipment dangerous, immediately report the same to the superintendent of the road on which it is found, and to the proper official at the nearest point where such defect is discovered, describing the defect. Such inspector may, on the discovery of any defect rendering the use of any car, motor or locomotive dangerous, condemn such car, motor or locomotive, and order the same out of service until repaired and put in good working order. He shall, on discovering any track, bridge or structure defective or unsafe in any particular, report such condition to the commission, and, in addition thereto, report the same to the official in charge of the division of such railroad upon which

such defect is found. In case any track, bridge or structure is found so defective as to be dangerous to the employees or public for a train or trains to be operated over the same, the inspector is hereby authorized to condemn such track, bridge or structure and notify the commission and the office in charge of the division of such railroad where such defect is found of his action concerning the same, reporting in detail the defect complained of, and the work or improvements necessary to repair such defect. He shall also report to the commission the violation of any law governing, controlling or affecting the conduct of public service companies in this state, as such companies are defined in this title or in Title 80.

The inspector, or such deputies as may be appointed, shall have the right and privilege of riding on any locomotive, either on freight or passenger trains, or on the caboose of any freight train, for the purpose of inspecting the track on any railroad in this state: *Provided*, That the engineer or conductor in charge of any such locomotive or caboose may require such inspector to produce his authority, under the seal of the commission, showing that he is such inspector or deputy inspector.

The inspector, or such deputy inspector or inspectors as may be appointed, shall, when required by the commission, inspect any street railroad, gas plant, electrical plant, water system, telephone line or telegraph line, and upon discovering any defective or dangerous track, bridge, structure, equipment, apparatus, machinery, appliance, facility, instrumentality or building, rendering the use of the same dangerous to the public or to the employees of the company owning or operating the same, report the same to the commission, and to the official in charge of such road, plant, system or line.

**81.44.085 First aid kits and drinking water.** Every person operating a common carrier railroad in this state shall equip each locomotive and caboose used in train or yard switching service, and every car used in passenger service with a first aid kit of a type to be approved by the commission: *Provided*, That such kits shall not be required on equipment used exclusively in yard or switching service where such kits are maintained in the yard or terminal.

Each locomotive and caboose shall also be furnished with sanitary cups and sanitary ice-cooled drinking water.

For the purpose of this section a "locomotive" shall include all railroad engines propelled by any form of energy and used in rail line haul or yard switching service.

Any person violating any provision of this section shall be guilty of a misdemeanor.

**81.44.090 Cabooes—Size—Equipment.** It shall be unlawful for any person, corporation or company operating any railroad or railway in this state to require or permit the use of any caboose cars, unless said caboose cars shall be at least twenty-four feet in length, exclusive of platforms, and shall be provided with a door in each end thereof, and with suitable water closets, cupolas, platforms, guard rails, grab irons and steps for the safety of persons in alighting or getting on said caboose cars and said caboose cars shall be equipped with at least two four wheel trucks and an operative hand brake on each end: *Provided*, That RCW 81.44.090 and 81.44.100 shall not apply to logging railways upon which passengers are not regularly carried for hire.

**81.44.100 Penalty.** Any person, corporation or company operating any railroad or railway in this state, violating any of the provisions of RCW 81.44.090, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five hundred dollars, nor more than one thousand dollars, for each offense.

**81.44.101 Track motor cars—Windshield and canopy required.** Every person, firm or corporation operating or controlling any railroad running through or within this state as a common carrier shall, on or before January 1, 1952, equip each of its track motor cars with:

(1) A windshield and a device for wiping rain, snow and other moisture therefrom, which device shall be maintained in good order and so constructed as to be controlled or operated by the operator of said track motor car;

(2) A canopy or top of such construction as to adequately protect the occupants thereof from the rays of the sun, rain, snow or other inclement weather.

**81.44.102 ———Absence of windshield or canopy unlawful.** It shall be unlawful after January 1, 1952, for any person, firm or corporation, operating or controlling any common carrier railroad running through or within this state to operate or use any track motor car which is not equipped with a windshield and canopy or top as provided in RCW 81.44.101.

**81.44.103 ———Head and tail lights required.** Every person, firm or corporation operating or controlling any railroad running as a common carrier through or within the state shall, on or before January 1, 1952, equip each of its track motor cars used during the period from thirty minutes before sunset to thirty minutes after sunrise, with an electric headlight of such construction and with sufficient candle power to render plainly visible at a distance of not less than three hundred feet in advance of such track motor

car, any track obstruction, landmark, warning sign or grade crossing, and further shall equip such track motor car with a red rear electric light of such construction and with sufficient candle power as to be plainly visible at a distance of three hundred feet.

**81.44.104** ————**Absence of lights unlawful.** It shall be unlawful after January 1, 1952, for any person, firm or corporation operating or controlling any railroad running as a common carrier through or within this state to operate or use any track motor car from thirty minutes before sunset to thirty minutes after sunrise, which is not equipped with lights of the candle power, construction and utility described in RCW 81.44.103.

**81.44.105** ————**Penalty for violation.** Every violation of RCW 81.44.101 through 81.44.105 is a misdemeanor and shall be punishable by a fine of not more than one hundred dollars.

**81.44.110** **Equipment is part of cars—Tare weight.** The stakes, standards, supports, stays, railings and other equipments, appliances and contrivances necessary to effectually and suitably equip and supply every and all flat cars, and cars belonging to any and every railroad company, or person engaged in the business of carrying for hire in this state shall constitute and be held considered part and parcel of said cars, and the weight of same shall be added to the weight of the cars, and shall be deducted from the weight of the cargo, commodity, or product shipped on any and all such flat car or cars so that the freight charges shall be charged by the carrier only on the cargo, commodity or product carried.

**81.44.120** **Reimbursement of shipper for supplying equipment.** Whenever any railroad company or any person engaged in the business of carrying for hire in this state shall set in or furnish any person or persons any flat car or cars that is, or are not, provided with stakes, standards, supports, stays, railings and other equipments, appliances and contrivances necessary to effectually and suitably equip and supply every and all such flat car or cars for the purpose of loading and transporting goods, commodities or products, and it shall be necessary and requisite that the shipper or loader of any goods, commodities or products shall furnish any stakes, standards, supports, stays, railings and other equipments, appliances and contrivances necessary to effectually and suitably equip and supply such flat car or cars for the purpose of transporting any goods, commodities or products, the carrier or railroad company, or person engaged in the business of carrying for hire, shall pay to the shipper or loader of any such flat car or cars the cost and expense of placing on any and all of such flat car or cars stakes, standards, supports, stays, railings or other equipments, appliances,

and contrivances necessary to effectually and suitably equip or supply every and all such flat car or cars.

**81.44.130 Safeguarding frogs, switches and guard rails.** Every railroad and street railroad operating in this state shall so adjust, fill, block and securely guard all frogs, switches and guard rails so as to protect and prevent the feet of persons being caught therein.

**81.44.150 Track scale—Testing.** It shall be the duty of all railroads operating in this state, to provide suitable facilities for the testing of all track scales used by such railroads. The commission is hereby authorized, after a hearing, upon its own motion and after notice to the railroads operating in this state, to order a suitable car or other device or facility to be provided by the railroad companies operating in this state, to be used in testing the track scales used by such railroads, the expenses of providing such car, device or facility to be equitably and reasonably apportioned among the different railroad companies by the commission. Such car, device or facility shall be used by the commission to test the accuracy of all track scales, and the different railroad companies shall transport and move such car, device or facility without charge therefor, to the different places designated by the commission under such reasonable rules and regulations as the commission may prescribe. Such car, device or facility may be used in adjoining states to test the scales of railroad companies and for that purpose may be taken beyond the limits of the state under such reasonable rules and regulations for the due care and return thereof as the commission may prescribe. The commission is hereby authorized to prescribe and collect a reasonable fee sufficient to cover the cost and expenses connected therewith for the inspection and testing of all scales.

**81.44.160 Regulations for weighing.** The commission shall have power to enforce reasonable regulations for the weighing of cars and freight offered for shipment over any line of railroad, and to test the weights made by any railroad and scales used in weighing freight on cars.

## Chapter 81.48

### RAILROADS—OPERATING REQUIREMENTS AND REGULATIONS

**81.48.010 Failure to ring bell—Penalty.** Every engineer driving a locomotive on any railway who shall fail to ring the bell or sound the whistle upon such locomotive, or cause the same to be rung or sounded at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except

in cities), or to continue the ringing of such bell or sounding of such whistle until such locomotive shall have crossed such road or street, shall be guilty of a misdemeanor.

**81.48.020 Obstructing or delaying train—Penalty.** Every person who shall wilfully obstruct, hinder or delay the passage of any car lawfully operated upon any railway, shall be guilty of a misdemeanor.

**81.48.030 Speed within cities may be regulated.** The right to fix and regulate the speed of railway trains within the limits of cities of the second class, third class, and towns, is vested exclusively in the commission: *Provided*, That RCW 81.48.030 and 81.48-.040 shall not apply to street railways which may be operating or hereafter operated within the limits of said cities and towns.

**81.48.040 Procedure to fix speed limits—Change in limits.** After due investigation and within a reasonable time after June 9, 1943, the commission shall make and issue an order fixing and regulating the speed of railway trains within the limits of cities of the second class, cities of the thrid class, and towns. The speed limit to be fixed by the commission shall be discretionary, and it may fix different rates of speed for different cities and towns, which rates of speed shall be commensurate with the hazard presented and the practical operation of the trains. The commission shall have the right from time to time, as conditions change, to either increase or decrease speed limits established under RCW 81.48.030 and 81.48.040.

**81.48.050 Trains to stop at railroad crossings.** All railroads and street railroads, operating in this state shall cause their trains and cars to come to a full stop at a distance not greater than five hundred feet before crossing the tracks of another railroad crossing at grade, excepting at crossings where there are established signal towers and signal men, interlocking plants or gates.

**81.48.060 Penalty for violation of duty endangering safety.** Every engineer, motorman, gripman, conductor, brakeman, switch tender, train dispatcher or other officer, agent or servant of any railway company, who shall be guilty of any wilful violation or omission of his duty as such officer, agent or servant, by which human life or safety shall be endangered, for which no punishment is specially prescribed, shall be guilty of a misdemeanor.

## Chapter 81.52

### RAILROADS—RIGHTS OF WAY—SPURS—FENCES

**81.52.010 Physical connections.** Whenever the commission shall find, after a hearing made upon complaint or upon it own motion,

that the public necessities and conveniences would be subserved by having track connections made, between any two or more railroads at any of the points hereinafter specified, the commission shall order any two or more railroads of the same or similar gauge to make physical connections at any and all crossings, and at all points where a railroad shall begin or terminate at or near any other railroad, and at or near all towns or cities, so that the cars of any such railroad company may be speedily transferred from one railroad to another, and shall order whether the expense thereof shall be borne jointly or otherwise.

**81.52.020 Sidetrack and switch connections, duty to construct.** A railroad company upon the application of any shipper shall construct, maintain and operate upon reasonable terms a switch connection or connections with a lateral line of railway or private side track owned, operated or controlled by such shipper, and shall upon the application of any shipper, provide upon its own property a side track and switch connection with its line of railway, whenever such a side track and switch connection is reasonably practicable, and can be put in with safety and the business therefor is sufficient to justify the same.

**81.52.030 Sidetrack and switch connection may be ordered by commission.** Whenever the commission shall find, after a hearing had upon its own motion or upon complaint, as herein provided, that application has been made by any shipper for a switching connection or connections with a lateral line of railway or private side track owned, operated or controlled by such shipper, or that application has been made by any shipper for the installation of a side track upon the property of such railroad, and that such switch connection or side track is reasonably practicable, can be put in with reasonable safety, and the business therefor is sufficient to justify the same, and that the railroad company has refused to install or provide the same, the commission shall enter its order requiring such connection or the construction of such side track: *Provided*, That such shipper so to be served shall pay the legitimate cost and expense of constructing such connection or side track as shall be determined in separate items by the commission, and before the railroad company shall be compelled to incur any cost in connection therewith the same shall be secured to the railroad company in such manner as the commission may require. Whenever such lateral line of railway private side track or side track upon the property of the railroad company shall be constructed under the provisions of this section, any person or corporation shall be entitled to connect therewith or use the same upon the payment to the shipper incurring the primary expense of a reasonable proportion of the cost thereof, to be determined by the commission

after notice to the interested parties: *Provided*, That such connection can be made without unreasonable interference with the right of such shipper incurring the primary expense.

**81.52.040 Spur tracks.** Any railroad corporation organized under the laws of this state or of any other state, and authorized to do business in this state and owning or operating a railway in this state, may construct, maintain and operate public spur tracks, from its railroad or any branch thereof, to and upon the grounds of any mill, elevator, storehouse, warehouse, dock, wharf, pier, manufacturing establishment, lumber yard, coal dock or other industry or enterprise, with all side tracks, storage tracks, wyes, turnouts, and connections necessary or convenient to the use of the same; and such company may acquire by purchase or condemnation, in the manner provided by the laws of this state for the acquisition of real estate for railway purposes, all necessary rights of way for such spur tracks, side tracks, storage tracks, wyes, turnouts and connections; said spur when constructed to be a public spur for the use of all industries located or thereafter located thereon: *Provided*, That the right to acquire by condemnation herein granted shall not be exercised over unimproved lands for a greater distance than five miles, or over improved lands for a greater distance than one mile, or over lands within the limits of a municipal corporation for a greater distance than one-fourth of a mile: *Provided further*, That this section shall not be construed as limiting the rights granted under RCW 81.36.060 through 81.36.090, relating to the construction of branch lines.

**81.52.050 Fences — Crossings — Cattle guards.** Every person, company or corporation having the control or management of any railroad shall, outside of any corporate city or town, and outside the limits of any sidetrack or switch, cause to be constructed and maintained in good repair on each side of said railroad, along the line of said right of way of such person, company or corporation operating the same, a substantial fence, and at every point where any roadway or other public highway shall cross said railroad, a safe and sufficient crossing must be built and maintained, and on each side of such crossing and at each end of such sidetrack or switch, outside of any incorporated city or town, a sufficient cattle guard: *Provided*, That any person holding land on both sides of said right of way shall have the right to put in gates for his own use at such places as may be convenient.

**81.52.060 ————Liability for injury to stock.** Every such person, company or corporation owning or operating such railroad shall be liable for all damages sustained in the injury or killing of stock in any manner by reason of the failure of such person, com-



pany or corporation, to construct and maintain such fence or such crossing or cattle guard; but when such fences, crossings and guards have been duly made, and shall be kept in good repair, such person, company or corporation shall not be liable for any such damages, unless negligently or unlawfully done.

**81.52.070** ————**Negligence, evidence of.** In all actions against persons, companies or corporations, operating steam or electric railroads in the state of Washington, for injury to stock by collision with moving trains, it is prima facie evidence of negligence on the part of such person, company or corporation, to show that the railroad track was not fenced with a substantial fence or protected by a sufficient cattle guard at the place where the stock was injured or killed.

### Chapter 81.53

#### RAILROADS—CROSSINGS

**81.53.010 Definitions.** The term "commission," when used in this chapter, means the public service commission of Washington.

The term "highway," when used in this chapter, includes all state and county roads, streets, alleys, avenues, boulevards, parkways and other public places actually open and in use, or to be opened and used, for travel by the public.

The term "railroad," when used in this chapter, means every railroad, including interurban and suburban electric railroads, by whatsoever power operated, for the public use in the conveyance of persons or property for hire, with all bridges, ferries, tunnels, equipment, switches, spurs, sidings, tracks, stations and terminal facilities of every kind, used, operated, controlled, managed, or owned by or in connection therewith. The said term shall also include every logging and other industrial railway owned or operated primarily for the purpose of carrying the property of its owners or operators or of a limited class of persons, with all tracks, spurs and sidings used in connection therewith. The said term shall not include street railways operating within the limits of any incorporated city or town.

The term "railroad company," when used in this chapter, includes every corporation, company, association, joint stock association, partnership or person, its, their or his lessees, trustees or receivers appointed by any court whatsoever, owning, operating, controlling or managing any railroad, as that term is defined in this section.

The term "over-crossing," when used in this chapter, means any point or place where a highway crosses a railroad by passing above the same.

The term "under-crossing," when used in this chapter, means any point or place where a highway crosses a railroad by passing under the same.

The term "over-crossing" or "under-crossing," shall also mean any point or place where one railroad crosses another railroad not at grade.

The term "grade crossing," when used in this chapter, means any point or place where a railroad crosses a highway or a highway crosses a railroad or one railroad crosses another, at a common grade.

**81.53.020 Grade separation required where practicable.** All railroads and extensions of railroads hereafter constructed shall cross existing railroads and highways by passing either over or under the same, when practicable, and shall in no instance cross any railroad or highway at grade without authority first being obtained from the commission to do so. All highways and extensions of highways hereafter laid out and constructed shall cross existing railroads by passing either over or under the same, when practicable, and shall in no instance cross any railroad at grade without authority first being obtained from the commission to do so: *Provided*, That this section shall not be construed to prohibit a railroad company from constructing tracks at grade across other tracks owned or operated by it within established yard limits. In determining whether a separation of grades is practicable, the commission shall take into consideration the amount and character of travel on the railroad and on the highway; the grade and alignment of the railroad and the highway; the cost of separating grades; the topography of the county, and all other circumstances and conditions naturally involved in such an inquiry.

**81.53.030 Petition for crossing—Hearing—Order.** Whenever any railroad company desires to cross any highway or railroad at grade, it shall file a written petition with the commission setting forth the reasons why the crossing cannot be made either above or below grade, and whenever the county commissioners of any county, or the municipal authorities of any city, or the state officers authorized to lay out and construct state roads, or state parks and recreation commission, desire to extend any highway across any railroad at grade, they shall file a written petition with the commission, setting forth the reasons why the crossing cannot be made either above or below grade. Upon receiving such petition the commission shall immediately investigate it, giving at least ten days' notice to the railroad company and the county or city affected thereby, of the time and place of such investigation, to the end that all parties interested may be present and heard. If the highway involved is a state road or parkway, the director of highways or state

parks and recreation commission shall be notified of the time and place of hearing. The evidence introduced shall be reduced to writing and be filed by the commission. If it finds that it is not practicable to cross the railroad or highway either above or below grade, the commission shall enter a written order in the clause, either granting or denying the right to construct a grade crossing at the point in question. The commission may provide in the order authorizing a grade crossing, or at any subsequent time, that the railroad company shall install and maintain proper signals, warnings, flagmen, interlocking devices, or other devices or means to secure the safety of the public and its employees. In respect to existing railroad grade crossings over highways the construction of which grade crossings was accomplished other than pursuant to a commission order authorizing the same, the commission may in any event require the railroad company to install and maintain, at or near each crossing, on both sides thereof, a sign known as the sawbuck crossing sign with the lettering "Railroad Crossing" inscribed thereon with a suitable inscription indicating the number of tracks. Such a sign shall be of standard design conforming to specifications furnished by the Washington state highway commission.

**81.53.040 Supplemental hearing—Change of route.** If the commission finds that it is impracticable to construct an over-crossing or under-crossing on the established or proposed highway, and shall find that by deflecting the established or proposed highway a practicable and feasible over-crossing or under-crossing or a safer grade crossing can be provided, it shall continue the hearing and hold a supplemental hearing thereon. At least ten days' notice of the time and place of the supplemental hearing shall be given to all landowners that may be affected by the proposed change in location of the highways. At the supplemental hearing the commission shall inquire into the propriety and necessity of changing and deflecting the highway as proposed. If the proposed change in route of the highway involves the abandonment and vacation of a portion of an established highway, the owners of land contiguous to the portion of the highway to be vacated shall, in like manner, be notified of the time and place of the supplemental hearing. At the conclusion of the hearing, the commission shall enter its findings in writing, and shall determine the location of the crossing which may be constructed, and whether it shall be an under-crossing, over-crossing or grade crossing, and shall determine whether or not any proposed change in the route of an existing highway, or the abandonment of a portion thereof is advisable or necessary to secure an over-crossing, under-crossing, or safer grade crossing.

**81.53.050 Requirements of order on change of route.** If the commission finds and determines that a change in route of an existing highway, or vacation of a portion thereof, is necessary or advisable, it shall further find and determine what private property or property rights it is necessary to take, damage, or injuriously affect for the purpose of constructing the highway along a new route, and what private property or property rights, will be affected by the proposed vacation of a portion of an existing highway. The property and property rights found necessary to be taken, damaged, or affected shall be described in the findings with reasonable accuracy. In any action brought to acquire the right to take or damage any such property or property rights, the findings of the commission shall be conclusive as to the necessity therefor. A copy of the findings shall be served upon all parties to the cause.

**81.53.060 Petition for alteration of crossing.** The mayor and city council, or other governing body of any city or town, or the county commissioners of any county within which there exists any under-crossing, over-crossing or grade crossing, or where any street or highway is proposed to be located or established across any railroad, or any railroad company whose road is crossed by any highway, may file with the commission their or its petition in writing, alleging that the public safety requires the establishment of an under-crossing or over-crossing, or an alteration in the method and manner of an existing crossing, and its approaches, or in the style and nature of construction of any existing over-crossing, under-crossing or grade crossing, or a change in the location of an existing highway or crossing, the closing or discontinuance of an existing highway crossing, and the diversion of travel thereon to another highway or crossing, or if not practicable, to change such crossing from grade or to close and discontinue the same, the opening of an additional crossing for the partial diversion of travel and praying that the same may be ordered. If the existing or proposed crossing is on a state road, highway or parkway, the petition may be filed by the director of highways or state parks and recreation commission. Upon such petition being filed, the commission shall fix a time and place for hearing the petition and shall give not less than ten days' notice thereof to the petitioner, the railroad company and the municipality or county in which the crossing is situate. If the highway involved is a state highway or parkway, like notice shall be given to the director of highways or state parks and recreation commission. If the change petitioned for requires that private lands, property, or property rights be taken, damaged, or injuriously affected to open up a new route for the highway, or requires that any portion of any existing highway be vacated and abandoned, ten days' notice of the hearing shall be given to the owner or

owners of the private lands, property, and property rights which it is necessary to take, damage or injuriously affect, and to the owner or owners of the private lands, property, or property rights that will be affected by the proposed vacation and abandonment of the existing highway. The commission shall also cause said notice of hearing to be published once in some newspaper of general circulation in the community where such crossing is situate, which publication shall appear at least two days prior to the date of hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence.

**81.53.070 Hearing.** At the conclusion of the hearing the commission shall make and file its written findings of fact concerning the matters inquired into in like manner as provided for findings of fact upon petition for new crossings. The commission shall also enter its order based upon said findings of fact, which shall specify whether the highway shall continue at grade or whether it shall be changed to cross over or under the railroad in its existing location or at some other point, and whether an over-crossing or under-crossing shall be established at the proposed location of any street or highway or at some other point, or whether the style and nature of construction of an existing crossing shall be changed, or whether said highway shall be closed and travel thereon diverted to another channel, or any other change that the commission may find advisable or necessary: *Provided*, That in an emergency where a highway is relocated to avoid a grade crossing, or a new crossing is constructed in the vicinity of an existing crossing in the interest of public safety, the commission may order such existing crossing closed without notice or hearing as specified herein. In case the order made requires that private lands, property, or property rights be taken, damaged or injuriously affected, the right to take, damage or injuriously affect the same shall be acquired as hereinafter provided.

Any petition herein authorized may be filed by the commission on its own motion, and proceedings thereon shall be the same as herein provided for the hearing and determination of a petition filed by a railroad company.

**81.53.080 Restrictions on structures in proximity of crossings.** After February 24, 1937, no building, loading platform, or other structure which will tend to obstruct the vision of travelers on a highway or parkway, of approaching railway traffic, shall be erected or placed on railroad or public highway rights of way within a distance of one hundred feet of any grade crossing located outside the corporate limits of any city or town unless authorized

by the commission, and no railway cars or equipment shall be spotted less than one hundred feet from such crossing except to serve existing facilities of industries.

The commission shall have the power to specify the minimum vertical and horizontal clearance of under-crossings constructed, repaired or reconstructed after February 24, 1937, except as to primary state highways.

**81.53.090 Duty to maintain crossings.** When a highway crosses a railroad by an over-crossing or under-crossing, the framework and abutments of the over-crossing or under-crossing, as the case may be, shall be maintained and kept in repair by the railroad company, and the roadway thereover or thereunder and approaches thereto shall be maintained and kept in repair by the county or municipality in which the same are situated, or if the highway is a state road or parkway, the roadway over or under the railroad shall be maintained and kept in repair as provided by law for the maintenance and repair of state roads and parkways.

The railings of over-crossings shall be considered a part of the roadway. Whenever a highway intersects a railroad at common grade, the roadway approaches within one foot of the outside of either rail shall be maintained and kept in repair by highway authority, and the planking or other materials between the rails and for one foot on the outside thereof shall be installed and maintained by the railroad company. At crossings involving more than one track, maintenance by the railroad company shall include that portion of the crossing between and for one foot on the outside of each outside rail. The minimum length of such planking or other materials shall be twenty feet on installation or repairs made after February 24, 1937.

**81.53.100 Cost when railroad crosses highway.** Whenever, under the provisions of this chapter, new railroads are constructed across existing highways, or highway changes are made either for the purpose of avoiding grade crossings on such new railroads, or for the purpose of crossing at a safer and more accessible point than otherwise available, the entire expense of crossing above or below the grade of the existing highway, or changing the route thereof, for the purpose mentioned in this section, shall be paid by the railroad company.

**81.53.110 Cost when highway crosses railroad.** Whenever, under the provisions of this chapter, a new highway is constructed across a railroad, or an existing grade crossing is eliminated or changed (or the style or nature of construction of an existing crossing is changed), the entire expense of constructing a new grade crossing, an over-crossing, under-crossing, or safer grade crossing, or changing the

nature and style of construction of an existing crossing, including the expense of constructing approaches to such crossing and the expense of securing rights of way for such approaches, as the case may be, shall be apportioned by the commission between the railroad, municipality or county affected, or if the highway is a state road or parkway, between the railroad and the state, in such manner as justice may require, regard being had for all facts relating to the establishment, reason for, and construction of said improvement. If the highway involved is a state road or parkway, the amount not apportioned to the railroad company shall be paid as provided by law for constructing such state road or parkway.

**81.53.120 Cost when railroad crosses railroad.** Whenever two or more lines of railroad owned or operated by different companies cross a highway, or each other, by an over-crossing, under-crossing, or grade crossing required or permitted by this chapter or by an order of the commission, the portion of the expense of making such crossing not chargeable to any municipality, county or to the state, and the expense of constructing and maintaining such signals, warnings, flagmen, interlocking devices, or other devices or means to secure the safety of the public and the employees of the railroad company, as the commission may require to be constructed and maintained, shall be apportioned between said railroad companies by the commission in such manner as justice may require, regard being had for all facts relating to the establishment, reason for, and construction of said improvement, unless said companies shall mutually agree upon an apportionment. If it becomes necessary for the commission to make an apportionment between the railroad companies, a hearing for that purpose shall be held, at least ten days' notice of which shall be given.

**81.53.130 Apportionment of cost.** In the construction of new railroads across existing highways, the railroads shall do or cause to be done all the work of constructing the crossings and road changes that may be required, and shall acquire and furnish whatever property or easements may be necessary, and shall pay, as provided in RCW 81.53.100 through 81.53.120, the entire expense of such work including all compensation or damages for property or property rights taken, damaged or injuriously affected. In all other cases the construction work may be apportioned by the commission between the parties who may be required to contribute to the cost thereof as the parties may agree, or as the commission may consider advisable. All work within the limits of railroad rights of way shall in every case be done by the railroad company owning or operating the same. The cost of acquiring additional lands, rights or easements to provide for the change of existing crossings shall, unless the parties otherwise agree, in the first instance be paid by the municipality or

county within which the crossing is located; or in the case of a state road or parkway, shall be paid in the manner provided by law for paying the cost of acquiring lands, rights or easements for the construction of state roads or parkways. The expense accruing on account of property taken or damaged shall be divided and paid in the manner provided for dividing and paying other costs of construction. Upon the completion of the work and its approval by the commission, an accounting shall be had, and if it shall appear that any party has expended more than its proportion of the total cost, a settlement shall be forthwith made. If the parties shall be unable to agree upon a settlement, the commission shall arbitrate, adjust and settle the account after notice to the parties. In the event of failure and refusal of any party to pay its proportion of the expense, the sum with interest from the date of the settlement may be recovered in a civil action by the party entitled thereto. In cases where the commission has settled the account, the finding of the commission as to the amount due shall be conclusive in any civil action brought to recover the same if such finding has not been reviewed or appealed from as herein provided, and the time for review or appeal has expired. If any party shall review or appeal from any finding or order of the commission apportioning the cost between the parties liable therefor, the superior court or the supreme court, as the case may be, shall cause judgment to be entered in such review proceedings for such sum or sums as may be found lawfully or justly due by one party to another.

**81.53.140 Time for performance.** The commission, in any order requiring work to be done, shall have power to fix the time within which the same shall be performed and completed: *Provided*, That if any party having a duty to perform within a fixed time under any order of the commission shall make it appear to the commission that the order cannot reasonably be complied with within the time fixed by reason either of facts arising after the entry of the order or of facts existing prior to the entry thereof that were not presented, and with reasonable diligence could not have been sooner presented to the commission, such party shall be entitled to a reasonable extension of time within which to perform the work. An order of the commission refusing to grant an extension of time may be reviewed as provided for the review of other orders of the commission.

**81.53.150 Practice and procedure.** Modes of procedure under this chapter, unless otherwise provided in this chapter, shall be as provided in other provisions of this title. The commission is hereby given power to adopt rules to govern its proceedings and to regulate the mode and manner of all investigations and hearings under this chapter.



**81.53.160 Service of process.** All notices required to be served by this chapter shall be in writing, and shall briefly state the nature of the matter to be inquired into and investigated. Notices may be served in the manner provided by law for the service of summons in civil cases, or by registered United States mail. When service is made by registered mail, the receipt of the receiving post office shall be sufficient proof of service. When, under the provisions of this chapter, it is necessary to serve notice of hearings before the commission on owners of private lands, property, or property rights, and such owners cannot be found, service may be made by publication in the manner provided by law for the publication of summons in civil actions, except that publication need be made but once each week for three consecutive weeks, and the hearing may be held at any time after the expiration of thirty days from the date of the first publication of the notice.

**81.53.170 Review and appeal.** Upon the petition of any party to a proceeding before the commission, any finding or findings, or order or orders of the commission, made under color of authority of this chapter, except as otherwise provided, may be reviewed in the superior court of the county wherein the crossing is situated, and the reasonableness and lawfulness of such finding or findings, order or orders inquired into and determined, as provided in this title for the review of the commission's orders generally. An appeal may be taken to the supreme court from the judgment of the superior court in like manner as provided in said public service commission law for appeals to the supreme court.

**81.53.180 Eminent domain.** Whenever to carry out any work undertaken under this chapter it is necessary to take, damage, or injuriously affect any private lands, property, or property rights, the right so to take, damage, or injuriously affect the same may be acquired by condemnation as hereinafter provided:

(1) In cases where new railroads are constructed and laid out by railroad company authorized to exercise the power of eminent domain, the right to take, damage, or injuriously affect private lands, property, or property rights shall be acquired by the railroad company by a condemnation proceedings brought in its own name and prosecuted as provided by law for the exercise of the power of eminent domain by railroad companies, and the right of eminent domain is hereby conferred on railroad companies for the purpose of carrying out the requirements of this chapter or the requirements of any order of the commission.

(2) In cases where it is necessary to take, damage, or injuriously affect private lands, property, or property rights to permit the opening of a new highway or highway crossing across a railroad, the right to take, damage, or injuriously affect such lands, property, or prop-

erty rights shall be acquired by the municipality or county petitioning for such new crossing by a condemnation proceeding brought in the name of such municipality or county as provided by law for the exercise of the power of eminent domain by such municipality or county. If the highway involved be a state highway, then the right to take, damage, or injuriously affect private lands, property, or property rights shall be acquired by a condemnation proceeding prosecuted under the laws relative to the exercise of the power of eminent domain in aid of such state road.

(3) In cases where the commission orders changes in existing crossings to secure an under-crossing, over-crossing, or safer grade crossing, and it is necessary to take, damage, or injuriously affect private lands, property, or property rights to execute the work, the right to take, damage, or injuriously affect such lands, property, or property rights shall be acquired in a condemnation proceeding prosecuted in the name of the state of Washington by the attorney general under the laws relating to the exercise of the power of eminent domain by cities of the first class for street and highway purposes: *Provided*, That in the cases mentioned in this subdivision the full value of any lands taken shall be awarded, together with damages, if any accruing to the remainder of the land not taken by reason of the severance of the part taken, but in computing the damages to the remainder, if any, the jury shall offset against such damages, if any, the special benefits, if any, accruing to such remainder by reason of the proposed improvement. The right of eminent domain for the purposes mentioned in this subdivision is hereby granted.

**81.53.190 Abatement of illegal crossings.** If an under-crossing, over-crossing, or grade crossing is constructed, maintained, or operated, or is about to be constructed, operated, or maintained, in violation of the provisions of this chapter, or in violation of any order of the commission, such construction, operation, or maintenance may be enjoined, or may be abated, as provided by law for the abatement of nuisances. Suits to enjoin or abate may be brought by the attorney general, or by the prosecuting attorney of the county in which the unauthorized crossing is located.

**81.53.200 Mandamus to compel performance.** If any railroad company, county, municipality, or officers thereof, or other person, shall fail, neglect, or refuse to perform or discharge any duty required of it or them under this chapter or any order of the commission, the performance of such duty may be compelled by mandamus, or other appropriate proceeding, prosecuted by the attorney general upon request of the commission.

**81.53.210 Penalty.** If any railroad company shall fail or neglect to obey, comply with, or carry out the requirements of this chapter,

or any order of the commission made under it, such company shall be liable to a penalty not to exceed five thousand dollars, such penalty to be recovered in a civil action brought in the name of the state of Washington by the attorney general. All penalties recovered shall be paid into the state treasury.

**81.53.220 Obstructions in highways.** Whenever, to carry out any work ordered under RCW 81.52.080 through 81.52.300 and 81.52.330 through 81.52.380, it is necessary to erect and maintain posts, piers or abutments in a highway, the right and authority to erect and maintain the same is hereby granted: *Provided*, That, in case of a state highway the same shall be placed only at such points on such state highway as may be approved by the state director of highways and fixed after such approval by order of the commission.

**81.53.230 No new right of action conferred.** Nothing contained in this chapter shall be construed as conferring a right of action for the abandonment or vacation of any existing highway or portion thereof in cases where no right of action exists independent of this chapter.

**81.53.240 Scope of chapter.** This chapter shall not be operative within the limits of first class cities, and shall not apply to street railway lines operating on or across any street, alley, or other public place within the limits of any city, except that no street car line outside of cities of the first class shall cross a railroad at grade without express authority from the commission. The commission may not change the location of a state highway without the approval of the director of highways, or the location of any crossing thereon adopted or approved by the highway commission, or grant a railroad authority to cross a state highway at grade unless the director of highways consents thereto.

**81.53.250 Employment of experts.** The commission may employ temporarily such experts, engineers, and inspectors as may be necessary to supervise changes in existing crossings undertaken under this chapter; the expense thereof shall be paid by the railroad upon the request and certificate of the commission, said expense to be included in the cost of the particular change of grade on account of which it is incurred, and apportioned as provided in this chapter.

The commission may also employ such engineers and other persons as permanent employees as may be necessary to properly administer this chapter.

**81.53.260 Crossing signals, warning devices—Petition, motion—Hearing—Order—Costs—Records not evidence for actions—Appeal.** Whenever the director of highways or the governing body of any city, town or county shall deem that the public safety requires signals or other warning devices, other than sawbuck signs, at any

crossing of a railroad at common grade by any state or county highway, road, street, alley, avenue, boulevard, parkway or other public place actually open and in use or to be opened and used for travel by the public, he or it shall file with the public service commission a petition in writing, alleging that the public safety requires the installation of specified signals or other warning devices at such crossing or specified changes in the method and manner of existing crossing warning devices. Upon receiving such petition, the commission shall set the matter for hearing, giving at least ten days' notice to the railroad company or companies and the county or municipality affected thereby, or the director of highways in the case of a state highway, of the time and place of such hearing. At the time and place fixed in the notice, all persons and parties interested shall be entitled to be heard and introduce evidence, which shall be reduced to writing and filed by the commission. If the commission shall find from the evidence that public safety does not require the installation of the signal, other warning device or change in the existing warning device specified in the petition, it shall make findings to that effect and enter an order denying said petition in toto. If the commission shall find from the evidence that public safety requires the installation of such signals or other warning devices at such crossing or such change in the existing warning devices at said crossing, it shall make findings to that effect and enter an order directing the installation of such signals or other warning devices or directing that such changes shall be made in existing warning devices. The commission shall also at said hearing receive evidence as to the benefits to be derived by the railroad and the public, respectively, and shall on the basis of such benefits apportion the entire cost, including installation of such signals or other warning devices, other than sawbuck signs, between the railroad, municipality or county affected, or if the highway is a state road or parkway, between the railroad and the state: *Provided*, That the commission shall in no case apportion more than fifty percent of the cost of such installation or change in existing warning devices to the public body involved nor shall the commission require the public body involved to pay its share of the cost so apportioned sooner than one year from the date of the order: *And provided further*, That no railroad shall be required to install any such signal or other warning device until the public body involved has either paid or executed its promise to pay to the railroad its portion of the estimated cost thereof. Nothing herein shall be deemed to foreclose the right of the interested parties to enter into an agreement providing for the installation of signals or other warning devices at any such crossing or for the apportionment of the cost thereof.

The investigation herein authorized may be instituted by the commission on its own motion, and the proceedings, hearing and

determination thereon shall be the same as herein provided for the hearing and determination of any petition authorized by this section.

No part of the record, or a copy thereof, of the investigation herein provided for and no finding, conclusion or order made pursuant thereto shall be used as evidence in any trial, civil or criminal, arising out of an accident at or in the vicinity of any crossing prior to installation of signals or other warning devices pursuant to an order of the commission as a result of any such investigation.

Any order entered by the public service commission under this section shall be subject to review, supersedeas and appeal as provided in RCW 81.04.170 through RCW 81.04.190.

Nothing in this section shall be deemed to relieve any railroad from liability on account of failure to provide adequate protective devices at any such crossing.

**81.53.270** ————**Petition for funds to defray costs of crossing signals and warning devices.** The governing body of any city or county may petition the public service commission requesting the commission to allocate to the city or county such funds as are needed by the city or county to defray the cost of installing railroad grade crossing signals and warning devices on city streets, highways or county roads. The petition shall set forth by description the location of the crossing or crossings, the type of signal or warning device to be installed, the necessity from the standpoint of public safety for such installation and the approximate cost of installation, the ability of the city or county to finance such installation from other funds available to it and such other information as will enable the commission to determine the necessity for such installation and the requirement for the allocation by the commission of funds to assist in such installation.

**81.53.280** ————**Allocation of funds, findings required to defray costs.** Upon receipt of a petition as provided for in RCW 81.53.270 and upon finding (1) the public safety requires the installation of such signals or warning devices; (2) the need exists for an allocation of funds to effect such installation; (3) the circumstances and conditions at the crossing or crossings in question, when considered with the circumstances and conditions at grade crossings generally throughout the state, are such as to warrant an allocation of funds at that time and (4) all other matters necessary to the installation thereof have been resolved or provided for, the commission may allocate from any fund available to the commission from appropriations made for the purpose of carrying out the provisions of this chapter up to one-half of the cost of the city's or county's share of installing such signals or warning devices. The commission may make such investigation including the holding of a hearing as it may deem necessary before taking any action on the petition. The commission may

adopt reasonable rules and regulations to effectuate the making of equitable allocations.

**81.53.290** ————**Certification of allocation of funds—Reimbursement of state—Audit by state auditor.** At the time the commission makes each allocation under RCW 81.53.280 it shall certify such to the state auditor. The public body involved shall present claims for reimbursement of the state's share of the cost of the projects under such allocations to the state auditor for payment. The state auditor shall make such audit as he deems necessary before or after disbursement for the purpose of determining that the money allocated has been expended for the purpose and under the conditions authorized under RCW 81.53.260 through 81.53.280.

### Chapter 81.54

#### **RAILROADS—INSPECTION OF INDUSTRIAL CROSSINGS**

**81.54.010 Definitions.** The term "grade crossing" when used in this chapter means any point or place where a logging or industrial railroad crosses a highway or a highway crosses such railroad or such railroad crosses any other railroad, at a common grade.

The term "over-crossing" when used in this chapter means any point or place where a highway crosses a railroad by passing above the same.

The term "under-crossing" when used in this chapter means any point or place where a highway crosses a railroad by passing under the same.

The term "over-crossing" or "under-crossing" shall also mean any point or place where one railroad crosses another railroad not at grade.

The term "logging" or "industrial" railroad when used in this chapter shall include every railway owned or operated primarily for the purpose of carrying the property of its owners or operators or a limited class of persons, with all tracks, spurs and sidings used in connection therewith.

**81.54.020 Annual inspection of industrial crossings.** All grade crossings, under-crossings and over-crossings on the line of every logging and other industrial railway as herein defined shall be inspected annually by the commission as to condition, also maintenance, and safety in the interest of the public, for the purpose that the commission may, if it shall deem it necessary, require such improvements, changes and repairs as in its judgment are proper to the end that adequate safety shall be provided for the public.

**81.54.030 Reimbursement of inspection cost.** Every person operating any logging railroad or industrial railway shall, prior to July

1st of each year, file with the commission a statement showing the number of, and location, by name of highway, quarter section, section, township, and range of all crossings on his line and pay with the filing a fee not to exceed ten dollars for each crossing so reported. The commission shall, by order, fix the exact fee based on the cost of rendering such inspection service. All fees collected shall be deposited in the state treasury to the credit of the public service revolving fund. Intersections having one or more tracks shall be treated as a single crossing. Tracks separated a distance in excess of one hundred feet from the nearest track or group of tracks shall constitute an additional crossing. Where two or more independently operated railroads cross each other or the same highway intersection, each independent track shall constitute a separate crossing.

Every person failing to make the report and pay the fees required, shall be guilty of a misdemeanor and in addition be subject to a penalty of twenty-five dollars for each day that the fee remains unpaid after it becomes due.

**81.54.040 Chapter not operative within first class cities.** This chapter shall not be operative within the limits of cities of the first class.

### Chapter 81.56

#### RAILROADS—SHIPPERS AND PASSENGERS

**81.56.010 Distribution of cars.** Every railroad company shall upon reasonable notice, furnish to all persons and corporations who may apply therefor and offer property for transportation sufficient and suitable cars for the transportation of such property in carload lots. In case at any particular time a railroad company has not sufficient cars to meet all the requirements for transportation of property in carload lots, all cars available for such purpose shall be distributed among the several applicants therefor, without unjust discrimination between shippers, localities or competitive or noncompetitive points.

**81.56.020 Distributing book must be kept.** Every railroad company shall keep, subject to the inspection of any bona fide shipper, a book or books known as "car distributing book," which shall be kept by such officer or officers, employees of such railroad, and in such manner and form as the commission shall direct, showing among other things all orders for cars received by such railroad company, the name of the person ordering the same, the time when and place where such cars are required, the time when and place where such cars were supplied, and such other matters and information as the commission may prescribe.

**81.56.030 Discrimination prohibited — Connecting lines.** Every railroad company shall, under such regulations as may be prescribed

by the commission, afford all reasonable, proper and equal facilities for the interchange of passengers, tonnage and cars, loaded or empty, between the lines, owned, operated, controlled or leased by it and the lines of every other railroad company; and shall, under such regulations as the commission may prescribe, receive and transport, without delay or discrimination, the passengers, tonnage and cars, loaded or empty, of any connecting line of railroad: *Provided*, That perishable freight of all kinds and livestock shall have precedence of shipment. Every railroad company as such is required to receive from every other railroad company at a connecting point the tonnage carried by such other railroad company in the cars in which the same may be loaded, and haul the same through to the point of destination if the destination be upon a line owned, operated or controlled by such railroad company, or, if the destination be upon the line of some other railroad company, to haul such tonnage in such cars through to the connecting point upon the line operated, owned, controlled or leased by it by way of route over which such car is billed, and there deliver the same to the next connecting carrier under such regulations as the commission may prescribe.

**81.56.040 Must grant equal privileges.** No railroad corporation or company organized or doing business in this state shall allow any telegraph or telephone company, or any individual, any facilities, privileges or rates for transportation of men or material, or for repairing their lines, not allowed to all telegraph and telephone companies and individuals.

**81.56.050 Joint rates and through routes.** Whenever the commission shall be of opinion, after hearing had upon its own motion or upon complaint, that the rates and charges in force over two or more railroads, between any two points in the state, are unjust, unreasonable or excessive, or that no satisfactory through route or joint rate exists between such points, and that the public necessities and convenience demand the establishment of a through route and a joint rate between such points, the commission may order such railroads to establish such through route, and may establish and fix a joint rate which will be fair, just, reasonable and sufficient, to be followed, charged, enforced, demanded and collected in the future, and the commission may order that carload freight moving between such points shall be carried by the different companies, parties to such through route and joint rate, without being transferred from the originating cars. In case no agreement exists between such railroads for the interchange of cars, then the commission, before making such order, shall be empowered to, and it shall be its duty, to make rules for the expeditious and safe return and proper compensation for the cars so loaded by the company or companies receiving the same.



**81.56.060 Forest products—Scales at junctions.** All railroad companies operating as common carriers within the limits of this state, shall be required to provide scales, and weigh at junction or at some common point within this state all cars loaded with lumber, shingles or other forest products for shipment.

**81.56.070 ———Charges, how based.** All charges for freight on said commodities, except where error is apparent, shall be based on the weights determined by the weighing stations within the limits of this state, and all bills of lading of railroad companies operating within the limits of this state shall specify these provisions: *Provided*, That RCW 81.56.060 through 81.56.110 shall not apply to switching charges or to the handling of logs where the charge is by the car or by the thousand feet.

**81.56.080 ———Shipper's count and weight.** Any railroad company's employee acting as weigher shall upon request of any shipper give him a statement showing gross and net weight of any shipment by him. Sworn count and weight of shipper shall be presumptive evidence of true weight where error in railroad weights is apparent.

**81.56.090 ———Cars weighed separately.** All cars shall be weighed on the scales separately, and not attached to other cars, and at a standstill.

*Note:* See also section 1, chapter 243, Laws of 1961.

**81.56.100 ———Penalty.** In case of violation of the provisions of RCW 81.56.060 through 81.56.110 by any railroad company, it shall pay a penalty of twenty dollars for every car it shall neglect to weigh and bill within the state as above provided, to be recovered from such company in action where there is any agent of such railroad company who may be served with process, and the penalties recovered under RCW 81.56.060 through 81.56.110 shall be paid into the county treasury in such county where action is taken.

**81.56.110 ———Special contracts regarding weights.** Nothing contained in RCW 81.56.060 through 81.56.110 shall interfere with the right of the shipper and carrier to enter into a private contract regarding weights when it is impracticable to weigh.

**81.56.120 Cruelty to stock in transit—Penalty.** Railroad companies in carrying or transporting animals shall not permit them to be confined in cars for a longer period than forty-eight consecutive hours without unloading them for rest, water and feeding for a period of at least two consecutive hours, unless prevented from so unloading them by unavoidable accident. In estimating such confinement, the time during which the animals have been confined without such rest on connecting roads from which they are received shall be included. Animals so unloaded shall, during such rest, be properly fed, watered by the owner or person having the custody of them, or

in case of his default in so doing, then by the railroad company transporting them, at the expense of said owner or person in custody thereof, and said company shall in such case have a lien upon such animals for food, care and custody furnished, and shall not be liable for such detention of such animals. If animals are transported where they can and do have proper food, water, space and opportunity for rest, the foregoing provision in regard to their being unloaded shall not apply. Violators of this section shall be punished by fine not exceeding one hundred dollars.

**81.56.130 Commission rules to expedite traffic.** The commission shall have, and it is hereby given, power to provide by proper rules and regulations the time within which all railroads shall furnish, after demand therefor, all cars, equipment and facilities for the handling of freight in carload and less than carload lots, and receiving, gathering and transporting, after demand, of all express packages and the delivery thereof at destination, the extent of free gathering and distributing limits for express packages in cities and towns, the distance that freight shall be transported each day after receipt, the time within which consignors or persons ordering cars shall load the same, and the time within which consignees and persons to whom freight may be consigned shall unload and discharge the same and receive freight from the freight rooms, and to provide the penalties to be paid to consignors and consignees for delays on the part of railroads to conform to such rules, and prescribe the penalty to be paid by consignors and consignees to railroads for failure to observe such rules.

**81.56.140 Agent must have fixed place of business.** Every agent, person, firm, or corporation engaged in selling, issuing or dealing in railroad passenger transportation in this state, must have a fixed place of business in the town or city wherein such agent, person, firm, or corporation transacts said business, and such agent, person, firm or corporation is hereby required to keep the certificate mentioned in RCW 81.56.150, posted in a conspicuous place in such place of business.

**81.56.150 Regulating sale of passenger tickets.** It shall be the duty of every person or corporation engaged wholly or in part in the business of carrying passengers for hire, to provide every agent authorized to sell its passage tickets in this state, with a certificate of his authority, attested by its seal and the signature of its manager, secretary or general passenger agent, which shall contain a designation of the place of business at which such authority shall be exercised.

Every person and every corporation or association, and every officer, agent or employee thereof who shall sell, exchange or trans-

fer, or have in his possession with intent to sell, exchange or transfer, or maintain, conduct or operate any office or place of business for the sale, exchange or transfer of any passage ticket or pass or part thereof, or any other evidence of a right to travel upon any railroad or boat, whether the same be owned or operated within or without the limits of this state, in any place except his place of business, or within such place of business without having rightfully in his possession and posted in a conspicuous place therein the certificate of authority hereinabove provided for, shall be guilty of a misdemeanor.

**81.56.160 Redemption of unused tickets.** Every person or corporation engaged wholly or in part in the business of carrying passengers for hire in this state, and every authorized ticket agent thereof, to whom there shall be presented by the holder thereof, within one year after its expiration, any passage ticket or part thereof, or other evidence of right to travel, wholly or in part upon the railroad or boat of such person or corporation, which shall be wholly or partially unused, who shall fail to redeem the same within three days after presentation, upon the following terms, to wit:

(1) When wholly unused, for the price paid therefor; and

(2) When partially unused, for the price paid therefor, less the regular toll or charge for the passage had;

Shall be punished by a fine of not more than five hundred dollars, and in addition thereto shall forfeit to the holder of such ticket or part thereof or other evidence of a right to travel, three times the redeemable value thereof.

### Chapter 81.60

#### RAILROADS—SPECIAL POLICE AND POLICE REGULATIONS

**81.60.010 Governor may appoint special police.** The governor shall have the power to and may in his discretion appoint and commission special police officers at the request of any railroad corporation and may revoke any such appointment at his pleasure.

**81.60.020 Application for appointment.** Any railroad corporation desiring the appointment of any of its officers, agents or servants not exceeding twenty-five in number for any one division of any railroad operating in this state (division as herein intended, shall mean the part of any railroad or railroads under the jurisdiction of any one division superintendent), as special police officers shall file with the governor an application stating the name, age and place of residence of the person whose appointment it desires, the position he occupies with the railroad corporation, the nature of his duties and the reasons why his appointment is desired, which application shall be signed by the president or some managing officer of the railroad corporation

and shall be accompanied by an affidavit of such officer to the effect that he is acquainted with the person whose appointment is sought, that he believes him to be of good moral character, and that he is of such character and experience that he can be safely entrusted with the powers of a police officer.

**81.60.030 Oath of policemen.** Before receiving his commission each person appointed under the provisions of RCW 81.60.010 through 81.60.060 shall take, subscribe and file with the governor an oath to support the Constitution of the United States, the Constitution and laws of the state and to faithfully perform the duties of his office.

**81.60.040 Duties of policemen.** Every police officer appointed and commissioned under the provisions of RCW 81.60.010 through 81.60.060 shall when on duty have the power and authority conferred by law on peace officers, but shall exercise such power only in the protection of the property belonging to or under the control of the corporation at whose instance he is appointed and in preventing, and making arrest for, violations of law upon or in connection with such property.

**81.60.050 Badge.** Every such special police officer shall, when on duty, wear in plain view a metal shield bearing the words "special police" and the name of the corporation by which he is employed.

**81.60.060 Liability for unlawful acts.** The corporation procuring the appointment of any special police shall be solely responsible for the compensation for his services and shall be liable civilly for any unlawful act of such officer resulting in damage to any person or corporation.

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

**81.60.080 Sabotaging rolling stock.** Any person or persons who shall wilfully or maliciously, with intent to injure or deprive the owner thereof, take, steal, remove, change, add to, alter, or in any manner interfere with any journal bearing, brass, waste, packing, triple valve, pressure cock, brake, air hose or any other part of the operating mechanism of any locomotive, engine, tender, coach, car,

caboose, or motor car used or capable of being used by any railroad or railway company in this state, shall be guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not more than five years, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment.

**81.60.090 Receiving stolen railroad property.** Every person who shall buy or receive any of the property described in RCW 81.60.080, knowing the same to have been stolen, shall be guilty of a felony, and upon conviction thereof shall be punished as provided in RCW 81.60.080.

## Chapter 81.64

### STREET RAILWAYS

**81.64.010 Grant of franchise.** The legislative authority of the city or town having control of any public street or road, or where such street or road is not within the limits of any incorporated city or town, then the board of county commissioners wherein such road or street is situated, may grant authority for the construction, maintenance and operation of electric railroads or railways, motor railroads or railways and railroads and railways of which the motive power is any power other than steam, together with such poles, wires and other appurtenances upon, over, along and across any such public street or road and in granting such authority the legislative authority of such city or town or the board of county commissioners, as the case may be, may prescribe the terms and conditions on which such railroads or railways and their appurtenances shall be constructed, maintained and operated upon, over, along and across such road or street, and the grade or elevation at which the same shall be maintained and operated.

**81.64.020 Application to county commissioners—Notice—Hearing—Order.** On application being made to the board of county commissioners for such authority, the board shall fix a time and place for hearing the same, and shall cause the county auditor to give public notice thereof at the expense of the applicant, by posting written or printed notices in three public places in the county seat of the county, and in at least one conspicuous place on the road or street or part thereof, for which application is made, at least thirty days before the day fixed for such hearing, and by publishing a like notice three times in some daily newspaper published in the county, or if no daily newspaper is published in the county, then the newspaper doing the county printing, the last publication to be at least five days before the day fixed for such hearing, which notice shall state the name or names of the applicant or applicants, a description of the roads or streets or parts thereof for which the application is

made, and the time and place fixed for the hearing. Such hearing may be adjourned from time to time by order of the board. If, after such hearing, the board shall deem it to be for the public interest to grant such authority in whole or in part, the board may make and enter the proper order granting the authority applied for or such part thereof as the board deems to be for the public interest, and shall require such railroad or railway and its appurtenances to be placed in such location on or along the road or street as the board finds will cause the least interference with other uses of the road or street.

**81.64.030 May cross public road.** In case any such railroad or railway, is or shall be located in part on private right of way, the owner thereof shall have the right to construct and operate the same across any county road or county street which intersects such private right of way, if such crossing is so constructed and maintained as to do no unnecessary damage: *Provided*, That any person or corporation constructing such crossing or operating such railroad or railway on or along such county road or public street shall be liable to the county for all necessary expense incurred in restoring such county road or public street to a suitable condition for travel.

**81.64.040 Eminent domain.** Every corporation incorporated or that may hereafter be incorporated under the laws of this state, or of any other state or territory of the United States and doing business in this state for the purpose of operating railroads or railways by electric power, shall have the right to appropriate real estate and other property for right of way or for any corporate purpose, in the same manner and under the same procedure as now is or may hereafter be provided by law in the case of ordinary railroad corporations authorized by the laws of this state to exercise the right of eminent domain: *Provided*, That such right of eminent domain shall not be exercised with respect to any public road or street until the location of the electric railroad or railway thereon has been authorized in accordance with RCW 81.64.010 through 81.64.030.

**81.64.050 Right of entry.** Every such corporation shall have the right to enter upon any land between the termini of the proposed lines for the purpose of examining, locating and surveying such lines, doing no unnecessary damage thereby.

**81.64.060 Purchase or lease of street railway property.** Any corporation incorporated or that may hereafter be incorporated under the laws of this state or any state or territory of the United States, for the purpose of constructing, owning or operating railroads or railways by electric power, may lease or purchase and operate (except in cases where such lease or purchase is prohibited by the Constitution of this state) the whole or any part of the electric

railroad or electric railway, of any other corporation heretofore or hereafter constructed, together with the franchises, powers, immunities and all other property or appurtenances appertaining thereto: *Provided*, That such lease or purchase has been or shall be consented to by stockholders of record holding at least two-thirds in amount of the capital stock of the lessor or grantor corporation; and all such leases and purchases made or entered into prior to the effective date of chapter 175, Laws of 1903, by consent of stockholders as aforesaid are for all intents and purposes hereby ratified and confirmed, saving, however, any vested rights of private parties.

**81.64.070 Consolidation of companies.** With the consent of the majority in interest of their shareholders, two or more corporations operating street railway lines within or in the suburbs of the same municipality, may amalgamate their businesses and properties by consolidation, sale, lease, or other appropriate means, and either by conveyance to a third corporation or one to the other.

**81.64.080 Fares and transfers.** No street railroad company shall charge, demand or collect more than five cents for one continuous ride within the corporate limits of any city or town: *Provided*, That such rate may be exceeded or lowered as to any municipally owned street railroad when the corporate authorities of the municipality owning such railroad shall, by an ordinance duly passed, authorize the collection of a higher or lower rate of fare, to be specified in such ordinance, and as to any other street railroad company, such rate may be exceeded or lowered with the permission or upon the order of the commission after the filing of a tariff or a complaint by such street railroad company and a hearing thereon as provided in this title. Every street railroad company shall, upon such terms as shall be just and reasonable, furnish to its passengers transfers entitling such passenger to one continuous trip over and upon portions of its lines within the said city or town not reached by the originating car.

**81.64.090 Competent employees required.** Street railway or street car companies, or street car corporations, shall employ none but competent men to operate or assist as conductors, motormen or gripmen upon any street railway, or streetcar line in this state.

**81.64.100 Competency defined.** A man shall be deemed competent to operate or assist in operating cars or (dummies) usually used by street railway or streetcar companies, or corporations, only after first having served at least three days under personal instruction of a regularly employed conductor, motorman or gripman on a car or dummy in actual service on the particular street railway or streetcar line for which the service of an additional man or additional men may be required: *Provided*, That during a strike on the streetcar

lines the railway companies may employ competent men who have not worked three days on said particular streetcar line.

**81.64.110 Penalty.** Any violation of RCW 81.64.090 by the president, secretary, manager, superintendent, assistant superintendent, stockholder or other officer or employee of any company or corporation owning or operating any street railway or streetcar line or any receiver of street railway or streetcar company, or street railway or streetcar corporations appointed by any court within this state to operate such car line shall, upon conviction thereof, be deemed guilty of a misdemeanor, and subject the offender to such offense to a fine in any amount not less than fifty dollars nor more than two hundred dollars, or imprisonment in the county jail for a term of thirty days, or both such fine and imprisonment at the discretion of the court.

**81.64.120 Car equipment specified.** Every streetcar run or used on any streetcar line in the state of Washington shall be provided with good and substantial aprons, pilots or fenders, and which shall be so constructed as to prevent any person from being thrown down and run over or caught beneath or under such car.

**81.64.130 Penalty.** The owners or managers operating any streetcar line failing to comply with the provisions of RCW 81.64.120 shall forfeit and pay to the state of Washington a penalty of not less than twenty-five dollars for each and every violation of RCW 81.64.120 and each car run shall be considered a separate violation of RCW 81.64.120 and every period of five days shall be deemed a separate violation of RCW 81.64.120.

**81.64.140 Weather guards.** All corporations, companies or individuals owning, managing or operating any street railway or line in the state of Washington, shall provide, during the rain or winter season, all cars run or used on its or their respective roads with good, substantial and sufficient vestibules, or weather guards, for the protection of the employees of such corporation, company or individual.

The vestibules or weather guards shall be so constructed as to protect the employees of such company, corporation or individual from the wind, rain or snow.

**81.64.150 Penalty.** Any such street railway company, corporation or individual, as mentioned in RCW 81.64.140, failing to comply with the provisions of RCW 81.64.140, shall forfeit and pay to the state of Washington a penalty of not less than fifty dollars nor more than two hundred and fifty dollars for each and every violation of RCW 81.64.140, and each period of ten days that any such company, corporation or individual shall fail to comply with the provisions of RCW 81.64.140, or for each car used by such corporation, company,



or individual not in conformity with RCW 81.64.140, shall be taken and deemed to be a separate violation of RCW 81.64.140.

**81.64.160 Hours of labor.** No person, agent, officer, manager or superintendent or receiver of any corporation or owner of streetcars shall require his or its gripmen, motormen, drivers or conductors to work more than ten hours in any twenty-four hours.

**81.64.170 Penalty.** Any person, agent, officer, manager, superintendent or receiver of any corporation, or owner of streetcar or cars, violating any of the provisions of RCW 81.64.160 shall upon conviction thereof be deemed guilty of a misdemeanor, and be fined in any sum not less than twenty-five dollars nor more than one hundred dollars for each day in which gripman, motorman, driver or conductor in the employ of such person, agent, officer, manager, superintendent or receiver of such corporation or owner is required to work more than ten hours during each twenty-four hours, as provided in RCW 81.64.160, and it is hereby made the duty of the prosecuting attorney of each county of this state to institute the necessary proceedings to enforce the provisions of RCW 81.64.160 and 81.64.170.

## Chapter 81.68

### AUTO TRANSPORTATION COMPANIES

**81.68.010 Definitions.** As used in this chapter:

(1) "Corporation" means a corporation, company, association or joint stock association.

(2) "Person" means an individual, firm or a copartnership.

(3) "Auto transportation company" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled vehicle not usually operated on or over rails used in the business of transporting persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation over any public highway in this state between fixed termini or over a regular route, and not operating exclusively within the incorporated limits of any city or town: *Provided*, That the term "auto transportation company" shall not include corporations or persons, their lessees, trustees, receivers or trustees appointed by any court whatsoever insofar as they own, control, operate or manage taxicabs, hotel buses, school buses, motor propelled vehicles, operated exclusively in transporting agricultural, horticultural, or dairy or other farm products from the point of production to the market, or any other carrier which does not come within the term "auto transportation company" as herein defined

No portion of this section shall apply to persons operating motor vehicles when operated wholly within the limits of incorporated cities or towns, and for a distance not exceeding three road miles beyond the corporate limits of the city or town in Washington in which the original starting point of such vehicle is located, and which operation either alone or in conjunction with another vehicle or vehicles is not a part of any journey beyond said three mile limit.

(4) "Public highway" means every street, road, or highway in this state.

(5) The words "between fixed termini or over a regular route" mean the termini or route between or over which any auto transportation company usually or ordinarily operates any motor propelled vehicle, even though there may be departure from said termini or route, whether such departures be periodic or irregular. Whether or not any motor propelled vehicle is operated by any auto transportation company "between fixed termini or over a regular route" within the meaning of this section shall be a question of fact and the finding of the commission thereon shall be final and shall not be subject to review.

**81.68.020 Compliance with chapter required.** No corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, shall engage in the business of operating as a common carrier any motor propelled vehicle for the transportation of persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, between fixed termini or over a regular route, for compensation on any public highway in this state, except in accordance with the provisions of this chapter.

**81.68.030 Regulation by commission.** The commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate every auto transportation company in this state as such to fix, alter and amend just, fair, reasonable and sufficient rates, fares, charges, classifications, rules and regulations of each such auto transportation company; to regulate the accounts, service and safety of operations of each such auto transportation company; to require the filing of annual and other reports and of other data by such auto transportation companies; and to supervise and regulate auto transportation companies in all other matters affecting the relationship between such auto transportation companies and the traveling and shipping public. The commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter, applicable to any and all such auto transportation companies; and within such limits shall have power and authority to make orders

and to prescribe rules and regulations affecting auto transportation companies.

The commission may, at any time, by its order duly entered after a hearing had upon notice to the holder of any certificate hereunder, and an opportunity to such holder to be heard, at which it shall be proven that such holder wilfully violates or refuses to observe any of its proper orders, rules or regulations, suspend, revoke, alter or amend any certificate issued under the provisions of this chapter, but the holder of such certificate shall have all the rights of rehearing, review and appeal as to such order of the commission as is provided for in RCW 81.68.070.

**81.68.040 Certificate of convenience and necessity.** No auto transportation company shall operate for the transportation of persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation between fixed termini or over a regular route in this state, without first having obtained from the commission under the provisions of this chapter a certificate declaring that public convenience and necessity require such operation; but a certificate shall be granted when it appears to the satisfaction of the commission that such person, firm or corporation was actually operating in good faith, over the route for which such certificate shall be sought on January 15, 1921. Any right, privilege, certificate held, owned or obtained by an auto transportation company may be sold, assigned, leased, transferred or inherited as other property, only upon authorization by the commission. The commission shall have power, after hearing, when the applicant requests a certificate to operate in a territory already served by a certificate holder under this chapter, only when the existing auto transportation company or companies serving such territory will not provide the same to the satisfaction of the commission, and in all other cases with or without hearing, to issue said certificate as prayed for; or for good cause shown to refuse to issue same, or to issue it for the partial exercise only of said privilege sought, and may attach to the exercise of the rights granted by said certificate to such terms and conditions as, in its judgment, the public convenience and necessity may require.

**81.68.050 Fees.** The commission shall collect the following miscellaneous fees from auto transportation companies:

Application for a certificate of public convenience and necessity or to amend a certificate, twenty-five dollars; application to sell, lease, mortgage, or transfer a certificate of public convenience and necessity or any interest therein, ten dollars.

**81.68.060 Liability and Property Damage Insurance—Surety bond.** The commission shall in the granting of certificates to operate

any auto transportation company, for transporting persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers, for compensation require the owner or operator to first procure liability and property damage insurance from a company licensed to make liability insurance in the state of Washington or a surety bond of a company licensed to write surety bonds in the state of Washington on each motor propelled vehicle used or to be used in transporting persons for compensation, in the amount of not to exceed five thousand dollars for any recovery for personal injury by one person and not less than ten thousand dollars and in such additional amount as the commission shall determine, for all persons receiving personal injury by reason of one act of negligence and not to exceed one thousand dollars for damage to property of any person other than the assured, and maintain such liability and property damage insurance or surety bond in force on each motor propelled vehicle while so used, each policy for liability or property damage insurance or surety bond required herein, shall be filed with the commission and kept in full force and effect and failure so to do shall be cause for the revocation of the certificate.

**81.68.065 Self-insurers—Exemptions as to insurance or bond.**

Any auto transportation company now or hereafter authorized to transport persons for compensation on the highways and engaging in interstate, or interstate and intrastate, operations within the state of Washington which is or becomes qualified as a self-insurer with the interstate commerce commission of the United States in accordance with the provisions of the United States interstate commerce act applicable to self insurance by motor carriers, shall be exempt, so long as such qualification remains effective, from all provisions of law relating to the carrying or filing of insurance policies or bonds in connection with such operations.

The commission may require proof of the existence and continuation of such qualification with the interstate commerce commission to be made by affidavit of the auto transportation company, in such form as the commission shall prescribe.

**81.68.070 Public service law invoked.** In all respects in which the commission has power and authority under this chapter, applications and complaints may be made and filed with it, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review, to the superior court filed therewith, appeals or mandate filed with the supreme court of this state, considered and disposed of by said courts in the manner, under the conditions and subject to the limitations and with the effect specified in this title.

**81.68.080 Penalty.** Every officer, agent or employee of any corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of any provisions of this chapter, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part of provision thereof, is guilty of a gross misdemeanor and punishable as such.

**81.68.090 Scope of chapter.** Neither this chapter nor any provision thereof shall apply or be construed to apply to commerce with foreign nations or commerce among the several states of this union except insofar as the same may be permitted under the provisions of the Constitution of the United States and the acts of congress.

## Chapter 81.80

### MOTOR FREIGHT CARRIERS

**81.80.010 Definitions.** When used in this chapter:

(1) "Person" means and includes an individual, firm, copartnership, corporation, company, association or their lessees, trustees or receivers.

(2) "Motor vehicle" means any truck, trailer, semitrailer, tractor or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail and express transported on the vehicles of auto transportation companies carrying passengers.

(3) "Public highway" means every street, road or highway in this state.

(4) "Common carrier" means any person who undertakes to transport property for the general public by motor vehicle for compensation, whether over regular or irregular routes, or regular or irregular schedules, including motor vehicle operations of other carriers by rail or water and of express or forwarding companies.

(5) "Contract carrier" shall include all motor vehicle operators not included under the terms "common carrier" and "private carrier" as herein defined in paragraph (4) and paragraph (6), and further shall include any person who under special and individual contracts or agreements transports property by motor vehicle for compensation.

(6) A "private carrier" is a person who, in his own vehicle, transports only property owned or being bought or sold by him in good faith and only when such transportation is purely an incidental adjunct to some other established private business owned or operated by him in good faith.

(7) "Motor carrier" means and includes "common carrier," "con-

tract carrier," "private carrier" and "exempt carrier" as herein defined.

(8) "Exempt carrier" means any person operating a vehicle exempted from certain provisions of this chapter under RCW 81.80.040.

(9) "Vehicle" means every device capable of being moved upon a public highway and in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human or animal power or used exclusively upon stationary rail or tracks.

"Common carrier" and "contract carrier" shall include persons engaged in the business of providing, contracting for, or undertaking to provide transportation of property for compensation over the public highways of the state of Washington as brokers or forwarders.

**81.80.020 Declaration of policy.** The business of operating as a motor carrier of freight for compensation along the highways of this state is declared to be a business affected with a public interest. The rapid increase of motor carrier freight traffic and the fact that under the existing law many motor trucks are not effectively regulated have increased the dangers and hazards on public highways and make it imperative that more complete regulation should be employed to the end that the highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that congestion on highways may be minimized; that the shippers of the state may be provided with a stabilized service and rate structure; that sound economic conditions in such transportation and among such carriers may be fostered in the public interest; that adequate, economical, and efficient service by motor carriers, and reasonable charges therefor, without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices may be promoted; that the common carriage of commodities by motor carrier may be preserved in the public interest; that the relations between, and transportation by and regulation of, motor carriers and other carriers may be improved and coordinated so that the highways of the state of Washington may be properly developed and preserved, and the public may be assured adequate, complete, dependable and stable transportation service in all its phases.

**81.80.030 Hidden transportation charges.** Operators of motor vehicles excluded from the term "private carrier," other than "common carriers" shall not be compelled to dedicate their property to the business of public transportation and subject themselves to all the duties and burdens imposed by this chapter upon "common carriers," but where they recover the cost of transportation through price differentials or in any other direct or indirect manner and such transportation cost recovery unreasonably endangers the

stability of rates and the essential transportation service involving the movement of commodities over the same route or routes by other types of carriage, then such transportation costs, attempted to be recovered, shall not be less than the rate, fare or charge regularly established by the department for such transportation service if given by other types of carriers, it being the intention of the legislature to foster a stable rate structure free of discriminations for the shippers of the state of Washington.

**81.80.040 Exempt vehicles.** The provisions of this chapter, except where specifically otherwise provided, and except the provisions providing for licenses, shall not apply to:

(1) Motor vehicles when operated in transportation exclusively within the corporate limits of any city or town of less than ten thousand population unless contiguous to a city or town of ten thousand population or over, nor between contiguous cities or towns both or all of which are less than ten thousand population;

(2) Motor vehicles when transporting exclusively the United States mail or in the transportation of newspapers or periodicals;

(3) Motor vehicles owned and operated by the United States, the state of Washington, or any county, city, town, or municipality therein, or by any department of them, or either of them;

(4) Motor vehicles specially constructed for towing disabled vehicles or wrecking and not otherwise used in transporting goods for compensation;

(5) Motor vehicles owned and operated by farmers in the transportation of their own farm, orchard or dairy products from point of production to market, or in the infrequent or seasonal transportation by one farmer for another in his immediate neighborhood of products of the farm, orchard or dairy, or of supplies or commodities to be used on the farm, orchard or dairy;

(6) Motor vehicles when transporting exclusively water in connection with construction projects only.

**81.80.050 Compliance required.** It shall be unlawful for any person to operate as a "motor carrier" on any public highway of this state except in accordance with the provisions of this chapter.

**81.80.060** Every person who engages for compensation to perform a combination of services which includes transportation of property of others upon the public highways shall be subject to the jurisdiction of the commission as to such transportation and shall not engage upon the same without first having obtained a common carrier or contract carrier permit to do so. Every person engaging in such a combination of services shall advise the commission what portion of the consideration is intended to cover the transportation service and if the agreement covering the combina-

tion of services is in writing, the rate and charge for such transportation shall be set forth therein. The rates or charges for the transportation services included in such combination of services shall be subject to control and regulation by the commission in the same manner that the rates of common and contract carriers are now controlled and regulated.

**81.80.070 Grant or denial of permit.** No "common carrier," "contract carrier," or "temporary carrier" shall operate for the transportation of property for compensation in this state without first obtaining from the commission a permit so to do. Permits heretofore issued or hereafter issued to any carrier, shall be exercised by said carrier to the fullest extent so as to render reasonable service to the public. Applications for common or contract carrier permits or extensions thereof shall be on file for a period of at least thirty days prior to the granting thereof unless the commission finds that special conditions require the earlier granting thereof.

No permit or extension thereof shall be granted if the commission finds that the applicant is not financially able, properly and adequately equipped, and capable of conducting the transportation service applied for in compliance with the law and rules and regulations of the commission, and the commission may deny an application if the applicant or any of its principal officers or stockholders fails, or has failed, to comply with the laws of this state.

Nothing contained in this chapter shall be construed to confer upon any person or persons the exclusive right or privilege of transporting property for compensation over the public highways of the state, but the commission may deny an application when it appears clearly, after public hearing, that the additional service would unreasonably congest the highways or tend to impair the stability and dependability of the service essential to the public needs.

The commission shall also consider the amount and type of service rendered in any area by any class of service and may deny an application for permit or extension, if it appears that the grant of such permit or extension would not be in the interest of the shipping public or would tend to impair the stability or dependability of existing service essential to the public needs or requirements.

**81.80.080 Application for permit.** Application for permits shall be made to the commission in writing and shall state the ownership, financial condition, equipment to be used and physical property of the applicant, the territory or route or routes in or over which the applicant proposes to operate, the nature of the transportation to be engaged in and such other information as the commission may require, and in case such application is that of a "contract



carrier" shall have attached thereto the original or duly verified copies of all contracts to furnish transportation covered by such application.

**81.80.090 Form of application—Fees.** The commission shall prescribe forms of application for permits and for extensions thereof for the use of prospective applicants, and shall make regulations for the filing thereof. Applications for permits and for extensions thereof shall be accompanied by the following fees:

Applications for permits.....twenty-five dollars.  
 Applications for temporary permits.....ten dollars.  
 Applications for extension of permits.....ten dollars.

**81.80.100 Form and contents of permit.** Permits granted by the commission shall be in such form as the commission shall prescribe and shall set forth the name and address of the person to whom the permit is granted, the nature of the transportation service to be engaged in and the principal place of operation, termini or route to be used or territory to be served by the operation. No permit holder shall operate except in accordance with the permit issued to him.

**81.80.110 Limitation on renewal of application.** No person whose application for a permit has been denied after hearing under any of the provisions of this chapter shall be eligible to renew the application for a period of six months from the date of the order denying such application.

**81.80.120 Classification of carriers.** The commission may from time to time establish such just and reasonable classifications of the groups of carriers included in the terms "common carriers" and "contract carriers" as the special nature of the services performed by such carriers shall require, and such just and reasonable rules, regulations and requirements, consistent with the provisions of this chapter, to be observed by the carriers so classified or grouped, as the commission deems necessary or advisable in the public interest.

**81.80.130 Regulatory power of commission over common carriers.** The commission shall supervise and regulate every "common carrier" in this state; make, fix, alter, and amend, just, fair, reasonable, minimum, maximum, or minimum and maximum, rates, charges, classifications, rules, and regulations for all "common carriers"; regulate the accounts, service, and safety of operations thereof; require the filing of reports and other data thereby; and supervise and regulate all "common carriers" in all other matters affecting their relationship with competing carriers of every kind and the shipping and general public: *Provided*, The commission may by order approve rates filed by common carriers in respect to

certain designated commodities and services when, in the opinion of the commission, it is impractical for the commission to make, fix, or prescribe rates covering such commodities and services.

**81.80.140 Regulatory power over contract carriers.** The commission is hereby vested with power and authority, and it is hereby made its duty, to supervise and regulate every "contract carrier" in this state; to fix, alter and amend, just, fair and reasonable classifications, rules and regulations and minimum rates and charges of each such "contract carrier"; to regulate the accounts, service and safety of operations thereof; and require the filing of reports and of other data thereby; and to supervise and regulate such "contract carriers" in all other matters affecting their relationship with both the shipping and the general public.

**81.80.150 Tariffs to be compiled and sold by commission.** The commission shall make, fix, construct, compile, promulgate, publish, and distribute tariffs containing compilations of rates, charges, classifications, rules and regulations to be used by all common carriers. In compiling such tariffs it shall include within any given tariff compilation such carriers, groups of carriers, commodities, or geographical areas as it determines shall be in the public interest. Such compilations and publications may be made by the commission by compiling the rates, charges, classifications, rules, and regulations now in effect, and as they may be amended and altered from time to time after notice and hearing, by issuing and distributing revised pages or supplements to such tariffs or reissues thereof in accordance with the orders of the commission: *Provided*, That the commission, upon good cause shown, may establish temporary rates, charges, or classification changes to be made permanent, however, only after notice and hearing. The proper tariff, or tariffs, applicable to a carrier's operations shall be available to the public at each agency and office of all common carriers operating within this state. Such compilations and publications shall be sold by the commission for not to exceed ten dollars for each tariff. Corrections to such publications shall be furnished to all subscribers to tariffs in the form of corrected pages to the tariffs, supplements or reissues thereof. In addition to the initial charge for each tariff, the commission shall charge an annual maintenance fee of not to exceed ten dollars per tariff to cover the cost of issuing corrections or supplements and mailing them to subscribers: *Provided*, That copies may be furnished free to other regulatory bodies and departments of government and to colleges, schools, and libraries. All copies of the compilations, whether sold or given free, shall be issued and distributed under rules and regulations to be fixed by the commission: *Provided further*, That the commission may by order authorize common carriers to publish and file tariffs with the commission

and be governed thereby in respect to certain designated commodities and services when, in the opinion of the commission, it is impractical for the commission to make, fix, construct, compile, publish and distribute tariffs covering such commodities and services.

**81.80.170 Temporary permits.** The commission may issue temporary permits to temporary "common carriers" or "contract carriers" for a period not to exceed ninety days, but only after it finds that an emergency exists because existing transportation agencies cannot supply the necessary service. It may prescribe such special rules and regulations and impose such special terms and conditions with reference thereto as in its judgment are reasonable and necessary in carrying out the provisions of this chapter.

The commission may also issue temporary permits pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of two or more common carriers or contract carriers or of a purchase or lease of one or more common carriers or contract carriers.

**81.80.180 Hearing to determine carrier's classification.** Whether or not any motor vehicle is being operated upon the highways of this state within its proper classification, as defined by RCW 81.80.010, shall be a question of fact to be determined by the commission. Whenever the commission believes that any person, firm or corporation operating motor vehicles on the highways of this state is not operating within the proper classification, but is in fact a carrier of a different classification, it may institute a special proceeding, upon ten days' notice, requiring such person, firm or corporation to appear before the commission at a location convenient for witnesses and the production of evidence, and bring with him books, records, accounts, and other memoranda, and give testimony under oath as to his operations, and the burden shall rest upon such person of proving that his operations are properly classified under the provisions of this section. The commission may consider, in determining whether such operation is properly classified, the frequency of operation, amount and basis of compensation, whether title to property has been taken merely for the period of transportation or until delivery thereof at the point of destination, whether the carrier is regularly engaged in the buying and selling of the property transported as his principal business, whether an increased selling price assignable to the cost of transportation is charged for the property transported when delivered at the point of delivery as compared with the price charged when delivered at the point of shipment, and such other facts as indicate the true nature and extent of such operation and the receipt of compensation therefor, and all other facts that may indicate the true nature and extent

of such operation upon the highways of this state and the receipt of compensation therefor in order to determine the carrier's proper classification under the terms of this chapter.

After having made the investigation herein described the commission is authorized and directed to issue the necessary and proper orders classifying such carrier as provided in RCW 81.80.010 in order to carry out the declaration of policy as set forth in RCW 81.80.020.

In proceedings under this section no person shall be excused from testifying or from producing any book, waybill, document, paper or account before the commission when ordered to do so, on the ground that the testimony or evidence, book, waybill, document, paper or account required of him may tend to incriminate him or subject him to penalty or forfeiture; but no person shall be prosecuted, punished or subjected to any penalty or forfeiture for or on account of any account, transaction, matter or thing concerning which he shall under oath have testified or produced documentary evidence in proceedings under this section: *Provided*, That no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him in his testimony.

**81.80.190 Insurance or deposit of security.** The commission shall in the granting of permits to "common carriers" and "contract carriers" under this chapter require such carriers to either procure and file liability and property damage insurance from a company licensed to write such insurance in the state of Washington, or deposit such security, for such limits of liability and upon such terms and conditions as the commission shall determine to be necessary for the reasonable protection of the public against damage and injury for which such carrier may be liable by reason of the operation of any motor vehicle.

In fixing the amount of said insurance policy or policies, or deposit of security, the commission shall give due consideration to the character and amount of traffic and the number of persons affected and the degree of danger which the proposed operation involves.

**81.80.200 Conditions may be attached to permits.** The commission is hereby vested with power and authority in issuing permits to any of the carriers classified in accordance with RCW 81.80.120 to attach thereto such terms and conditions and to require such insurance or security as it may deem necessary for the protection of the public highways and to be for the best interest of the shipping and the general public. All such regulations and conditions shall be deemed temporary and may be revoked by the commission upon recommendation of the state or county authorities in charge of highway maintenance or safety when in the judgment of such

authorities such revocation is required in order to protect the public or preserve the public highways.

**81.80.211 Hours of operators—Rules and regulations.** The commission may adopt rules and regulations relating to the hours of duty of motor carrier drivers and operators.

**81.80.220 Tariff rates must be charged.** No "common carrier" or "contract carrier" shall collect or receive a greater, less or different remuneration for the transportation of property or for any service in connection therewith than the rates and charges which shall have been legally established and filed with the commission, or as are specified in the contract or contracts filed, as the case may be, nor shall any such carrier refund or remit in any manner or by any device any portion of the rates and charges required to be collected by each tariff or contract or filing with the commission.

The commission may check the records of all carriers under this chapter and of those employing the services of the carrier for the purpose of discovering all discriminations, under or overcharges and rebates, and may suspend or revoke permits for violations of this section.

The commission may refuse to accept any time schedule or tariff or contract that will, in the opinion of the commission, limit the service of a carrier to profitable trips only or to the carrying of high class commodities in competition with other carriers who give a complete service and thus afford one carrier an unfair advantage over a competitor.

**81.80.230 Penalty for rebating.** Any person, whether carrier subject to the provisions of this chapter, shipper, or consignee, or any officer, employee, agent, or representative thereof, who shall knowingly offer, grant, or give, or solicit, accept, or receive any rebate, concession, or discrimination in violation of any provision of this chapter, or who by means of any false statement or representation, or by the use of any false or fictitious bill, bill of lading, receipt, voucher, roll, account, claim, certificate, affidavit, deposition, lease, or bill of sale, or by any other means or device shall knowingly and wilfully assist, suffer or permit any person or persons, natural or artificial, to obtain transportation of property subject to this chapter for less than the applicable rate, fare, or charge, or who shall knowingly and wilfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers shall be deemed guilty of a gross misdemeanor.

**81.80.240 Joint through rates.** The commission shall have power and authority to require a common carrier by motor vehicle, railroad, express or water to establish reasonable through rates with

other common carriers by motor vehicle, railroad, express and water, and to provide safe and adequate service, equipment and facilities for the transportation of property; to establish and enforce just and reasonable individual and joint rates, charges and classifications, and just and reasonable regulations and practices relating thereto, and in case of such joint rates, fares and charges to establish just, reasonable and equitable divisions thereof as between the carriers participating therein, which shall not unduly prefer or prejudice any of such participating carriers. In ordering and establishing joint through rates between different types of carriers the commission shall give full effect to the lower cost of transportation of property by any type of carrier and shall reflect such lower cost by differentials under a through rate of the higher cost carrier.

**81.80.250 Bond to protect shippers and consignees.** The commission may, under such rules and regulations as it shall prescribe, require any common carrier to file a surety bond, or deposit security, in a sum to be determined by the commission, to be conditioned upon such carrier making compensation to shippers and consignees for all money belonging to shippers and consignees, and coming into the possession of such carrier in connection with its transportation service. Any common carrier which may be required by law to compensate a shipper or consignee for any loss, damage or default for which a connecting common carrier is legally responsible shall be subrogated to the rights of such shipper or consignee under any such bond or deposit of security to the extent of the sum so paid.

**81.80.260 Operation in more than one class.** It shall be unlawful for any person to operate any vehicle at the same time in more than one class of operation, except upon approval of the commission and a finding that such operation will be in the public interest.

No "private carrier" as such shall transport property for compensation.

No "exempt carrier" as such shall transport property for compensation except as hereinabove provided.

**81.80.270 Transfer, assignment of permits—Acquisition of carrier holding permit.** No permit issued under the authority of this chapter shall be construed to be irrevocable. Nor shall such permit be subject to transfer or assignment except upon a proper showing that property rights might be affected thereby, and then in the discretion of the commission, and upon the payment of a fee of twenty-five dollars.

Notwithstanding the provisions of chapter 81.12, no person, partnership or corporation, whether a carrier holding a permit or otherwise, or any combination of such, shall acquire control of a common

or contract carrier holding a permit through ownership of its stock or through purchase, lease or contract to manage the business, or otherwise except after and with the approval and authorization of the commission. Any such transaction either directly or indirectly entered into without approval of the commission shall be void and of no effect.

Every carrier who shall cease operation and abandon his rights under the permits issued him shall notify the commission within thirty days of such cessation or abandonment, and return to the commission the identification plates issued to him.

**81.80.280 Cancellation of permits.** Permits may be canceled, suspended, altered or amended by the commission after notice and hearing upon complaint by any interested party, or upon its own motion, when the permittee or his or its agent has repeatedly violated this chapter, the rules and regulations of the commission or the motor laws of this state or of the United States, or the permittee has made unlawful rebates or has not conducted his operation in accordance with the permit granted him. Any person may at the instance of the commission be enjoined from any violation of the provisions of this chapter, or any order, rule or regulation made by the commission pursuant to the terms hereof. If such suit be instituted by the commission no bond shall be required as a condition to the issuance of such injunction.

**81.80.290 Rules and regulations.** The commission shall have power and authority, by general order or otherwise, to prescribe rules and regulations in conformity with this chapter to carry out the purposes thereof, applicable to any and all "motor carriers," or to any persons transporting property by motor vehicle for compensation even though they do not come within the term "motor carrier" as herein defined.

The commission shall mail each holder of a permit under this chapter a copy of such rules and regulations.

**81.80.300 Identification cards.** The commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle required to have a permit under this chapter, setting out permit number and the route over or territory in which the vehicle is authorized to operate and the name and address of the owner of said permit. The identification card provided for herein may be in such form and contain such information as required by the commission. It shall be unlawful for the owner of said permit, his agent, servant or employee, or any other person to use or display said identification card, the permit number or other insignia of authority from the commission after said permit has expired, been canceled or disposed of, or to operate any vehicle under permit without such identification card.

**81.80.310 Identification plates.** It shall be unlawful for any "common carrier", or "contract carrier" to operate any motor vehicle within this state unless there shall be displayed and firmly fixed upon the front of each power unit and rear of each trailer an identification plate to be furnished by the commission. Such plates shall be different in design for the different classes of carriers, shall bear the number given to the vehicle by the commission, and such other marks of identification as may be required, and, subject to the qualification hereinafter contained, shall be in addition to the regular license plates required by law. Such plates shall be issued annually under the rules and regulations of the commission, and shall be attached to each motor vehicle operated subject to this chapter not later than January 1st of each year: *Provided*, That such plates may be issued for the ensuing calendar year on and after the first day of December preceding and may be used and displayed from the date of issue until December 31st of the succeeding calendar year for which the same are issued. In case an applicant received a permit after January 1st of any year such plates shall be obtained and attached to each motor vehicle subject to this chapter before operation of any such vehicle is commenced.

The commission shall collect from each such carrier a fee of three dollars for each identification plate so issued, and all fees for such plates shall be deposited in the state treasury to the credit of the public service revolving fund.

**81.80.312 Identification plates—Intrastate commerce—Interchange of trailers—Agreement.** No carrier shall interchange its trailers or semitrailers with any other carrier without first filing an interchange agreement with and securing approval thereof by the commission. The interchange agreement providing for the transfer or interchange of trailers or semitrailers pursuant thereto shall be authorized only on through movements between connecting regular route carriers.

The interchange of trailers and semitrailers used in intrastate commerce shall be authorized only in respect to such vehicles which have secured and affixed upon them identification plates as prescribed in RCW 81.80.310.

Any carrier operating any truck, trailer or semitrailer, owned by another person or party but not operated pursuant to an interchange agreement shall secure identification plates in his own name for such vehicles as required by RCW 81.80.310.

**81.80.314 Unassigned identification plates for interchanged trailers in interstate commerce.** Carriers engaged in interstate commerce using trailers or semitrailers pursuant to an interchange agreement, which vehicles do not have affixed upon them identification plates as prescribed in RCW 81.80.310, may use the highways



of this state upon securing from the commission unassigned identification plates to be attached to such vehicles while operating over the highways of this state. The fee for such plates shall be the same as prescribed in RCW 81.80.310 and shall be deposited in the state treasury to the credit of the public service revolving fund.

The commission shall not be required to collect the excise tax prescribed by RCW 82.44.070 for such plates.

**81.80.316 Unassigned identification plates for interstate single line unitary operation.** Carriers engaged in operating vehicles in a single line unitary operation, and not through interchange with connecting carriers, between points in this state and points outside the state in interstate commerce may operate such vehicles in such transportation with attached identification plates which are not assigned to specific vehicles. The commission may issue such identification plates upon application therefor and the payment by the applicant for each plate of a total fee of three dollars plus two times the applicable gross weight fee prescribed by RCW 81.80.320. The commission may require such reports of carriers, adopt such rules and regulations, and impose such conditions as the public interest may require with respect to the operation of such vehicles. The commission shall not be required to collect the excise tax prescribed by RCW 82.44.070 for such plates.

**81.80.317 Alternative method—Motor propelled equipment plates and fees.** Any common carrier or contract carrier may, as an alternative to complying with the requirements of the provisions of RCW 81.80.310, 81.80.314, and 81.80.316, operate any motor vehicle trailer or semitrailer within this state without securing a plate or the payment of the gross weight fee therefor, or the identification card required by RCW 81.80.300 therefor, provided the carrier secures from the commission a plate for the motor propelled equipment used to pull such trailer or semitrailer within this state and pays a fee of three dollars for each such plate and two times the applicable gross weight fee prescribed by RCW 81.80.320 for each piece of such propelled equipment. Such plates shall be different in design for the different classes of carriers, shall bear the number given to the vehicle by the commission, and be attached to the motor propelled equipment.

Any carrier who after June 9, 1955 desires to avail himself of the alternative provided herein and who has acquired his plate and paid his fee for any piece of motor propelled equipment for the current year may convert to the alternate method provided herein by application to the commission who shall have power to issue the necessary plate therefor, accept such additional fee, make such refund or establish such credit as the case may be.

All fees collected hereunder shall be deposited in the state treasury for the credit of the public service revolving fund.

**81.80.318 Single trip transit permit.** Any motor carrier engaged in this state in the casual or occasional carriage of property in interstate or foreign commerce, who would otherwise be subject to all of the requirements of this chapter, shall be authorized to engage in such casual or occasional carriage, upon securing from the commission a single trip transit permit, valid for a period not exceeding ten days, which shall authorize either a one way trip or one round trip in transporting property for compensation between points in the state of Washington and points in other states, territories, or foreign countries.

No identification plates and no regulatory fees other than as provided in this section shall be required for such permit. The permit must be carried in the vehicle and a numbered identification placard, to be furnished by the commission, shall be attached by the operator to the side of the cab of the truck or tractor.

The permit shall be issued upon application to the commission or any of its duly authorized agents upon payment of a fee of ten dollars and the furnishing of proof of possession of public liability and property damage insurance in limits of at least five thousand dollars, for injury or death of any one person, and, subject to such limit as to any one person, for ten thousand dollars for injury or death of all persons caused by any one accident and for five thousand dollars for all damages to property caused by one accident. Such proof may consist of an insurance policy or a certificate of insurance.

The commission shall not be required to collect the excise tax prescribed by RCW 82.44.070 on any vehicle subject only to the payment of this fee.

**81.80.320 Gross weight fees.** In addition to all other fees to be paid by him, every "common carrier" and "contract carrier" shall pay to the commission each year at the time of, in connection with, and before receiving his identification plate for each motor truck, trailer or semitrailer owned or operated by him, based upon the maximum gross weight thereof as set by the carrier in his application for his regular license plates, the following fees:

Less than 4,000 pounds.....	\$ 7.00
4,000 pounds or more and less than 6,000 pounds.....	8.00
6,000 pounds or more and less than 8,000 pounds.....	9.00
8,000 pounds or more and less than 10,000 pounds.....	10.00
10,000 pounds or more and less than 12,000 pounds.....	11.00
12,000 pounds or more and less than 14,000 pounds.....	12.00
14,000 pounds or more and less than 16,000 pounds.....	13.00
16,000 pounds or more and less than 18,000 pounds.....	14.00

18,000 pounds or more and less than 20,000 pounds.....	15.00
20,000 pounds or more and less than 22,000 pounds.....	16.00
22,000 pounds or more and less than 24,000 pounds.....	17.00
24,000 pounds or more and less than 26,000 pounds.....	18.00
26,000 pounds or more and less than 28,000 pounds.....	19.00
28,000 pounds or more and less than 30,000 pounds.....	20.00
30,000 pounds or more and less than 32,000 pounds.....	21.00
32,000 pounds or more and less than 34,000 pounds.....	22.00
34,000 pounds or more and less than 36,000 pounds.....	23.00

It is the intent of the legislature that the fees collected under the provisions of this chapter shall reasonably approximate the cost of supervising and regulating motor carriers subject thereto, and to that end the public service commission is authorized to decrease the schedule of fees provided in this section by general order entered before November 1st of any year in which it determines that the moneys then in the motor carrier account of the public service revolving fund and the fees currently to be paid will exceed the reasonable cost of supervising and regulating such carriers during the next succeeding calendar year. Whenever the cost accounting records of the commission indicate that the schedule of fees as previously reduced should be increased such increase, not in any event to exceed the schedule set forth in this section, may be effected by a similar general order entered before November 1st. Any decrease or increase of gross weight fees as herein authorized, shall be made on a proportional basis as applied to the various classifications of equipment.

All fees collected under this section or under any other provision of this chapter shall be paid to the commission and shall be by it transmitted to the state treasurer within thirty days to be deposited to the credit of the public service revolving fund.

**81.80.330 Enforcement of chapter.** The commission is hereby empowered to administer and enforce all provisions of this chapter and to inspect the vehicles, books and documents of all "motor carriers" and the books, documents and records of those using the service of the carriers for the purpose of discovering all discriminations and rebates and other information pertaining to the enforcement of this chapter and shall prosecute violations thereof. The commission shall employ such auditors, inspectors, clerks and assistants as it may deem necessary for the enforcement of this chapter, and it shall be the duty of the Washington state patrol to assist in the enforcement of this chapter, and the duty of the attorney general to assign at least one assistant to the exclusive duty of assisting the commission in the enforcement of this chapter, and the prosecution of persons charged with the violation thereof. It shall

be the duty of the sheriffs of the counties to make arrests and the county attorneys to prosecute violations of this chapter.

**81.80.340 Public service law invoked.** In all respects in which the commission has power and authority under this chapter applications and complaints may be made and filed with it, process issued, hearings held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, and petitions for writs of review to the superior court filed therewith, appeals or mandate filed with the supreme court of this state, considered and disposed of by said courts in the manner, under the conditions and subject to the limitations and with the effect specified in this title. The right of review and appeal hereby conferred shall be available to any motor carriers, complainant, protestant or other person adversely affected by any decision or order of the commission.

**81.80.350 Penalties—Remission, mitigation.** In addition to all other penalties provided by law every "motor carrier" subject to the provisions of this chapter and every officer, agent or employee of any such "motor carrier" who violates or who procures, aids or abets in the violation of any provision of this chapter or any order, rule, regulation or decision of the commission shall incur a penalty of one hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense and in case of a continuing violation every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for.

The penalty herein provided for shall become due and payable when the person incurring the same receives a notice in writing from the commission describing such violation with reasonable particularity and advising such person that the penalty is due. The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as it in its discretion shall deem proper and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper. If the amount of such penalty is not paid to the commission within fifteen days after receipt of notice imposing the same or application for remission or mitigation has not been made within fifteen days after violator has received notice of the disposition of such application, the attorney general shall bring an action in the name of the state of Washington in the superior court of Thurston county or of some other county in which such violator may do business, to recover such penalty. In all such actions the procedure and rules of evi-

dence shall be the same as an ordinary civil action except as otherwise herein provided. All penalties recovered under this chapter shall be paid into the state treasury and credited to the public service revolving fund.

**81.80.355 Unlawful advertising—Penalty.** Any person not holding a permit authorizing him to operate as a common carrier, contract carrier, or temporary carrier for the transportation of property for compensation in this state, or an exempt carrier, who displays on any building, vehicle, billboard or in any manner, any advertisement of, or by circular, letter, newspaper, magazine, poster, card or telephone directory, advertises the transportation of property for compensation shall be guilty of a misdemeanor and punishable as such.

**81.80.360 Procedure, penalties—General statute invoked.** All applicable provisions of this title, relating to procedure, powers of the department and penalties, shall apply to the operation and regulation of persons under this chapter, except insofar as such provisions may conflict with provisions of this chapter and rules and regulations issued thereunder by the commission.

**81.80.370 Application to interstate commerce.** This chapter shall apply to persons and motor vehicles engaged in interstate commerce to the full extent permitted by the Constitution and laws of the United States.

**81.80.380 Cooperation with federal government.** The commission is hereby authorized and directed to cooperate with the federal government and the interstate commerce commission of the United States or any other commission or organization delegated or authorized to regulate interstate or foreign commerce by motor carriers to the end that the transportation of property by motor carriers in interstate or foreign commerce into and through the state of Washington may be regulated and the laws of the United States and the state of Washington enforced and administered cooperatively in the public interest.

**81.80.391 Reciprocity—Apportionment of regulatory fees.** The commission, in respect to common carriers engaged in interstate commerce, may enter into reciprocal agreements with other states, the District of Columbia, territories and countries which are authorized to make like agreements, to apportion the regulatory fees of common carriers between Washington and the other states, District of Columbia, territories or countries into which such carriers operate.

The percentage of miles each such carrier operates in Washington as they bear to the total miles each such carrier operates in the other states, District of Columbia, territories and countries involved

shall be used by the commission to determine what percentage of each of the carrier's total vehicles shall be attributable to operating in Washington as the basis for computing the total regulatory fees to be paid by each such carrier to the commission.

The commission may require each such carrier to submit under oath such information, records and data as it deems necessary for carrying out the provisions of this section. The commission's determination of the number of vehicles of each carrier to be used as the basis for computing the regulatory fees payable by each carrier shall be final.

All moneys collected pursuant to this section shall be deposited in the state treasury to the credit of the public service revolving fund.

#### Chapter 81.84

### STEAMBOAT COMPANIES

**81.84.010 Certificate of convenience and necessity required.** No steamboat company shall hereafter operate any vessel or ferry for the public use for hire between fixed termini or over a regular route upon the waters within this state, including the rivers and lakes and Puget Sound, without first applying for and obtaining from the commission a certificate declaring that public convenience and necessity require such operation: *Provided*, That no certificate shall be required for a vessel primarily engaged in transporting freight other than vehicles, whose gross earnings from the transportation of passengers and/or vehicles, are not more than ten percent of the total gross earnings of such vessel: *Provided*, That nothing herein shall be construed to affect the right of any county within this state to construct, condemn, purchase, operate or maintain, itself or by contract, agreement or lease, with any person, firm or corporation, ferries or boats across or wharfs at or upon the waters within this state, including rivers and lakes and Puget Sound, provided such operation is not over the same route or between the same districts, being served by a certificate carrier, nor shall this chapter be construed to affect, amend or invalidate any contract entered into prior to January 15, 1927, for the operation of ferries or boats upon the waters within this state, which was entered into in good faith by any county with any person, firm, or corporation, except that in case of the operation or maintenance by any county, city, town, port district, or other political subdivision by contract, agreement, or lease with any person, firm, or corporation, of ferries or boats across or wharfs at or upon the waters within this state, including rivers and lakes and Puget Sound, the commission shall have power and authority to regulate rates and services of such operation or maintenance of ferries, boats, or

wharfs, to make, fix, alter or amend said rates, and to regulate service and safety of operations thereof, in the manner and to the same extent as it is empowered to regulate a steamboat company, notwithstanding the provisions of any act or parts of acts inconsistent herewith.

**81.84.020 Application — Hearing — Issuance of certificate.** Upon the filing of an application the commission shall give reasonable notice to any common carrier which might be adversely affected, of the time and place for hearing on such application. The commission shall have power after hearing, to issue the certificate as prayed for, or to refuse to issue it, or to issue it for the partial exercise only of the privilege sought, and may attach to the exercise of the rights granted by said certificate such terms and conditions as in its judgment the public convenience and necessity may require; but the commission shall not have power to grant a certificate to operate between districts and/or into any territory already served by an existing certificate holder, unless such existing certificate holder shall fail and refuse to furnish reasonable and adequate service: *Provided*, A certificate shall be granted when it shall appear to the satisfaction of the commission that such steamboat company was actually operating in good faith over the route for which such certificate shall be sought, on January 15, 1927: *Provided, further*, That in case two or more steamboat companies shall upon said date have been operating vessels upon the same route, or between the same districts the commission shall determine after public hearing whether one or more certificates shall issue, and in determining to whom a certificate or certificates shall be issued, the commission shall consider all material facts and circumstances including the prior operation, schedules and services rendered by either of said companies, and in case more than one certificate shall issue, the commission shall fix and determine the schedules and services of the companies to whom such certificates are issued to the end that duplication of service be eliminated and public convenience be furthered.

**81.84.030 Transfer, revocation of certificate.** No certificate or any right or privilege thereunder held, owned or obtained under the provisions of this chapter shall be sold, assigned, leased, mortgaged or in any manner transferred, either by the act of the parties or by operation of law, except upon authorization by the commission first obtained. The commission may at any time by its order duly entered after hearing had upon notice to the holder of any certificate hereunder and an opportunity to such holder to be heard, suspend, revoke, alter, or amend any certificate issued under the provisions of this chapter, if the holder thereof wilfully violates or fails to observe the provisions or conditions of the certificate,

or the orders, rules or regulations of the commission, or the provisions of this title.

**81.84.040 Fees.** The commission shall collect the following miscellaneous fees from steamboat companies: Application for a certificate of public convenience and necessity, or to amend certificate, fifty dollars; application to sell, lease, mortgage, or transfer certificate or any interest therein, ten dollars.

**81.84.050 Penalties—Remission, mitigation.** Every steamboat company and every officer, agent, or employee of any steamboat company who violates or who procures, aids or abets in the violation of any provision of this title, or any order, rule, regulation, or decision of the commission shall incur a penalty of one hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense and in case of a continuing violation every day's continuance shall be and be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for.

The penalty herein provided for shall become due and payable when the person incurring the same receives a notice in writing from the commission describing such violation with reasonable particularity and advising such person that the penalty is due.

The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as it in its discretion shall deem proper, and shall have authority to ascertain the facts upon all such applications in such manner and under such regulations as it may deem proper.

If the amount of such penalty is not paid to the commission within fifteen days after receipt of notice imposing the same or, if application for remission or mitigation has not been made, within fifteen days after the violator has received notice of the disposition of such application, the attorney general shall bring an action to recover the penalty in the name of the state of Washington in the superior court of Thurston county or of some other county in which such violator may do business. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions except as otherwise herein provided. All penalties recovered by the state under this chapter shall be paid into the state treasury and credited to the public service revolving fund.



## Chapter 81.88 GAS AND OIL PIPE LINES

### 81.88.020 Pipe line corporations—Regulation—Eminent domain.

All corporations having for one of their principal purposes the construction, maintenance and operation of pipe lines and appurtenances for the conveyance and transportation as common carriers of oils, gas, gasoline and other petroleum products shall be subject to control and regulation by the commission in the same manner and to the same extent as other public service corporations. The power of eminent domain is hereby conferred upon such corporations to be used for acquiring rights of way for common carrier pipe lines and they shall have the right to condemn and appropriate lands and property and interests therein for their use under the same procedure as is provided for the condemnation and appropriation of private property by railway companies, but no private property shall be taken or damaged until the compensation to be made therefor shall have been ascertained and paid as provided in the case of condemnation and appropriation by railway companies. Any property or interest therein acquired by any corporation under the provisions of this section by the exercise of the right of eminent domain shall be used exclusively for the purposes for which it was acquired. In all actions brought under this section to enforce the right of eminent domain, courts wherein such actions are brought may give such actions preference over all other civil actions in the matter of setting the same for hearing or trial and in hearing the same.

**81.88.030 Pipe line carriers regulated as common carriers.** Every person, copartnership, corporation or other association now or hereafter engaged in the business of producing from natural deposits and/or carrying or transporting natural gas and/or crude oil or petroleum or the products thereof for hire, by pipe lines within this state shall be a common carrier within the meaning and subject to the provisions of this title: *Provided, however,* That the provisions of this section shall not apply to distribution systems owned and operated under franchise for the sale, delivery, or distribution of natural gas at retail.

## Chapter 81.92 STORAGE WAREHOUSEMEN

**81.92.010 Definitions.** As used in this chapter:

“Person” includes port commissions and districts;

“Storage warehouse” means a building or structure, or any part thereof, in which goods, wares, or merchandise are received for

storage for compensation, except field warehouses, fruit warehouses, fruit packing plants, warehouses licensed under the provisions of chapter 22.08, used exclusively for the storage of grains, hay, peas, hops, grain and hay products, beans, lentils, corn, sorghums, malt, peanuts, flax, seeds, and other similar agricultural products, exclusively cold storage warehouses, buildings or structures in which freight is handled in transit exclusively, public garages storing automobiles, railroad freight sheds, and docks and wharves;

“Dock” or “wharf” includes all structures at which any steamboat, vessel, or other watercraft lands for the purpose of receiving or discharging freight from or for the public, together with any building or structure used for storing such freight, while in transit exclusively for the public for hire;

“While in transit” means all goods, wares, and merchandise received on any dock or wharf, destined to or consigned from waterborne commerce, it being the intention of the legislature to exempt all goods received on any dock or wharf for shipment from land via water or received on said dock or wharf by water to be transhipped by land, or water, irrespective of the time of its retention upon said dock or wharf;

“Storage warehouseman” and “warehouseman” mean any person operating any storage warehouse.

**81.92.020 Storage warehouseman declared “public service company.”** A storage warehouseman subject to the provisions of this chapter is a “public service company” within the meaning of the provisions of this title.

**81.92.030 Chapter exclusive.** No corporation or person, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, shall hereafter operate any storage warehouse for the storage of property for the public for hire in this state except in accordance with the provisions of this chapter.

**81.92.040 Exemptions from operation of chapter.** This chapter shall not apply to storage furnished by a cooperative marketing association for its members, or for other cooperative associations, or as an incidental part of its business within the limits permitted by Title 24.

Nor shall this chapter apply to the business of renting locked boxes by any bank or trust company.

**81.92.050 License required—Fee—Revocation—Injunction.** Each person operating one or more storage warehouses subject to the provisions of this chapter shall procure from the commission, on or before July 1st of each year, a license for the ensuing year, upon payment of a fee of twenty-five dollars for the first warehouse

operated and five dollars for each additional warehouse. The license shall be posted in a conspicuous place in the office of each warehouse.

All license fees shall be transmitted to the state treasurer who shall deposit them in the public service revolving fund.

The commission may revoke any such license, upon notice and hearing, and any person operating a storage warehouse without a license, or after one has been revoked, shall forfeit to the state, for each day's operation, fifty dollars to be recovered in an action brought by the attorney general in the superior court of Thurston county.

The operation of a storage warehouse without a license may also be enjoined upon complaint of the commission.

**81.92.060 Schedule of rates to be filed — Rates, services and facilities must be just and reasonable.** Every storage warehouseman shall upon obtaining his license as herein provided, at once file with the commission his schedules showing the rates and charges for the storage and handling of property in his warehouse, and such schedules shall be kept in convenient form and be open at all times during business hours to public inspection at his warehouse or warehouses, and the office of the commission. All charges made for any service rendered or to be rendered in the storage, or handling of property in his storage warehouse by any warehouseman shall be just, fair, reasonable and sufficient. Every warehouseman shall furnish and supply such warehouses, buildings, structures, service, instrumentalities, and facilities that shall be safe, adequate and efficient and in all respects just and reasonable. All rules and regulations issued by warehousemen affecting or pertaining to the storage, handling, or care of property shall be just and reasonable. Every warehouseman shall construct and maintain such facilities in connection with his warehouse as will be efficient and safe to its employees and to the public.

**81.92.070 Inspection of premises—Determination of qualifications —Review.** Upon receiving an original application for a storage warehouse license, the commission shall cause an inspection to be made of the premises the applicant proposes to use for a storage warehouse, to determine if the premises and facilities are adequate, safe and suitable for use as a storage warehouse.

The commission shall also make such investigation as it deems necessary to determine whether the applicant is financially able to act as a storage warehouseman and is familiar with the laws of the state of Washington and the rules and regulations of the commission pertaining to storage warehousemen and shall thereafter promptly enter its order accordingly, either granting or denying the license applied for.

The decisions of the commission made pursuant to this section shall be subject to review in the superior court for Thurston county.

**81.92.080 Bond required—Penalty—Revocation of bond.** Each storage warehouseman shall file and maintain with the commission a surety bond in the sum of ten thousand dollars executed by the storage warehouseman as principal, and a surety company authorized to do business in this state as surety, and conditions upon the storage warehouseman's faithfully accounting in the manner required by law to the owner thereof for all goods, wares, merchandise, funds or other property that the storage warehouseman receives, handles, stores or otherwise deals in as a storage warehouseman.

Failure to file and maintain in full force and effect the bond herein required shall be cause for the immediate revocation of the storage warehouseman's license and no license for a storage warehouse shall be issued to any person, firm or corporation until such person, firm or corporation has filed the bond herein required.

The total liability of the surety on the bond required by this section shall not exceed the sum of ten thousand dollars in the aggregate for all claims accruing while the bond is in force, and the surety may revoke said bond upon giving the warehouseman and the commission written notice fifteen days prior to such revocation, otherwise, said bond shall remain in full force and effect.

**81.92.090 Powers of commission—General.** The commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate every storage warehouse in this state; to fix, alter and amend to just, fair, reasonable and sufficient rates, fares, charges, classifications, rules and regulations of each such storage warehouse; to regulate accounts, service and safety of operations of each such storage warehouse; to require the filing of annual and other reports and all other data by such storage warehouse; to supervise and regulate storage warehouses in all other matters affecting the storage of property therein by the public. The commission shall have power and authority by general order or otherwise, to prescribe rules and regulations in conformity with this chapter, applicable to any and all storage warehouses.

**81.92.100 Power to inspect buildings, records, and accounts.** The commission is hereby vested with power and authority to inspect, investigate and check all of the buildings, records and accounts of any person, firm or corporation operating a building, structure, dock or warehouse in which goods or merchandise are stored, for the purpose of determining whether or not such person, firm or corporation is a storage warehouseman as herein defined; and for this purpose the commission is hereby empowered to require the attend-

ance of any person and/or the books, records and accounts of any person, firm or corporation within this state in order to make a determination as to whether or not any such building, structure, dock or wharf is used as a storage warehouse as herein defined.

**81.92.110 Complaints—Hearings.** In all respects in which the commission has power and authority under this chapter, application and complaints may be made and filed with it, process issued, hearing held, opinions, orders and decisions made and filed, petitions for rehearing filed and acted upon, petition for writs of review to the superior court filed therein, appeals of mandate filed with the supreme court of this state and considered and disposed of by said courts in the manner, under the conditions and subject to the regulations and with the effect specified in this title.

**81.92.120 Secrecy required of commission personnel—Penalty.** Any officer or employee of the commission who divulges to any person other than a member of the commission any fact or information coming to his knowledge during the course of an inspection, examination or investigation of any accounts, records, memoranda books, or papers of a warehouseman, except insofar as he may be authorized by the commission, or by a court of competent jurisdiction, or by a judge thereof, shall be guilty of a gross misdemeanor.

**81.92.130 Penalty against offending warehouseman.** Every storage warehouseman and all officers, agents, and employees of any storage warehouseman, shall obey, observe, and comply with every order, rule, direction or requirement made by the commission under authority of this chapter so long as the same shall be and remain in force. Any storage warehouseman who shall violate or fail to comply with any provision of this chapter, or who fails, omits or neglects to obey, observe or comply with any order, rule, direction, demand or requirement of the commission or who shall fail to maintain and comply with the schedule of rates and charges filed by him, shall be subject to a penalty of not to exceed the sum of one thousand dollars for each and every offense. Every violation of any such order, rule, direction, demand or requirement of the commission, or of any provision of this chapter, shall be a separate and distinct offense and in case of a continuing violation, every day's continuance thereof shall be deemed to be a separate and distinct offense.

**81.92.140 Miscellaneous penalties.** Any person not a licensed warehouseman under, or excepted from the provisions of this chapter, who shall display on any building, vehicle, billboard or in any other manner, any advertisement of, or by circular, letter, newspaper, magazine, poster, or card to advertise, storage of property shall be guilty of a misdemeanor and punishable as such.

Every officer, agent or employee of any storage warehouse and every other person who violates or fails to comply with or who procures, aids, or abets in the violation of any provisions of this chapter, or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the commission under this chapter, is guilty of a gross misdemeanor and punishable as such.

Any person who shall wilfully make any false entry in the accounts or in any record or memorandum kept by a storage warehouseman or who shall wilfully destroy, mutilate, alter or by any other means or device, falsify a record or any such account, record, or memorandum, or who shall wilfully neglect or fail to make full, true or correct entries in such accounts, records, or memoranda of all facts and transactions appertaining to the business of the warehouseman or shall keep any accounts or records with the intent to evade the provisions of this chapter, shall be guilty of a gross misdemeanor and punishable as such.

**81.92.150 Additional penalties—Mitigation by commission—Payment—Action to recover.** In addition to all other penalties provided by law every "storage warehouseman" and "warehouseman" subject to the provisions of this chapter and every officer, agent, or employee of any such "storage warehouseman" or "warehouseman" who violates or who procures, aids or abets in the violation of any provisions of this chapter, or any order, rule, regulation, or decision of the commission shall incur a penalty of one hundred dollars for every such violation. Every violation shall be a separate and distinct offense, and in case of a continuing violation every day's continuance shall be a separate and distinct offense. Every act of commission or omission which procures, aids, or abets in the violation shall be considered a violation under this section and subject to the penalty herein specified.

The penalty shall become due and payable when the person incurring it receives a notice in writing from the commission describing the violation with reasonable particularity and advising such person that the penalty is due.

The commission may, upon written application therefor, received within fifteen days, remit or mitigate any penalty provided for in this section or discontinue any prosecution to recover the same upon such terms as it deems proper, and may ascertain the facts involved in all such applications in such manner and under such regulations as it deems proper.

If the amount of a penalty is not paid to the commission within fifteen days after receipt of the notice imposing it, or within fifteen days after the violator has received notice of the disposition of his application for remission or mitigation, the attorney general shall

bring an action in the name of the state in the superior court of Thurston county or of some county in which such violator may be doing business, to recover the penalty. In all such actions the procedure and rules of evidence shall be the same as in ordinary civil actions except as otherwise herein provided. All penalties recovered under this chapter shall be paid into the state treasury and credited to the public service revolving fund.

**81.92.160 Ownership of goods by warehouseman does not defeat receipt.** No warehouse receipt issued by any warehouseman as defined in this chapter and no negotiation, transfer or pledge of any such receipt shall be defeated by reason of the fact that the goods covered by the receipt were owned, in whole or in part, by the warehouseman at the time the receipt was issued.

### Chapter 81.94

#### WHARFINGERS AND WAREHOUSEMEN

**81.94.010 Definitions.** As used in this chapter:

“Dock” or “wharf” includes any and all structures at which any steamboat, vessel, or other watercraft lands for the purpose of receiving or discharging freight from or for the public, together with any building or warehouse used for storing such freight for the public for hire;

“Warehouse” includes any building or structure in which freight is received for storage from the public for hire, intended for shipment or discharge by any watercraft;

“Wharfinger” or “warehouseman” includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, operating or managing any dock, wharf or structure where steamboats, vessels or other watercraft land for the purpose of discharging freight for the public, and where such freight is received on such dock, wharf or structure for the public for hire within the state.

**81.94.020 Wharfinger, warehouseman, declared “public service company.”** A wharfinger or warehouseman subject to the provisions of this chapter is a “public service company” within the meaning of the provisions of this title.

**81.94.030 Duties imposed on wharfingers or warehousemen—Charges.** All charges made for any service rendered or to be rendered in the receipt, storage or handling of property or in connection therewith by any wharfinger or warehouseman shall be just, fair, reasonable and sufficient. Every wharfinger or warehouseman shall furnish and supply such wharves, docks, buildings, service, instrumentalities and facilities as shall be safe, adequate and efficient and

in all respects just and reasonable. All rules and regulations issued by any wharfinger or warehouseman affecting or pertaining to the dockage, storage, handling and care of property shall be just and reasonable. Every wharfinger and warehouseman shall construct and maintain such facilities in connection with his warehouse, wharf, dock and structure as will be efficient and safe to its employees and the public.

**81.94.040 Tariff schedules to be filed.** Every warehouseman or wharfinger shall file with the commission and shall print and keep open to the public inspection schedules in such form as the commission may prescribe, showing all rates and charges made, used or enforced, or to be charged or enforced, all forms of contract or agreement, all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such warehouseman or wharfinger.

**81.94.050 Tariff changes—Statutory notice—Exception.** Unless the commission otherwise orders, no change will be made in any rate or charge or in any form of contract or agreement or in any rule or regulation relating to any rate, charge or service, or in any general privilege or facility which shall have been filed and published by the wharfinger or warehouseman in compliance with the requirements of RCW 81.94.040, except by thirty days' notice to the commission and publication for thirty days, which schedule shall plainly state the changes to be made in the schedule then in force and the time when the change will go into effect, and all proposed changes shall be shown by printing, filing, and publishing new schedules or shall be plainly indicated upon the schedules in force at the time and kept open to the public inspection. The commission for good cause shown may allow changes without requiring the thirty days' notice by duly filing in such manner as it may direct an order specifying the changes so to be made and the time when it shall take effect; all such changes shall be immediately indicated upon its schedule by the warehouseman or wharfinger affected.

**81.94.060 Published rates to be charged—Exceptions.** No wharfinger or warehouseman shall charge, demand, collect, or receive a greater, less or different compensation for any service rendered or to be rendered, than the rates charged applicable to such service as specified in its schedule filed and in effect at the time. Nor shall any such wharfinger or warehouseman directly or indirectly refund or remit in any manner or by any device, any portion of the rate or charge so specified, or furnish dockage, wharfage or storage or free or reduced rates except to its employees and their families and its officers, attorneys and agents; to hospitals, charitable and eleemosynary institutions and persons engaged in charitable and eleemosy-



nary work; to indigent and destitute persons; to national homes or state homes for disabled volunteer soldiers and soldiers' and sailors' homes: *Provided*, That the term "employees," as used in this section shall include furloughed, pensioned and superannuated employees, persons who have become disabled or infirm in the service of such wharfinger or warehouseman, and the term "families," as used in this section, shall include the families of those persons named in this proviso, also the families of persons killed or dying in the service, also the families of persons killed, and the widows, during widowhood, and the minor children during minority of persons who died while in the service of any such wharfinger or warehouseman.

No wharfinger or warehouseman shall extend to any person or corporation any form of contract or agreement, or any rule or regulation or any privilege or facility except as are regularly and uniformly extended to all persons and corporations under like circumstances.

**81.94.070 Unreasonable preferences prohibited.** No wharfinger or warehouseman shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service or traffic to any undue or unreasonable prejudice or disadvantage in any respect whatever.

**81.94.080 Unjust discrimination prohibited.** No wharfinger or warehouseman shall, directly or indirectly or by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for the wharfage, dockage or storage of property, or for any service rendered or to be rendered or in connection therewith, except as authorized by this chapter, than it charges, demands, collects or receives from any person or corporation for doing a like or contemporaneous service with respect thereto under the same or substantially similar circumstances and conditions.

**81.94.090 Service to be furnished on demand.** Every wharfinger or warehouseman shall upon demand furnish to all persons or corporations who may apply therefor and be reasonably entitled thereto suitable facilities for storing and transferring property from such warehouse, wharf, dock or structure, to any vessel and from any vessel to any such warehouse, wharf, dock or structure.

**81.94.100 Commission to fix just, reasonable and compensatory rates.** Whenever the commission shall find, after a hearing had upon its own motion or upon complaint, as herein provided, that the rates or charges demanded, exacted, charged or collected by any wharfinger or warehouseman for the receipt, storage or handling of

freight, or in connection therewith, or that the rules, regulations or practices affecting such rates or charges are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any wise in violation of the provisions of law, or that such rates and charges are insufficient to yield a reasonable compensation for the service rendered, the commission shall determine the just, reasonable or sufficient rates, charges, rules, regulations or practices to be thereafter observed and in force, and shall fix the same by order.

Whenever the commission shall find, after such hearing, that the rules, regulations or practices of any wharfinger or warehouseman are unjust or unreasonable, or that the equipment, facilities or service of any wharfinger or warehouseman are inadequate, inefficient, improper, insufficient or unsafe, the commission shall determine the just, reasonable, proper, adequate, efficient and safe rules, regulations, practices, equipment, facilities and service to be thereafter installed, observed and used, and fix the same by order of the commission.

**81.94.110 Commission may order repairs and improvements.** Whenever the commission shall find, after hearing had upon its own motion or upon complaint, that repairs or improvements to, or changes in, any dock, wharf or warehouse ought reasonably to be made, or that any additions or extensions should reasonably be made thereto in order to promote the security or adequate service or facilities for the receipt, storage or handling of freight, the commission shall make and serve an order directing that such repairs, improvements, changes, additions or extensions shall be made in the manner specified therein.

**81.94.130 Ownership of goods by warehouseman does not defeat receipt.** No warehouse receipt issued by any warehouseman as defined in this chapter and no negotiation, transfer or pledge of any such receipt shall be defeated by reason of the fact that the goods covered by the receipt were owned, in whole or in part, by the warehouseman at the time the receipt was issued.

## Chapter 81.98

### CONSTRUCTION

**81.98.010 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.

**81.98.020 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.

**81.98.030 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.

**81.98.040 Repeals and saving.** The following acts or parts of acts are repealed:

- (1) Sections 2455, 2456, 2456½, 2456¾ and 2457, Code 1881;
- (2) Sections 1 through 3, pages 62 and 63, Laws of 1883;
- (3) Chapter 31, Laws of 1888;
- (4) Sections 1 and 2, page 53, Laws of 1890;
- (5) Sections 1 through 3, page 291, Laws of 1890;
- (6) Section 4, page 292, Laws of 1890;
- (7) Sections 1 through 4, pages 525 through 528, Laws of 1890;
- (8) Sections 1 and 2, page 529, Laws of 1890;
- (9) Section 4, chapter 27, Laws of 1893;
- (10) Chapter 80, Laws of 1895;
- (11) Chapter 100, Laws of 1895;
- (12) Chapter 144, Laws of 1895;
- (13) Chapter 17, Laws of 1897;
- (14) Chapter 94, Laws of 1897;
- (15) Chapter 15, Laws of 1899;
- (16) Chapter 35, Laws of 1899;
- (17) Chapter 103, Laws of 1901;
- (18) Chapter 175, Laws of 1903;
- (19) Chapter 180, Laws of 1903;
- (20) Chapter 126, Laws of 1905;
- (21) Chapter 180, Laws of 1905;
- (22) Chapter 20, Laws of 1907;
- (23) Chapter 88, Laws of 1907;
- (24) Chapter 99, Laws of 1907;
- (25) Chapter 138, Laws of 1907;
- (26) Chapter 218, Laws of 1907;
- (27) Chapter 223, Laws of 1907;
- (28) Chapter 224, Laws of 1907;
- (29) Chapter 244, Laws of 1907;
- (30) Chapter 31, Laws of 1909;
- (31) Chapter 158, Laws of 1909: *Provided*, That such repeal shall not be deemed to affect the validity of sections 93, 94, and 95, chapter 255, Laws of 1927 (RCW 79.01.372, 79.01.376, and 79.01.380);
- (32) Chapter 196, Laws of 1909;
- (33) Sections 274, 276, 277, 278, 396, 397 and 398, chapter 249, Laws of 1909;
- (34) Chapter 134, Laws of 1911;
- (35) Chapter 30, Laws of 1913;
- (36) Chapter 118, Laws of 1915;

- (37) Chapter 132, Laws of 1915;
- (38) Chapter 136, Laws of 1915;
- (39) Chapter 159, Laws of 1915;
- (40) Chapter 170, Laws of 1917;
- (41) Chapter 33, Laws of 1919;
- (42) Chapter 153, Laws of 1919;
- (43) Chapter 111, Laws of 1921;
- (44) Chapter 138, Laws of 1921;
- (45) Chapter 149, Laws of 1923;
- (46) Chapter 73, Laws of 1925, extraordinary session;
- (47) Chapter 179, Laws of 1925, extraordinary session;
- (48) Chapter 188, Laws of 1925, extraordinary session;
- (49) Chapter 166, Laws of 1927;
- (50) Chapter 248, Laws of 1927;
- (51) Chapter 96, Laws of 1929;
- (52) Chapter 154, Laws of 1933;
- (53) Chapter 61, Laws of 1933, extraordinary session;
- (54) Chapter 120, Laws of 1935;
- (55) Chapter 184, Laws of 1935;
- (56) Chapter 22, Laws of 1937;
- (57) Chapter 26, Laws of 1937;
- (58) Chapter 166, Laws of 1937;
- (59) Chapter 202, Laws of 1937;
- (60) Chapter 161, Laws of 1941;
- (61) Chapter 163, Laws of 1941;
- (62) Chapter 212, Laws of 1941;
- (63) Chapter 238, Laws of 1941;
- (64) Chapter 104, Laws of 1943;
- (65) Chapter 228, Laws of 1943;
- (66) Chapter 117, Laws of 1945;
- (67) Chapter 203, Laws of 1945;
- (68) Chapter 209, Laws of 1945;
- (69) Chapter 264, Laws of 1947;
- (70) Chapter 124, Laws of 1949;
- (71) Chapter 127, Laws of 1949;
- (72) Chapter 128, Laws of 1949;
- (73) Chapter 129, Laws of 1949;
- (74) Chapter 133, Laws of 1949;
- (75) Chapter 169, Laws of 1949;
- (76) Chapter 6, Laws of 1950, extraordinary session;
- (77) Chapter 42, Laws of 1951;
- (78) Chapter 66, Laws of 1951;
- (79) Chapter 75, Laws of 1951;
- (80) Chapter 94, Laws of 1951;
- (81) Chapter 110, Laws of 1951;
- (82) Chapter 111, Laws of 1951;

- (83) Chapter 191, Laws of 1951;
- (84) Sections 2 and 3, chapter 227, Laws of 1951;
- (85) Sections 1 through 3 and 9 through 23, chapter 95, Laws of 1953;
- (86) Sections 3 and 4, chapter 104, Laws of 1953;
- (87) Section 2, chapter 120, Laws of 1953;
- (88) Chapter 129, Laws of 1953;
- (89) Sections 3 through 10, chapter 79, Laws of 1955;
- (90) Chapter 99, Laws of 1955;
- (91) Sections 4 through 11, chapter 125, Laws of 1955;
- (92) Chapter 165, Laws of 1955;
- (93) Chapter 228, Laws of 1955;
- (94) Sections 2 through 4, chapter 300, Laws of 1955;
- (95) Sections 2 through 5, chapter 310, Laws of 1955;
- (96) Section 3, chapter 316, Laws of 1955;
- (97) Chapter 12, Laws of 1957;
- (98) Chapter 71, Laws of 1957;
- (99) Chapter 185, Laws of 1957;
- (100) Chapter 205, Laws of 1957;
- (101) Sections 3 through 9, 15 through 18, 22 through 24, chapter 248, Laws of 1959;
- (102) Sections 1 through 7, chapter 283, Laws of 1959;
- (103) Section 3, chapter 285, Laws of 1959.

Such repeals shall not be construed as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder.

**81.98.050 Emergency.** 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.

**GENERAL EXPLANATORY NOTE  
RELATING TO BOTH TITLES 80 AND 81**

Explanatory  
note.

In the course of its current program to restore session law language to the Revised Code of Washington, the reviser's office and the codifications subcommittee of the Statute Law Committee carefully examined the provisions of Title 80 relating to public utilities, and of Title 81 relating to transportation. Pursuant thereto, the committee determined that because of the complicated statutory problems and history relating to these subjects, the titles in question are nonrestorable. The 1941 Code Committee had divided and codified the basic public service commission act, 1911 c 117, into these two titles and also placed a portion thereof in Title 22, which latter title, including the parts of 1911 c 117 codified therein, has been restored by the Statute Law Committee. Many of the sections of 1911 c 117 were codified in their entirety in both Titles 80 and 81. An example is the 1941

Explanatory  
note.

Code Committee's treatment of 1911 c 117 § 8 as amended, being the definitions section of the public service commission act, wherein the definitions relating to public utilities were codified as RCW 80.04.010; those relating to transportation were codified as RCW 81.04.010; and those relating to wharfingers were codified as RCW 22.24.010. Several other independent acts were likewise doubly codified. As for Title 81, the legislative committee of the Washington Railroad Association has reviewed the sections of that title pertaining to railroads for the purpose of establishing what changes had been made from the session laws by the 1941 Code Committee. In a letter of January 2, 1953, addressed to the Statute Law Committee, Attorney Dean H. Eastman, chairman of the Washington Railroad Association, stated:

"In view of what we have found thus far, we strongly urge that chapters 81.04 through 81.60 of Title 81, RCW, not be proposed for adoption in their present form, but that these chapters be given further study with a view of either restoring the wording of the Session Laws or making such corrections as may be necessary to retain the meaning of the Session Laws."

One basic difficulty in bar of the restoration of these titles is the fact that some of the sections codified in both of the titles have been subsequently amended by reference to only one of the titles, or, they have been amended in both titles for different substantive reasons so that they no longer read the same in each title. The net result is that any attempt to restore the session law language without at the same time proposing legislation to preserve these substantive differences, would be fruitless.

Pursuant to its finding of nonrestorability, the codifications subcommittee directed the reviser to prepare a draft of a bill for the repeal and reenactment of these titles, for the purpose of resolving as many of the aforesaid problems as may be ascertained and remedied without affecting the substance of the law. Copies of this draft were circulated extensively among the experts in the fields of public utilities and transportation, including representatives of the public service commission, and a series of conferences was held by the subcommittee (Oct. 23, Nov. 23, Dec. 4 and 18, 1959; Jan. 15 and 22, 1960) at which such industry representatives appeared and were heard concerning the proposed draft, each section thereof being minutely considered. The instant bill is the result.

In preparing the reenactment of these titles, the placement, division, and double codification of sections by the 1941 Code Committee have been accepted for the most part, but within such framework the session law language has been restored. Where the scope of the original session law language would encompass more than one title, it has been edited much in the same manner as the 1941 Code Committee tailored these session laws to fit the particular title, although for the most part such sections, in substance, were codified in full in each title. For example, 1911 c 117 § 75 was codified in both RCW 80.04.020 and 81.04.020, but the word "waybill" was deleted from the version in RCW 80.04.020 which applies only to public utilities: In this proposed reenactment the session law language has been restored to these sections, but the deletion of the word "waybill" from RCW 80.04.020 has been accepted.

Chapters 80.40, 80.44, and 80.48 RCW deal with municipal utilities and are not administered by the public service commission. They are not included in this bill, but will be recodified in Title 35—Cities and Towns, upon the enactment hereof. This is in accordance with the placement of these sections in codifications prior to RCW. In like manner, chapter 81.72 RCW relating to passenger transportation for hire, which is administered by the department of licenses, is included in another statute law committee bill which proposes the reenactment of Title 46—Motor Vehicles. Conversely, chapters 22.20—Storage Warehousemen and 22.24—Wharfingers and Warehousemen, both of which

are administered by the public service commission, are included for reenactment herein as part of Title 81. Explanatory note.

Chapter 43.53 RCW providing for the creation and organization of the public service commission has been transferred to Title 80, for reenactment as chapter 80.01 RCW. The present public service commission was established by 1949 c 117. In earlier session laws presented for reenactment, references to a "commission" appear. These references are to the original public service commission created by 1911 c 117. No attempt was made to indicate the difference or to set forth the devolution of the powers and duties of the original public service commission upon the present day commission in the explanatory notes each time the word "commission" appears in a session law. Rather the entire devolution is set forth as follows and should be kept in mind: 1911 c 117; 1921 c 7 §§ 25, 26; 1935 c 8 § 1; 1945 c 267, 1949 c 117 §§ 1, 3, 8; 1951 c 260 § 1; and 1955 c 340 § 7. Also on the basis of this devolution, references in the session laws to the department of public works, department of public service, department of transportation, and department of public utilities have been similarly translated to "commission".

Likewise, the full circle has been made in connection with the "public service revolving fund". The original fund was created by 1921 c 113 § 2. 1945 c 267 § 10 divided the 1921 fund into the transportation revolving fund and the public utilities revolving fund. 1949 c 117 § 11 recombined these funds into the present day public service revolving fund. Again, this devolution is not indicated in the explanatory notes each time the words "public service revolving fund" appear in the session law.

Finally, it should be noted that the appearance of the word "act", particularly in the basic act, 1911 c 117, has presented considerable difficulty due to the division of that act into three titles, 80, 81 and 22. Wherever the words "this act" or similar words appeared in the basic session laws, they have been translated to "this title", "this chapter", "this section", or to specific code section numbers, in accordance with what most nearly corresponded to their original application but at the same time taking into consideration the doctrine of statutes in pari materia, and the necessity for harmonizing the provisions of this bill. Each such instance was carefully considered and discussed at the series of meetings mentioned above.

## TITLE 80 NOTES

### Chapter 80.01 Public Service Commission

This is a new chapter derived from session laws providing for the creation, structure, powers and duties of the public service commission.

80.01.010 Source—[1955 c 340 § 7; 1951 c 260 § 1; 1949 c 117 § 1; Rem. Supp. 1949 § 10964-115-1.]

Presently codified as RCW 43.53.010.

80.01.020 Source—[1949 c 117 § 2; Rem. Supp. 1949 § 10964-115-2.]

Presently codified as RCW 43.53.020 and 43.53.030.

80.01.030 Source—[RCW 43.53.040 which was derived from 1949 c 117 § 4 and 1945 c 267 §§ 2, 3, 5 and 6.]

This and the next section set forth most of the powers and duties of the public service commission. 1949 c 117, as amended is the latest expression of the organization and powers and duties of the public service commission. However, the powers and duties are defined generally in terms of a devolution by 1949 c 117 § 3. The entire chain in the devolution of powers and duties upon the present day public service commission is as follows: 1911 c 117; 1921 c 7 §§ 25, 26; 1935 c 8 § 1; 1945 c 267; 1949 c 117 §§ 1, 3, 8; 1951 c 260 § 1; and 1955 c 340 § 7.

In order to set out the substantive powers and duties of the public service commission, the 1941 Code Committee apparently

Explanatory  
note.

consulted the earlier laws. For example, 1949 c 117 § 4 from which this section is partly derived reads as follows:

The Commission shall appoint and employ a Secretary and such other qualified assistants as may be necessary to carry on the administrative work of the Commission. The Secretary shall be the custodian of the Commission's official seal, and shall keep full and accurate minutes of all transactions, proceedings and determinations of the Commission and perform such other duties as may be required by the Commission.

There is no counterpart in 1949 c 117 for the language "and such accounting, engineering, expert and clerical assistants" and "The commission may depute one or more of its assistants to perform, in the name of the commission, such duties of the commission as it deems expedient." which appears in RCW 43.53.040. This language was derived from 1945 c 267 §§ 2, 3, 5 and 6 and was probably used by the 1941 Code Committee on the strength of 1949 c 117 § 3(1) which reads as follows:

(1) To exercise all the powers and perform all the duties now vested in, and required to be performed by, the Director of Transportation and the Director of Public Utilities;

This treatment by the 1941 Code Committee has been adopted in this section and in section 80.01.040.

- 80.01.040 Source—[RCW 43.53.050 which was derived from (i) 1949 c 117 § 3; Rem. Supp. 1949 § 10964-115-3. (ii) 1945 c 267 § 5; Rem. Supp. 1945 § 10459-5. (iii) 1945 c 267 § 6; Rem. Supp. 1945 § 10459-6.] For the most part, the RCW version has been adopted in this section in order to designate the powers and duties of the public service commission and to eliminate the devolution approach in 1949 c 117 § 3(1). See notes to 80.01.030. Note that "chapter" has been changed to "title" and "80" deleted to compensate for the transfer of chapter 43.53 from Title 43 to Title 80.
- 80.01.050 Source—[1949 c 117 § 6; Rem. Supp. 1949 § 10964-115-6.] Presently codified as RCW 43.53.060. "section 1, chapter 164 of the Laws of the Extraordinary Session of 1925" to "section 80.01.070".
- 80.01.060 Source—[1925 ex.s. c 164 § 1; RRS § 10799-1.] Presently codified as RCW 43.53.070. "director of public works" to "commission" since the powers and duties referred to herein have devolved upon the public service commission through a chain of statutes as follows: 1935 c 8 § 1; 1945 c 267; 1949 c 117. "director" to "it", "for the general administration of the department" to "for its general administration", and "department of public works" to "commission" to correspond with the change of "director of public works" to "commission".
- 80.01.070 Source—[1949 c 117 § 7; Rem. Supp. 1949 § 10964-115-7.] Presently codified as RCW 43.53.080.
- 80.01.080 Source—[1949 c 117 § 11; Rem. Supp. 1949 § 10964-115-11.] Presently codified as RCW 43.53.090.
- 80.01.090 Source—[1949 c 117 § 5; Rem. Supp. 1949 § 10964-115-5.] Presently codified as RCW 43.53.100.
- 80.01.100 Source—[1911 c 117 § 5; RRS § 10341.] Not codified in RCW.

Chapter 80.04 Regulations—General

- 80.04.010 Source—[1955 c 316 § 2. Prior: 1929 c 223 § 1, part; 1923 c 116 § 1, part; 1911 c 117 § 8, part; RRS § 10344, part.] Presently codified as RCW 80.04.010.



In accord with their codification of 1911 c 117, the basic public service commission act, the 1941 Code Committee divided and codified this definition section in three titles, (chapter 22.24 and Titles 80 and 81). In the RCW version most of the definitions were rewritten, and although 1955 c 316 enacts these definitions as rewritten in Titles 80 and 81, and the definitions in chapter 22.24 have been restored and reenacted in 1957 by a Statute Law Committee bill, the language of 1911 c 117 § 8 as last amended by 1929 c 223 § 1 is restored herein and in section 81.04.010. This has been done for the following reasons:

Explanatory  
note.

(a) The legislature by the 1955 amendment apparently intended only to amend the definition of gas plant and did not thereby necessarily intend to approve the rest of the definitions as rewritten by the 1941 Code Committee (the 1955 language defining gas plant has been retained herein).

(b) Several questions were raised in a report by The Washington Railroad Association filed with the Statute Law Committee in January, 1953 as to the changes made in the definitions by the 1941 Code Committee.

(c) The session law language of 1911 c 117 is for the most part being restored in these proposed reenactments and the retention therein of the revised version of the definitions might not be in harmony with the restored substantive sections.

The session law, 1929 c 223 § 1, defines the term "public service company" as including every common carrier, gas company, electrical company, water company, telephone company, telegraph company, wharfinger and warehouseman. In order to accord with the division of the basic act, 1911 c 117, into three titles, "public service company" was limited in RCW 80.04.010 to include only gas company, electrical company, water company, telephone company and telegraph company. In RCW 81.04.010 it was defined as including every common carrier. Such disposition by the 1941 Code Committee omitted wharfingers and warehousemen from the definitions of "public service company" as they appeared both in RCW 80.04.010 and 81.04.010. This omission was dealt with in 1953 c 95 which added a new section to chapter 22.20:

"A storage warehouseman subject to the provisions of this chapter is a 'public service company' within the meaning of the provisions of Title 81."

which further added a new section to chapter 22.24:

"A wharfinger or warehouseman subject to the provisions of this chapter is a 'public service company' within the meaning of the provisions of Title 81."

and which amended several sections in Titles 80 and 81 to include warehousemen within several definitions of "public service company" appearing throughout Title 81. This treatment adopted by the 1941 Code Committee and augmented by the 1953 act is followed herein. Note that chapters 22.20 and 22.24 are herein included as part of Title 81. See also the notes for 81.04.130.

The introductory phrase, "As used in this title, unless the context indicates otherwise," used by the 1941 Code Committee in RCW has been retained, preceded by the phrase "unless specifically defined otherwise or". The RCW organization of the definitions has likewise been retained. The phrase "unless the context indicates otherwise" probably was used because some of the terms appearing in the section are re-defined by independent acts elsewhere in the title. In this connection the phrase "when used in this act", which appears

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note.

- in each session law definition has been deleted because 1911 c 117 is codified throughout the title and the definitions section is preceded by the phrase "as used in this title, unless specifically defined otherwise or unless the context indicates otherwise". Note, also, the words "The term", which preceded each definition has been deleted.
- 80.04.020 Source—[1911 c 117 § 75.]  
Presently codified as RCW 80.04.020 and 80.04.030.  
1911 c 117 § 75 was divided and doubly codified by the 1941 Code Committee as RCW 80.04.020, 80.04.030 and 81.04.020, 81.04.030. This treatment has been retained for reenactment. "way bills" deleted as not applicable to the public utilities title, and to conform with the placement of this section in both Titles 80 and 81.  
Note the phrase, "and that the witness has been summoned in the manner prescribed in this act." "act" has been changed to "chapter" since the provisions of "this act", 1911 c 117, on service of process are contained in chapter 80.04.
- 80.04.030 Source—[1911 c 117 § 75, part; RRS § 10413, part.]  
Presently codified as RCW 80.04.030 and 81.04.030. See notes to 80.04.020.
- 80.04.040 Source—[1955 c 79 § 1; 1911 c 117 § 76, part; RRS § 10414, part.]  
Presently codified as RCW 80.04.040.  
The 1941 Code Committee divided and codified 1911 c 117 § 76 in RCW 80.04.040, 80.04.050 and 80.04.060. This same division was repeated in RCW 81.04.040, 81.04.050 and 81.04.060. 1955 c 79 §§ 1 and 3 purportedly amended 1911 c 117 § 76 (RCW 80.04.040) and 1911 c 117 § 76 (RCW 81.04.040), respectively. The division of the 1941 Code Committee has been followed with the session law language restored.
- 80.04.050 Source—[1911 c 117 § 76, part; RRS § 10414, part.]  
Presently codified as RCW 80.04.050 and 81.04.050. See notes to 80.04.040.  
The last sentence was omitted by the 1941 Code Committee apparently as covered by the first paragraph of RCW 80.04.020. It is here restored.
- 80.04.060 Source—[1911 c 117 § 76, part; RRS § 10414, part.]  
Presently codified as RCW 80.04.060 and 81.04.060. See notes to 80.04.040.  
"way bills" deleted as not applicable to the public utilities title, and to accord with the placement of this section in both Titles 80 and 81.  
Note the sentence, "Process issued under the provisions of this act shall be served as in civil cases." "act" has been changed to "chapter" since the provisions of this act, 1911 c 117, under which process might be issued are contained in chapter 80.04.
- 80.04.070 Source—[1911 c 117 § 77; RRS § 10415.]  
Presently codified as RCW 80.04.070 and 81.04.070.
- 80.04.075 Source—[1933 c 165 § 7; RRS § 10458-1.]  
Presently codified as RCW 80.04.370 and 81.04.370.  
"act" to "title".
- 80.04.080 Source—[1911 c 117 § 78, part; RRS § 10416, part.]  
Presently codified as RCW 80.04.080 and 81.04.080.  
Note on page 11, line 5, after the word "to" and before the word "employees" the word "passengers" has been deleted as not applicable to public utilities and to accord with the placement of this section in both Titles 80 and 81.  
Note on page 11, line 10 the word "business" has been substituted for the word "traffic" to accord with the placement of this section in both Titles 80 and 81.  
Note on page 11, line 10 after the word "business" that the

phrase "the nature of the traffic movement showing the percentage of the ton miles each class of commodity bears to the total ton mileage," has been deleted as not applicable to the public utilities title and to accord with the placement of this section in both Titles 80 and 81.

Explanatory  
note.

Note on page 11, line 16 the word "company" has been substituted for the word "carrier" to accord with the placement of this section in both Titles 80 and 81.

Note on page 11, line 19 after the word "concerning" and before the word "charges", the word "fares" has been deleted as not applicable to the public utilities title and to accord with the placement of this section in both Titles 80 and 81. The words "or freights" appearing on page 11, line 19 have also been deleted.

"act" to "title".

The division and codification of 1911 c 117 § 78 in RCW 80.04-.080 and 80.04.090 by the 1941 Code Committee has been retained.

80.04.090 Source—[1911 c 117 § 78, part; RRS § 10416, part.]

Presently codified as RCW 80.04.090 and 81.04.090.

80.04.100 Source—[1933 c 165 § 2; 1911 c 117 § 79; RRS § 10421.]

Presently codified as RCW 80.04.100 and 81.04.100.

"department of public works" to "commission".

80.04.110 Source—[1913 c 145 § 1; 1911 c 117 § 80; RRS § 10422.]

Presently codified as RCW 80.04.110 and 81.04.110.

80.04.120 Source—[1911 c 117 § 81; RRS § 10423.]

Presently codified as RCW 80.04.120 and 81.04.120.

80.04.130 Source—[1941 c 162 § 1; 1937 c 169 § 2; 1933 c 165 § 3; 1915 c

133 § 1; 1911 c 117 § 82; Rem. Supp. 1941 § 10424.]

Presently codified as RCW 80.04.130 and 81.04.130.

Note on page 15, lines 14, 19 and 26 after "rate" and before "charge", the word "fare" deleted as not applicable to the public utilities title and to accord with the placement of this section in both Titles 80 and 81.

On page 15, line 19 note after the word "toll" the clause, "if such change is proposed by a common carrier subject to the jurisdiction of the department for a period not exceeding seven months, and, if proposed by a public service company other than such a common carrier" has been deleted since "public service company" as defined in section 80.04.010 includes companies other than common carriers. Note in the last line after "public service company" the following proviso has been deleted as not applicable to the public utilities title and to accord with the placement of this section in both Titles 80 and 81.

PROVIDED HOWEVER, That when any common carrier subject to the jurisdiction of the Department shall file any tariff, classification, rule or regulation the effect of which is to decrease any rate, fare or charge, the burden of proof to show that such decrease is just and reasonable shall be upon such common carrier.

80.04.140 Source—[1911 c 117 § 83; RRS § 10425.]

Presently codified as RCW 80.04.140 and 81.04.140.

80.04.150 Source—[1911 c 117 § 84; RRS § 10426.]

Presently codified as RCW 80.04.150 and 81.04.150.

80.04.160 Source—[1911 c 117 § 85; RRS § 10427.]

Presently codified as RCW 80.04.160 and 81.04.160.

On page 16, line 26 note after the word "the" the following matter was deleted as not applicable to the public utilities title and to accord with the placement of this section in both Titles 80 and 81:

". . . bulletining of trains, showing the time of ar-

Explanatory  
note.

- rival and departure of all trains, and the probable arrival and departure of delayed trains; the conditions to be contained in and become a part of contracts for transportation of persons and property,"
- For the same reason on page 16, line 29 after the word "there-with;" the following matter was also deleted:
- " . . . the time that station rooms and offices shall be kept open; rules governing demurrage and reciprocal demurrage, and to provide reasonable penalties to expedite the prompt movement of freight and release of cars, the limits of express deliveries in cities and towns,"
- "act" to "title".
- 80.04.165 Source—[1953 c 120 § 1.]  
Presently codified as RCW 80.04.165.
- 80.04.170 Source—[1937 c 169 § 3; 1911 c 117 § 86; RRS § 10428.]  
Presently codified as RCW 80.04.170 and 81.04.170.
- 80.04.180 Source—[1933 c 165 § 6. Prior: 1931 c 119 § 2; 1911 c 117 § 87; RRS § 10429.]  
Presently codified as RCW 80.04.180 and 81.04.180.  
The word "fares" deleted after "rates" on page 19, line 2 and "transportation" deleted before "transmission" on page 19, line 15 as not applicable to the public utilities title and to accord with the placement of this section in both Titles 80 and 81.
- 80.04.190 Source—[1911 c 117 § 88; RRS § 10430.]  
Presently codified as RCW 80.04.190 and 81.04.190.  
"act" to "title".
- 80.04.200 Source—[1911 c 117 § 89; RRS § 10431.]  
Presently codified as RCW 80.04.200 and 81.04.200.
- 80.04.210 Source—[1911 c 117 § 90; RRS § 10432.]  
Presently codified as RCW 80.04.210 and 81.04.210.
- 80.04.220 Source—[1943 c 258 § 1; 1937 c 29 § 1; Rem. Supp. 1943 § 10433.]  
Presently codified as RCW 80.04.220 and 81.04.220.  
On page 21, line 25 after the word "rate", the word "fare" deleted, see notes to 80.04.130.
- 80.04.230 Source—[1937 c 29 § 2; RRS § 10433-1.]  
Presently codified as RCW 80.04.230 and 81.04.230.
- 80.04.240 Source—[1943 c 258 § 2; 1937 c 29 § 3; Rem. Supp. 1943 § 10433-2.]  
Presently codified as RCW 80.04.240 and 81.04.240.  
Note that the counterpart of this section in RCW 81.04.240 was amended by 1955 c 79 § 9.
- 80.04.250 Source—[1933 c 165 § 4; 1913 c 182 § 1; 1911 c 117 § 92; RRS § 10441.]  
Presently codified as RCW 80.04.250 and 81.04.250.  
Note that the counterpart of this section in RCW 81.04.250 was amended by 1951 c 75 § 1.  
"act" to "title".
- 80.04.260 Source—[1911 c 117 § 93; RRS § 10442.]  
Presently codified as RCW 80.04.260 and 81.04.260.  
On page 24, line 7 "act" to "title".  
On page 24, line 33, "act" to "chapter".  
since "all provisions of this act (1911 c 117) relating to the time of appeals, etc." are contained in chapter 80.04.
- 80.04.270 Source—[1933 c 165 § 8; RRS § 10458-2.]  
Presently codified as RCW 80.04.270 and 81.04.270.
- 80.04.280 Source—[1933 c 165 § 9; RRS § 10458-3.]  
Presently codified as RCW 80.04.280 and 81.04.280.
- 80.04.290 Source—[1955 c 79 § 2; 1923 c 110 § 1; RRS § 10344-1.]  
Presently codified as RCW 80.04.290.
- 80.04.300 Source—[1959 c 248 § 11. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.]

- 80.04.310 Source—[1959 c 248 § 12. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.] Explanatory note.
- 80.04.320 Source—[1959 c 248 § 13. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.]  
 “80.04.300 to 80.04.330” to “80.04.300 through 80.04.330” as such is a literal translation of the phrase “this section” as used in the 1933 session law, and corrects the erroneous translation made by the 1941 Code Committee and ratified by the 1959 legislature.
- 80.04.330 Source—[1959 c 248 § 14. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.]  
 “these sections” to “RCW 80.04.300 through 80.04.330”; see note to 80.04.320.
- 80.04.340 Source—[1933 c 165 § 11; RRS § 10458-5.]  
 Presently codified as RCW 80.04.340 and 81.04.340.
- 80.04.350 Source—[1937 c 169 § 4; 1933 c 165 § 13; RRS § 10458-7.]  
 Presently codified as RCW 80.04.350 and 81.04.350.
- 80.04.360 Source—[1959 c 285 § 2; 1933 c 165 § 14; RRS § 10458-8.]  
 Presently codified as RCW 80.04.360 and 81.04.360.  
 Proviso at end of section which was added by the 1959 amendment (“provided, That the terms of this amendatory section shall not affect any pending court proceeding”) deleted as inappropriate for 1961 reenactment of this title. The section at that time will not be an “amendatory section”, and any actions pending at the date of reenactment would be preserved by the general saving language contained in RCW 80.98.040.
- 80.04.370 Source—[1933 c 165 § 7; RRS § 10458-1.]  
 Presently codified as RCW 80.04.370 and 81.04.370; herein 80.04.075 and 81.04.075.
- 80.04.380 Source—[1911 c 117 § 94; RRS § 10443.]  
 Presently codified as RCW 80.04.380, part and 81.04.380, part.  
 “act” to “title”.
- 80.04.385 Source—[1911 c 117 § 95; RRS § 10444.]  
 Presently codified as RCW 80.04.390, part and 81.04.390, part.  
 “act” to “title”.
- 80.04.387 Source—[1911 c 117 § 96; RRS § 10445.]  
 Presently codified as RCW 80.04.380, part and 81.04.380, part.  
 “act” to “title”.
- 80.04.390 Source—[1911 c 117 § 97; RRS § 10446.]  
 Presently codified as RCW 80.04.390, part and 81.04.390, part.  
 “act” to “title”.
- 80.04.400 Source—[1911 c 117 § 98; RRS § 10447.]  
 Presently codified as RCW 80.04.400 and 81.04.400.  
 “act” to “title”.  
 The phrase “and credited to the state general fund or such other fund as provided by law” added to harmonize this section with 80.24.050 which requires certain penalties to be deposited in the public service revolving fund.
- 80.04.410 Source—[1911 c 117 § 99; RRS § 10448.]  
 Presently codified as RCW 80.04.410 and 81.04.410.  
 “act” to “title”.
- 80.04.420 Source—[1943 c 67 § 1; Rem. Supp. 1943 § 10448-1.]  
 Presently codified as RCW 80.04.420 and 81.04.420.
- 80.04.430 Source—[1911 c 117 § 100; RRS § 10449.]  
 Presently codified as RCW 80.04.430 and 81.04.430.
- 80.04.440 Source—[1911 c 117 § 102; RRS § 10451.]  
 Presently codified as RCW 80.04.440 and 81.04.440.  
 “act” to “title”.
- 80.04.450 Source—[1911 c 117 § 103; RRS § 10452.]  
 Presently codified as RCW 80.04.450 and 81.04.450.  
 Note the 1941 Code Committee omitted the last sentence

Explanatory  
note.

"as it was included through error." This omission has been followed since the sentence seems meaningless in this section and also it is the same as the last sentence in section 80.04-.440 which might help explain the error of including it in this section. The sentence reads as follows:

An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any person or corporation.

80.04.460 Source—[1953 c 104 § 2. Prior: 1911 c 117 § 63, part; RRS § 10399, part.]

Presently codified as RCW 80.04.460.

80.04.470 Source—[1911 c 117 § 101; RRS § 10450.]

Presently codified as RCW 80.04.470 and 81.04.460.

"act" to "title".

80.04.480 Source—[1911 c 117 § 104; RRS § 10453.]

Presently codified as RCW 80.04.480, 80.04.490 and 81.04.470, 81.04.480.

Note the following proviso has been deleted as not applicable to public utilities:

**PROVIDED**, That no contract, receipt, rule or regulation shall exempt any corporation engaged in transporting livestock by railway from liability of a common carrier, or carrier of livestock, which would exist had no contract, receipt, rule or regulation been made or entered into.

80.04.500 Source—[1911 c 117 § 105; RRS § 10454.]

Presently codified as RCW 80.04.500 and 81.04.490.

Note on page 34, line 2 before "telephone line", the words "street railroad" deleted to accord with the placement of this section in both Titles 80 and 81.

"act" to "title".

80.04.510 Source—[1911 c 117 § 5.]

Presently omitted from RCW.

#### Chapter 80.08 Securities

80.08.010 Source—[1959 c 248 § 2; 1953 c 95 § 4; 1933 c 151 § 1, part; RRS § 10439-1, part.]

Presently codified as RCW 80.08.010.

80.08.020 Source—[1933 c 151 § 2; RRS § 10439-2.]

Presently codified as RCW 80.08.020 and 81.08.020.

80.08.030 Source—[1953 c 95 § 5; 1937 c 30 § 1; 1933 c 151 § 3; RRS § 10439-3.]

Presently codified as RCW 80.08.030.

80.08.040 Source—[1933 c 151 § 4; RRS § 10439-4.]

Presently codified as RCW 80.08.040 and 81.08.040.

80.08.050 Source—[1933 c 151 § 5; RRS § 10439-5.]

Presently codified as RCW 80.08.050 and 81.08.050.

80.08.060 Source—[1959 c 248 § 20. Prior: 1937 c 30 § 2, part; 1933 c 151 § 6, part; RRS § 10439-6, part.]

Presently codified as RCW 80.08.060 and 81.08.060.

The 1941 Code Committee divided and codified 1937 c 30 § 2 in RCW 80.08.060, 81.08.060 and 80.08.070, 81.08.070.

"act" to "chapter" since 1933 c 151 as amended is presented for reenactment herein in chapter 80.08, alone.

80.08.070 Source—[1959 c 248 § 21. Prior: 1951 c 227 § 1; 1937 c 30 § 2, part; 1933 c 151 § 6; RRS § 10439-6, part.]

80.08.080 Source—[1933 c 151 § 7; RRS § 10439-7.]

Presently codified as RCW 80.08.080 and 81.08.080.

80.08.090 Source—[1933 c 151 § 8; RRS § 10439-8.]

Presently codified as RCW 80.08.090 and 81.08.090.

80.08.100 Source—[1933 c 151 § 9; RRS § 10439-9.]

Presently codified as RCW 80.08.090 and 81.08.090.

- 80.08.105 Source—[1933 c 151 § 10; RRS § 10435-10.] Explanatory  
note.  
Presently omitted from RCW.  
“after this act takes effect,” to “after chapter 151, Laws of 1933 takes effect,” “previous to the taking effect of this act,” to “previous to the taking effect of chapter 151, Laws of 1933,” Last paragraph added on basis of 1933 c 151 § 1a which provides,  
“The term ‘department’ when used in this act shall mean the department of public works of Washington or such body as may succeed to the powers and duties now exercised by the department of public works.”
- 80.08.110 Source—[1933 c 151 § 11; RRS § 10439-11.]  
Presently codified as RCW 80.08.110 and 81.08.110.  
“act” to “chapter”.
- 80.08.120 Source—[1933 c 151 § 12; RRS § 10439-12.]  
Presently codified as RCW 80.08.120 and 81.08.120.  
“act” to “chapter”.
- 80.08.130 Source—[1933 c 151 § 13; RRS § 10439-13.]  
Presently codified as RCW 80.08.130 and 81.08.130.
- 80.08.140 Source—[1933 c 151 § 14; RRS § 10439-14.]  
Presently codified as RCW 80.08.140 and 81.08.140.  
“act” to “chapter”.

## Chapter 80.12 Transfers of Property

- 80.12.010 Source—[1953 c 95 § 6; 1941 c 159 § 1, part; Rem. Supp. 1941 § 10440a.]  
Presently codified as RCW 80.12.010.
- 80.12.020 Source—[1945 c 75 § 1; 1941 c 159 § 2; Rem. Supp. 1945 § 10440b.]  
Presently codified as RCW 80.12.020 and 81.12.020.
- 80.12.030 Source—[1941 c 159 § 3; Rem. Supp. 1941 § 10440c.]  
Presently codified as RCW 80.12.030 and 81.12.030.
- 80.12.040 Source—[1941 c 159 § 4; Rem. Supp. 1941 § 10440d.]  
Presently codified as RCW 80.12.040 and 81.12.040.  
“act” to “chapter”, since 1941 c 159, as amended, is presented for reenactment herein in chapter 80.12, alone.
- 80.12.050 Source—[1941 c 159 § 5; Rem. Supp. 1941 § 10440e.]  
Presently codified as RCW 80.12.050 and 81.12.050.  
“act” to “chapter”.
- 80.12.060 Source—[1941 c 159 § 6; Rem. Supp. 1941 § 10440f.]  
Presently codified as RCW 80.12.060 and 81.12.060.  
“act” to “chapter”.

## Chapter 80.16 Affiliated Interests

- 80.16.010 Source—[1953 c 95 § 7; 1933 c 152 § 1, part; RRS § 10440-1, part.]  
Presently codified as RCW 80.16.010.
- 80.16.020 Source—[1941 c 160 § 1; 1933 c 152 § 2; Rem. Supp. 1941 § 10440-2.]  
Presently codified as RCW 80.16.020 and 81.16.020.  
Note on page 45, line 3 after the word “interests”, the phrase “except open account advances from or to a common carrier subject to the provisions of Part One of the Interstate Commerce Act,” has been deleted as not applicable to the public utilities title, and to accord with the codification of this section in both Titles 80 and 81.  
On page 45, line 8 “the effective date of this chapter” to “March 18, 1933”.  
“act” to “chapter” since 1933 c 152, as amended, is presented for reenactment herein in chapter 80.16, alone.
- 80.16.030 Source—[1933 c 152 § 3; RRS § 10440-3.]  
Presently codified as RCW 80.16.030 and 81.16.030.

- Explanatory  
note.
- 80.16.040 Source—[1933 c 152 § 4; RRS § 10440-4.]  
Presently codified as RCW 80.16.040 and 81.16.040.  
“foregoing sections” to “RCW 80.16.010 through 80.16.030”.
- 80.16.050 Source—[1933 c 152 § 5; RRS § 10440-5.]  
Presently codified as RCW 80.16.050 and 81.16.050.
- 80.16.060 Source—[1933 c 152 § 6; RRS § 10440-6.]  
Presently codified as RCW 80.16.060 and 81.16.060.  
Note on page 46, line 30 after the word “approval” the  
phrase “as required by this section” is deleted as a misrefer-  
ence since the section requiring approval is 80.16.020. The 1941  
Code Committe also omitted the same phrase.
- 80.16.070 Source—[1933 c 152 § 7; RRS § 10440-7.]  
Presently codified as RCW 80.16.070 and 81.16.070.
- 80.16.080 Source—[1933 c 152 § 8; RRS § 10440-8.]  
Presently codified as RCW 80.16.080 and 81.16.080.
- 80.16.090 Source—[1933 c 152 § 9; RRS § 10440-9.]  
Presently codified as RCW 80.16.090 and 81.16.090.

#### Chapter 80.20 Investigation of Public Service Companies

- 80.20.010 Source—[1953 c 95 § 8; 1939 c 203 § 1; RRS § 10458-6.]  
Presently codified as RCW 80.20.010.
- 80.20.020 Source—[1939 c 203 § 2(a); RRS § 10458-6a(a).]  
Presently codified as RCW 80.20.020 and 81.20.020.
- 80.20.030 Source—[1939 c 203 § 2(b); RRS § 10458-6a (b).]  
Presently codified as RCW 80.20.030 and 81.20.030.
- 80.20.040 Source—[1939 c 203 § 2(c); RRS § 10458-6a(c).]  
Presently codified as RCW 80.20.040 and 81.20.040.  
“this section” to “sections 80.20.020 through 80.20.060”.
- 80.20.050 Source—[1939 c 203 § 2(d); RRS § 10458-6a(d).]  
Presently codified as RCW 80.20.050 and 81.20.050.  
“this section” to “sections 80.20.020 through 80.20.060”.
- 80.20.060 Source—[1939 c 203 § 2(e); RRS § 10458-6a(e).]  
Presently codified as RCW 80.20.060 and 81.20.060.  
“act” to “chapter” since 1939 c 203, as amended, is presented  
for reenactment in chapter 80.20, alone.

#### Chapter 80.24 Regulatory Fees

- 80.24.010 Source—[1955 c 125 § 2. Prior: 1939 c 123 § 1, part; 1937 c 158  
§ 1, part; 1929 c 107 § 1, part; 1923 c 107 § 1, part; 1921 c 113  
§ 1, part; RRS § 10417, part.]  
Presently codified as RCW 80.24.010.  
Note that 1939 c 123 § 1 was divided and doubly codified as  
RCW 80.24.010, 80.24.020 and 81.24.010, 81.24.050.  
All of these sections were subsequently amended (1955 c 125)  
by reference to their RCW number and the session law.
- 80.24.020 Source—[1955 c 125 § 3. Prior: 1939 c 123 § 1, part; 1937 c 158  
§ 1, part; RRS § 10417, part.]  
Presently codified as RCW 80.24.020.
- 80.24.030 Source—[1937 c 158 § 7; RRS § 10417-5.]  
Presently codified as RCW 80.24.030 and 81.24.060.  
Note the 1941 Code Committee omitted the first sentence as  
repetitive.
- 80.24.040 Source—[1937 c 158 § 6; RRS § 10417-4.]  
Presently codified as RCW 80.24.040 and 81.24.070.  
Note the 1941 Code Committee also included 1945 c 267 § 10 in  
the codification of this section as the basis for the creation of  
the public service revolving fund. 1945 c 267 § 10 is a statute  
transferring moneys from the public service revolving fund  
to funds created in the departments of transportation and  
public utilities. 1949 c 117 § 11 in turn abolished these funds  
and created a new public service revolving fund. 1949 c 117  
§ 11 is included for reenactment herein as section 80.01.080.



- “act”—The translation of the term “this act” in the session law is somewhat related to a similar problem in section 80.24.050 (1923 c 107 § 2). This latter section also contains the word “act”, and imposes penalties for failure to pay the fees “herein”, referring to 1923 c 107 § 1 which originally contained the schedule of fees. 1937 c 158 repealed 1923 c 107 § 1 and substituted a revised fee schedule. No penalties for failure to pay the fees were imposed, nor was any reference made to 1923 c 107 § 2 (81.24.080). Thus, the legislature probably intended that the penalty section should continue to operate on the failure to pay the new fees. On this basis “act” in 1937 c 158 § 6 has been changed to “chapter” (all of 1937 c 158, as amended, appears in chapter 80.24). In 1923 c 107 § 2 (section 80.24.050) “act” has been changed to “chapter” and “herein” has been retained. (1923 c 107 amended 1921 c 113 the remaining sections of which, 2 and 4, are obsolete). The 1941 Code Committee treated the matter in the same way.
- 80.24.050 Source—[1923 c 107 § 2; 1921 c 113 § 3; RRS § 10419.]  
Presently codified as RCW 80.24.050 and 81.24.080.  
“herein”, “this act”, see notes to 80.24.040.

Explanatory  
note.

In the notes for the remaining chapters of this title, unless otherwise indicated, the session laws are presently codified in the same RCW section that appears in the left column.

#### Chapter 80.28 Gas, Electrical and Water Companies

- 80.28.010 Source—[1911 c 117 § 26; RRS § 10362.]
- 80.28.020 Source—[1911 c 117 § 54, part; RRS § 10390, part.]  
The 1941 Code Committee divided and codified 1911 c 117 § 54 as RCW 80.28.020, 80.28.030, and 80.28.040. This division has been followed since each RCW section contains a separate paragraph of the session law, and it does not appear that any substantive change is involved.  
“as herein provided” and “as hereinafter provided” deleted since the basic law, 1911 c 117, appears in several chapters in RCW.
- 80.28.030 Source—[1911 c 117 § 54, part; RRS § 10390, part.]  
See notes to 80.28.020.
- 80.28.040 Source—[1911 c 117 § 54, part; RRS § 10390, part.]  
See notes to 80.28.020.  
“as hereinafter provided” deleted after “order or rule” at end of section, see notes to 80.28.020.
- 80.28.050 Source—[1911 c 117 § 27; RRS § 10363.]
- 80.28.060 Source—[1911 c 117 § 28; RRS § 10364.]  
“the preceding section” to “RCW 80.28.050”.
- 80.28.070 Source—[1911 c 117 § 32; RRS § 10368.]  
“act” to “chapter”, since the sections of 1911 c 117 dealing particularly with gas, electrical and water companies appear in chapter 80.28.
- 80.28.080 Source—[1911 c 117 § 29; RRS § 10365.]
- 80.28.090 Source—[1911 c 117 § 30; RRS § 10366.]
- 80.28.100 Source—[1911 c 117 § 31; RRS § 10367.]  
“act” to “chapter” since the exceptions referred to are contained in the sections of 1911 c 117 codified in chapter 80.28.
- 80.28.110 Source—[1911 c 117 § 33; RRS § 10369.]
- 80.28.120 Source—[1933 c 165 § 1; 1911 c 117 § 34; RRS § 10370.]  
“act” to “title”.  
“at the date this act takes effect” to “on June 7, 1911.”  
The two above phrases appear in the 1911 act.
- 80.28.130 Source—[1911 c 117 § 70; RRS § 10406.]
- 80.28.140 Source—[1911 c 117 § 74, part; RRS § 10410, part.]  
The 1941 Code Committee divided and codified 1911 c 117 § 54 as RCW 80.28.140 through 80.28.180. This division has been

Explanatory  
note.

followed since each RCW section contains at least one separate paragraph of the session law and it does not appear that any substantive change is involved.

- 80.28.150 Source—[1911 c 117 § 74, part; RRS § 10410, part.]  
See notes to 80.28.140.
- 80.28.160 Source—[1911 c 117 § 74, part; RRS § 10410, part.]  
See notes to 80.28.140.
- 80.28.170 Source—[1911 c 117 § 74, part; RRS § 10410, part.]  
See notes to 80.28.140.
- 80.28.180 Source—[1911 c 117 § 74, part; RRS § 10410, part.]  
“this section” to “RCW 80.28.140 through 80.28.170”.
- 80.28.190 Source—[1955 c 316 § 4.]  
“the effective date of this act” to “June 8, 1955”.  
In the first and third paragraphs, “this act” to “this chapter”.  
In the fourth paragraph, “this act” to “this section” and  
“any part of provisions hereof” to “any provision of this  
section”.  
In the fifth paragraph, “this act” to “this section, RCW 80-  
.28.220, 80.28.210”.
- 80.28.200 Source—[1955 c 316 § 5.]
- 80.28.210 Source—[1955 c 316 § 6.]  
“this act” to “this section”.
- 80.28.220 Source—[1957 c 191 § 1.]
- 80.28.230 Source—[1957 c 191 § 2.]

Chapter 80.32 Electric Franchises and Rights of Way

- 80.32.010 Source—[1903 c 173 § 1; RRS § 5430.]  
This session law section was divided by the 1941 Code Committee as RCW 80.32.010, 80.32.020, and 80.32.030 and the provisos were made straight matter.  
It is here rejoined and restored to session law language, except that at the commencement of the first proviso, after “PROVIDED, THAT” and before “on application” we have deleted the word “hereafter” since we are here reenacting a section which has been in effect since 1903.
- 80.32.040 Source—[(i) 1941 c 114 § 1; Rem. Supp. 1941 § 5430-1. (ii) 1941 c 114 § 2; Rem. Supp. 1941 § 5430-2.]  
The 1941 Code Committee combined these sections probably as a result of the proviso being tagged onto the end of 1941 c 114 § 2, an emergency section, through an enrolling error. The session law language has been restored for reenactment with the proviso appearing in its proper place as added by amendment recorded in the 1941 printed bill book.
- 80.32.050 Source—[1903 c 173 § 3; RRS § 5431.]  
Note the 1941 Code Committee omitted as obsolete the last part of the section which reads:  
and all such leases and purchases heretofore made or entered into by consent of stockholders as aforesaid are for all intents and purposes hereby ratified and confirmed, saving, however, any vested rights of private parties.  
The above phrase is here restored and revised by substituting “prior to the effective date of chapter 173, Laws of 1903” for “heretofore”.
- 80.32.060 Source—[1903 c 173 § 2; No RRS (see 1941 Code Committee notes to RCW).]  
“section one (1) of this act” to “RCW 80.32.010”.
- 80.32.070 Source—[1899 c 94 § 2; RRS § 11085.]  
The 1941 Code Committee added a reviser’s note to this section reading as follows:  
The 1899 act was superseded by 1903 c 173 and 175 but there was no express repeal in the 1903 acts so the nonconflicting part of the 1899 act still stands.

“such corporation” in the session law referred to both electric power companies and electric railways. The 1941 Code Committee codified this section twice, RCW 80.32.070 and 81.64.050, which latter section appears in the chapter on street railways, and it is so treated herein.

Explanatory  
note.

- 80.32.080 Source—[1907 c 159 § 1; RRS § 5432.]  
“this act” to “RCW 80.32.080 through 80.32.100”.
- 80.32.090 Source—[1907 c 159 § 2; RRS § 5433.]  
“this act” to “RCW 80.32.080 through 80.32.100”.
- 80.32.100 Source—[1907 c 159 § 3; RRS § 5434.]  
“this act” to “RCW 80.32.080 and 80.32.090”.

#### Chapter 80.36 Telephone and Telegraph Companies

- 80.36.010 Source—[1890 p 292 § 1; RRS § 11338.]
- 80.36.020 Source—[1888 p 65 § 1; RRS § 11339.]  
“territory” to “state”.
- 80.36.030 Source—[1888 p 66 § 2; RRS § 11342.]  
“however” deleted from “provided, however,”.
- 80.36.040 Source—[1890 p 292 § 5; RRS § 11352.]
- 80.36.050 Source—[(i) 1890 p 292 § 3; RRS § 11340. (ii) 1890 p 293 § 9; RRS § 11356.]  
Since 1890 p 293 § 9 is the section providing penalties for the violation of 1890 p 292 § 3, these sections have been combined as two separate paragraphs in the same section, while retaining the session law language.
- 80.36.060 Source—[1890 p 293 § 7; RRS § 11354.]  
“the preceding section” to “RCW 80.36.070” wherein 1890 p 293 § 6 appears.
- 80.36.070 Source—[(i) 1890 p 293 § 6; RRS § 11353. (ii) 1890 p 293 § 10; RRS § 11357.]  
1890 p 293 § 6 and § 10 combined in one section, as was done by the 1941 Code Committee because of the related subject matter, but with the session law language retained.
- 80.36.080 Source—[1911 c 117 § 35, part; RRS § 10371, part.]  
The 1941 Code Committee divided and codified 1911 c 117 § 35 as RCW 80.36.080 and 80.36.090. This division has been followed since each RCW section contains a separate thought, and it does not appear that any substantive change is involved.
- 80.36.090 Source—[1911 c 117 § 35, part; RRS § 10371, part.]  
See notes to 80.36.080.
- 80.36.100 Source—[1911 c 117 § 36; RRS § 10372.]
- 80.36.110 Source—[1911 c 117 § 37; RRS § 10373.]  
“the preceding section” to “RCW 80.36.100”.
- 80.36.120 Source—[1911 c 117 § 38; RRS § 10374.]
- 80.36.130 Source—[1911 c 117 § 40; RRS § 10376.]  
“act” to “title”.  
RCW revised the second proviso of 1929 c 96 § 1; 1911 c 117 § 18; RRS § 10354 and combined it with this section. Such proviso is here restored in language and context and appears herein as part of Sec. 81.28.080.  
The mention of telephone and telegraph companies in 81.28-.080 is recognized by the translation in 80.36.180 of “this act” to “this title or Title 81”.
- 80.36.140 Source—[1911 c 117 § 55; RRS § 10391.]  
At end of first and second paragraphs, “as hereinafter provided” to “as provided in this title”.
- 80.36.150 Source—[1911 c 117 § 39; RRS § 10375.]
- 80.36.160 Source—[1943 c 68 § 1; 1923 c 118 § 1; 1911 c 117 § 73; Rem. Supp. 1943 § 10409.]
- 80.36.170 Source—[1911 c 117 § 42; RRS § 10378.]
- 80.36.180 Source—[1911 c 117 § 41; RRS § 10377.]  
“this act” to “this title or Title 81”, see notes for 80.36.130.

- Explanatory note.**
- 80.36.190 Source—[1911 c 117 § 44; RRS § 10380.]  
“this act” to “this title”.
- 80.36.200 Source—[1911 c 117 § 45; RRS § 10381.]
- 80.36.210 Source—[Code 1881 § 2361; RRS § 11344. Prior: 1866 p 77 § 20.]  
“the territory” to “this state”.
- 80.36.220 Source—[(i) 1890 p 292 § 2; RRS § 11343. (ii) 1890 p 293 § 8; RRS § 11355.]  
“said corporations and companies” to “telegraph and telephone companies” to avoid the indefinite reference.  
“corporation” to “company” to correspond with the change from “said corporations”.
- 80.36.230 Source—[1941 c 137 § 1; Rem. Supp. 1941 § 11358-1.]
- 80.36.240 Source—[1941 c 137 § 2; Rem. Supp. 1941 § 11358-2.]  
“this act” to “RCW 80.36.230 and 80.36.240” wherein 1941 c 137 appears.  
“chapter 117 of the Laws of 1911” to “this title”.
- 80.36.250 Source—[1911 c 117 § 58; RRS § 10394.]  
Note the 1941 Code Committee codified 1911 c 117 § 58 in both Titles 80 and 81 (81.28.250). However, in RCW 80.36.250 the Committee changed the reference from “‘An Act to regulate commerce’, approved February 4, 1887, as amended,” to “the federal communications act of June 19, 1934” and changed “interstate commerce commission” to “the Federal Communications Commission”. The basis for these changes apparently was the repeal of the Interstate Commerce Act insofar as it related to “communications by wire or wireless or to telegraph, telephone, or cable companies” 48 Stat. 602(b). Excepted from the operation of the repeal was the last proviso of section 1(5) and section 1(7) of the interstate commerce act. The last proviso of section 1(5) was later amended out, but section 1(7) still appears in the transportation code (US Title 49) and still refers to the exchange of passes and franks by telegraph and telephone companies. It should be noted that the 1934 federal communications act also refers to the exchange of passes and franks by said companies. For the purposes of this reenactment, the 1941 Code Committee approach has been followed.
- 80.36.260 Source—[1911 c 117 § 71; RRS § 10407.]
- 80.36.270 Source—[1911 c 117 § 43; RRS § 10379.]  
“act” to “title”.

#### Chapters 80.40, 80.44 and 80.48

These chapters relating to municipal utilities more logically belong with cities and towns where they were codified prior to the adoption of RCW. They have accordingly been omitted from this reenactment and upon the enactment of this bill the subject matter contained in said chapters will be codified in the 1961 supplement to RCW as a part of Title 35, Cities and Towns.

#### Chapter 80.98 Construction

- 80.98.010 This section has been added to preserve continuity with the laws which this bill reenacts.
- 80.98.020 Provides that chapter, etc., headings are not part of the law.
- 80.98.030 Severability.
- 80.98.040 Repeals and saving.  
The acts repealed herein either relate to Title 80 only or are those acts which as indicated in the general explanatory note, have been doubly codified in both Title 80 and Title 81. The acts relating to Title 81 are repealed by sec. 81.98.040. Except as noted below, the laws set forth in the schedule of repeals were either repealed previously, or are sub-

stantially reenacted in this bill or are accounted for herein as omitted sections. The numbers in parentheses correspond with the like numbered subdivisions of the repealer schedule. Explanatory note.

- (2) §§ 3-8 omitted as superseded.
  - (4) § 1 omitted as superseded by 1903 c 173 § 2 (RCW 80.32.060). § 2 omitted as superseded by 1899 c 94 § 2 (RCW 80.32.070). § 3 omitted as superseded by 1903 c 173 § 2 (RCW 80.32.060).
  - (5) §§ 1 and 3 omitted as superseded by 1903 c 173.
  - (8) §§ 2, 6, and 106 through 112 omitted as obsolete or superseded.
  - (14) § 2 omitted as superseded by 1937 c 158 § 6, herein 80.24.040. § 4 omitted as temporary.
  - (20) Omitted as superseded by 1949 c 117 § 7; herein 80.01.070.
  - (23) Omitted as held unconstitutional in *North Bend Stage Line, Inc. v. Department of Public Works*, 170 Wash. 217.
  - (27) § 5 omitted as obsolete. § 15 omitted as covered by 80.04.170—80.04.190.
  - (32) § 1 omitted as superseded by RCW 43.53.100, herein 80.01.100.
  - (44) §§ 2-4 omitted as superseded by chapter 117, Laws of 1949. §§ 7-9 omitted as obsolete.
  - (45) §§ 8, 9, 10 and 12 omitted as obsolete; savings provisions preserved by last paragraph of 80.98.040. Provisions as to continuation of existing law are covered by 80.98.010.
- 80.98.050 Effective date. The standard emergency clause is used for the title.

## TITLE 81 NOTES

## Chapter 81.01 General Provisions

- 81.01.010 This section added to adopt by reference the provisions of chapter 80.01 wherein the composition and general powers and duties of the public service commission are codified.

## Chapter 81.04 Regulations—General

- 81.04.010 Source—[1955 c 316 § 3. Prior: 1929 c 223 § 1, part; 1923 c 116 § 1, part; 1911 c 117 § 8, part; RRS § 10344, part.] Presently codified as RCW 81.04.010. See notes to 80.04.010 which are equally applicable to this section.
- 81.04.020 Source—[1911 c 117 § 75, part.] Presently codified as RCW 81.04.020 and 80.04.020. 1911 c 117 § 75 was divided and doubly codified by the 1941 Code Committee as RCW 80.04.020, 80.04.030 and 81.04.020, 81.04.030. This treatment has been retained for reenactment. Note the phrase, “and that the witness has been summoned in the manner prescribed in this act”. “act” has been changed to “chapter” since the provisions of “this act”, 1911 c 117, on service of process are contained in chapter 81.04.
- 81.04.030 Source—[1911 c 117 § 75, part; RRS § 10413, part.] Presently codified as RCW 81.04.030 and 80.04.030. See notes to 81.04.020.
- 81.04.040 Source—[1955 c 79 § 3; 1911 c 117 § 76, part; RRS § 10414, part.] Presently codified as RCW 81.04.040. See notes to 80.04.040.
- 81.04.050 Source—[1911 c 117 § 76, part; RRS § 10414, part.] Presently codified as RCW 81.04.050 and 80.04.050. See notes to 80.04.040 and 80.04.050.
- 81.04.060 Source—[1911 c 117 § 76, part; RRS § 10414, part.] Presently codified as RCW 81.04.060 and 80.04.060. See notes to 80.04.040. “act” to “chapter” since the provisions of “this act”, 1911 c 117, under which process might be issued are contained in chapter 81.04.

Explanatory note.

- 81.04.070 Source—[1911 c 117 § 77; RRS § 10415.]  
Presently codified as RCW 81.04.070 and 80.04.070.
- 81.04.075 Source—[1933 c 165 § 7; RRS § 10458-1.]  
Presently codified as RCW 80.04.370 and 81.04.370.  
“act” to “title”.
- 81.04.080 Source—[1911 c 117 § 78, part; RRS § 10416, part.]  
Presently codified as RCW 81.04.080 and 80.04.080.  
“act” to “title”.  
The division and codification of 1911 c 117 § 78 in RCW 81.04-.080 and 81.04.090 has been retained.
- 81.04.090 Source—[1911 c 117 § 78, part; RRS § 10416, part.]  
Presently codified as RCW 81.04.090 and 80.04.090.
- 81.04.100 Source—[1933 c 165 § 2; 1911 c 117 § 79; RRS § 10421.]  
Presently codified as RCW 81.04.100 and 80.04.100.
- 81.04.110 Source—[1913 c 145 § 1; 1911 c 117 § 80; RRS § 10422.]  
Presently codified as RCW 80.04.110 and 81.04.110.  
Note after “commission” at end of first paragraph the proviso omitted as applicable to public utilities only.  
The omitted proviso reads as follows:  

**PROVIDED**, That no complaint shall be entertained by the commission except upon its own motion, as to the reasonableness of the schedule of the rates or charges of any gas company, electrical company, water company, or telephone company, unless the same be signed by the mayor, council or commission of the city or town in which the company complained of is engaged in business, or not less than twenty-five consumers or purchasers of such gas, electricity, water or telephone service:  
**“PROVIDED FURTHER, That”** omitted for organizational purposes since the first proviso is omitted, and a new paragraph started with the words “When two or more” which originally followed **“PROVIDED FURTHER, That”**.
- 81.04.120 Source—[1911 c 117 § 81; RRS § 10423.]  
Presently codified as RCW 81.04.120 and 80.04.120.
- 81.04.130 Source—[1941 c 162 § 1; 1937 c 169 § 2; 1933 c 165 § 3; 1915 c 133 § 1; 1911 c 117 § 82; Rem. Supp. 1941 § 10424.]  
Presently codified as RCW 81.04.130 and 80.04.130.  
Note beginning on page 88, line 33, the clause “if such change is proposed by a common carrier subject to the jurisdiction of the Department” and on page 89, lines 2, 3 and 4, the clause “and, if proposed by a public service company other than such a common carrier, for a period of not exceeding ten months” were deleted by the 1941 Code Committee who, in dividing this section into 80.04.130 relating to public utilities, and 81.04.130 relating to transportation companies, carried the ten months language in 80.04.130 and the seven months language in 81.04.130. Section 80.04.130 herein likewise relates to public utility companies and speaks only of the ten month period. The session law language is here restored.
- 81.04.140 Source—[1911 c 117 § 83; RRS § 10425.]  
Presently codified as RCW 81.04.140 and 80.04.140.
- 81.04.150 Source—[1911 c 117 § 84; RRS § 10426.]  
Presently codified as RCW 81.04.150 and 80.04.150.
- 81.04.160 Source—[1911 c 117 § 85; RRS § 10427.]  
Presently codified as RCW 81.04.160 and 80.04.160.  
In accord with the placement of this section in both Titles 80 and 81, on page 90, line 17, note after the word “property”, the following matter was deleted as not applicable to transportation:  

transmission and delivery of messages and conversations, and the furnishing and supply of gas, electricity and water,

- 81.04.162 Source—[1957 c 71 § 1.]  
Presently codified as RCW 81.04.162; herein 81.40.095. Explanatory note.
- 81.04.165 Source—[1953 c 102 § 2.]  
Presently codified as RCW 81.04.165.
- 81.04.170 Source—[1937 c 169 § 3; 1911 c 117 § 86; RRS § 10428.]  
Presently codified as RCW 81.04.170 and 80.04.170.
- 81.04.180 Source—[1933 c 165 § 6. Prior: 1931 c 119 § 2; 1911 c 117 § 87; RRS § 10429.]  
Presently codified as RCW 81.04.180 and 80.04.180.  
The phrase "transmission or service" deleted after "transportation" on page 93, line 8, as not applicable to transportation and to accord with the placement of this section in both Titles 80 and 81.
- 81.04.190 Source—[1911 c 117 § 88; RRS § 10430.]  
Presently codified as RCW 81.04.190 and 80.04.190.  
"act" to "title".
- 81.04.200 Source—[1911 c 117 § 89; RRS § 10431.]  
Presently codified as RCW 81.04.200 and 80.04.200.
- 81.04.210 Source—[1911 c 117 § 90; RRS 10432.]  
Presently codified as RCW 81.04.210 and 80.04.210.
- 81.04.220 Source—[1943 c 258 § 1; 1937 c 29 § 1; Rem. Supp. 1943 § 10433.]  
Presently codified as RCW 81.04.220 and 80.04.220.
- 81.04.230 Source—[1937 c 29 § 2; RRS § 10433-1.]  
Presently codified as RCW 81.04.230 and 80.04.230.
- 81.04.235 Source—[1955 c 79 § 5.]  
Presently codified as RCW 81.04.235.
- 81.04.236 Source—[1955 c 79 § 6.]  
Presently codified as RCW 81.04.236.  
The last phrase of the second paragraph: "except that it shall not apply to actions begun or complaints filed prior to enactment of this section or within six months thereafter." deleted as obsolete.
- 81.04.240 Source—[1955 c 79 § 4; 1943 c 258 § 2; 1937 c 29 § 3; Rem. Supp. 1943 § 10433-2.]  
Presently codified as RCW 81.04.240.
- 81.04.250 Source—[1951 c 75 § 1; 1933 c 165 § 4; 1913 c 182 § 1; 1911 c 117 § 92; RRS § 10441.]  
Presently codified as RCW 81.04.250.
- 81.04.260 Source—[1911 c 117 § 93; RRS § 10442.]  
Presently codified as RCW 81.04.260 and 80.04.260.  
On page 99, line 9, "act" to "title".  
The 1941 Code Committee omitted "act" in this instance.  
On page 100, line 2, "act" to "chapter" since "all provisions of this act (1911 c 117) relating to the time of appeal, etc." are contained in chapter 81.04.
- 81.04.270 Source—[1933 c 165 § 8; RRS § 10458-2.]  
Presently codified as RCW 81.04.270 and 80.04.270.
- 81.04.280 Source—[1933 c 165 § 9; RRS § 10458-3.]  
Presently codified as RCW 81.04.280 and 80.04.280.
- 81.04.290 Source—[1955 c 79 § 7; 1923 c 110 § 1; RRS § 10344-1.]  
Presently codified as RCW 81.04.290.
- 81.04.300 Source—[1959 c 248 § 15; 1933 c 165 § 10, part; RRS § 10458-4, part.]
- 81.04.310 Source—[1959 c 248 § 16. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.]
- 81.04.320 Source—[1959 c 248 § 17. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.]  
"81.04.300 to 81.04.330" to "81.04.300 through 81.04.330" as such is a literal translation of the phrase "this section" appearing in the 1933 session law, and corrects the erroneous translation made by the 1941 Code Committee and ratified by the 1959 legislature.

- Explanatory note.**
- 81.04.330 Source—[1959 c 248 § 18. Prior: 1933 c 165 § 10, part; RRS § 10458-4, part.]  
 “these sections” to “RCW 81.04.300 through 81.04.330”.  
 The original section 1933 c 165 § 10 was divided by the 1941 Code Committee into RCW 81.04.300 through 81.04.330 and in RCW 81.04.330 they substituted “these sections” for the session law “this section”. This substitution was ratified by the amendatory act (1959 c 248 §18) but the use of “these sections” appears to be unnecessarily indefinite.
- 81.04.340 Source—[1933 c 165 § 11; RRS 10458-5.]  
 Presently codified as RCW 81.04.340 and 80.04.340.]
- 81.04.350 Source—[1937 c 169 § 4; 1933 c 165 § 13; RRS § 10458-7.]  
 Presently codified as RCW 81.04.350 and 80.04.350.
- 81.04.360 Source—[1959 c 285 § 3; 1933 c 165 § 14; RRS § 10458-8.]  
 Presently codified as RCW 81.04.360 and 80.04.360.  
 Proviso at end of section which was added by the 1959 amendment (“PROVIDED, That the terms of this amendatory section shall not affect any pending court proceeding.”) deleted as inappropriate for 1961 reenactment of this title. The section at that time will not be an “amendatory section”, and any actions pending at the date of reenactment would be preserved by the general savings language contained in RCW 80.98.040.
- 81.04.370 Source—[1933 c 165 § 7; RRS § 10458-1.]  
 Presently codified as RCW 81.04.370 and 80.04.370; herein 80.04.075 and 81.04.075.
- 81.04.380 Source—[1911 c 117 § 94; RRS § 10443.]  
 Presently codified as RCW 81.04.380, part and 80.04.380, part.  
 “act” to “title”.
- 81.04.385 Source—[1911 c 117 § 95; RRS § 10444.]  
 Presently codified as RCW 81.04.390, part and 80.04.390, part.  
 “act” to “title”.
- 81.04.387 Source—[1911 c 117 § 96; RRS § 10445.]  
 Presently codified as RCW 81.04.380, part and 80.04.380, part.  
 “act” to “title”.
- 81.04.390 Source—[1911 c 117 § 97; RRS § 10446.]  
 Presently codified as RCW 81.04.390, part and 80.04.390, part.  
 “act” to “title”.
- 81.04.400 Source—[1911 c 117 § 98; RRS § 10447.]  
 Presently codified as RCW 81.04.400 and 80.04.400.  
 “act” to “title”.  
 The phrase “and credited to the state general fund or such other fund as provided by law” added to harmonize this section with 81.80.350 and 81.84.050 which require certain penalties to be paid “into the state treasury and credited to the public service revolving fund”.
- 81.04.410 Source—[1911 c 117 § 99; RRS § 10448.]  
 Presently codified as RCW 81.04.410 and 80.04.410.  
 “act” to “title”.
- 81.04.420 Source—[1943 c 67 § 1; Rem. Supp. 1943 § 10448-1.]  
 Presently codified as RCW 81.04.420 and 80.04.420.
- 81.04.430 Source—[1911 c 117 § 100; RRS § 10449.]  
 Presently codified as RCW 81.04.430 and 80.04.430.
- 81.04.440 Source—[1911 c 117 § 102; RRS § 10451.]  
 Presently codified as RCW 81.04.440 and 80.04.440.  
 “act” to “title”.
- 81.04.450 Source—[1911 c 117 § 103; RRS § 10452.]  
 Presently codified as RCW 81.04.450 and 80.04.450.  
 See notes to 80.04.450.
- 81.04.460 Source—[1911 c 117 § 101; RRS § 10450.]  
 Presently codified as RCW 81.04.460 and 80.04.470.  
 “act” to “title”.



- 81.04.470 Source—[1911 c 117 § 104; RRS § 10453.]  
Presently codified as RCW 81.04.470, 81.04.480 and 80.04.480 and 80.04.490. Note that aside from dividing this section, the 1941 Code Committee omitted the following proviso as superseded by RCW 81.32.290 through 81.32.330:  
**PROVIDED**, That no contract, receipt, rule or regulation shall exempt any corporation engaged in transporting livestock by railway from liability of a common carrier, or carrier of livestock, which would exist had no contract, receipt, rule or regulation been made or entered into.  
1911 c 117 § 104 has been recombined herein and the proviso included for reenactment.  
“act” to “title”.
- 81.04.480 Source—[1911 c 117 § 104, part; RRS § 10453, part.]  
Herein recombined with 81.04.470.
- 81.04.490 Source—[1911 c 117 § 105; RRS § 10454.]  
Presently codified as RCW 81.04.490 and 80.04.500.  
Note on page 108, line 19, after “street railroad” the phrase, “telephone line, gas plant, electrical plant or water system” has been deleted to accord with the placement of this section in both Titles 80 and 81.  
“act” to “title”.
- 81.04.500 Source—[1911 c 117 § 5.]  
Presently omitted from RCW.

Explanatory  
note.

## Chapter 81.08 Securities

- 81.08.010 Source—[1959 c 248 § 3; 1953 c 95 § 9. Prior: 1933 c 151 § 1, part; RRS § 10439-1, part.]  
Presently codified as RCW 81.08.010.
- 81.08.012 Source—[1951 c 227 § 2.]  
Presently codified as RCW 81.08.012.  
“act” to “chapter” since 1951 c 227 adds this section to chapter 81.08 as derived from 1933 c 151 which appears in this title in chapter 81.08, alone.
- 81.08.020 Source—[1933 c 151 § 2; RRS § 10439-2.]  
Presently codified as RCW 81.08.020 and 80.08.020.
- 81.08.030 Source—[1953 c 95 § 10; 1937 c 30 § 1; 1933 c 151 § 3; RRS § 10439-3.]  
Presently codified as RCW 81.08.030.
- 81.08.040 Source—[1933 c 151 § 4; RRS § 10439-4.]  
Presently codified as RCW 81.08.040 and 80.08.040.
- 81.08.050 Source—[1933 c 151 § 5; RRS § 10439-5.]  
Presently codified as RCW 81.08.050 and 80.08.050.
- 81.08.060 Source—[1959 c 248 § 22. Prior: 1937 c 30 § 2, part; 1933 c 151 § 6, part; RRS § 10439-6, part.]  
Presently codified as RCW 81.08.060 and 80.08.060.
- 81.08.070 Source—[1959 c 248 § 23. Prior: 1953 c 95 § 11; 1937 c 30 § 2, part; 1933 c 151 § 6, part; RRS § 10439-6, part.]  
Presently codified as RCW 81.08.070.
- 81.08.080 Source—[1933 c 151 § 7; RRS § 10439-7.]  
Presently codified as RCW 81.08.080 and 80.08.080.
- 81.08.090 Source—[1933 c 151 § 8; RRS § 10439-8.]  
Presently codified as RCW 81.08.090 and 80.08.090.
- 81.08.100 Source—[1933 c 151 § 9; RRS § 10439-9.]  
Presently codified as RCW 81.08.100 and 80.08.100.
- 81.08.105 Source—[1933 c 151 § 10; RRS § 10435-10.]  
Presently omitted from RCW.  
“after this act takes effect,” to “after chapter 151, Laws of 1933 takes effect,” “previous to the taking effect of this act,” to “previous to the taking effect of chapter 151, Laws of 1933,” Last paragraph added on the basis of 1933 c 151 § 1a which provides,

Explanatory  
note.

"The term 'department' when used in this act shall mean the department of public works of Washington or such body as may succeed to the powers and duties now exercised by the department of public works."

- 81.08.110 Source—[1933 c 151 § 11; RRS § 10439-11.]  
Presently codified as RCW 81.08.110 and 80.08.110.
- 81.08.120 Source—[1933 c 151 § 12; RRS § 10439-12.]  
Presently codified as RCW 81.08.120 and 80.08.120.  
"act" to "chapter".
- 81.08.130 Source—[1933 c 151 § 13; RRS § 10439-13.]  
Presently codified as RCW 81.08.130 and 80.08.130.
- 81.08.140 Source—[1933 c 151 § 14; RRS § 10439-14.]  
Presently codified as RCW 81.08.140 and 80.08.140.  
"act" to "chapter".

Chapter 81.12 Transfers of property

- 81.12.010 Source—[1953 c 95 § 12; 1941 c 159 § 1, part; Rem. Supp. 1941 § 10440a.]  
Presently codified as RCW 81.12.010.
- 81.12.020 Source—[1945 c 75 § 1; 1941 c 159 § 2; Rem. Supp. 1945 § 10440b.]  
Presently codified as RCW 81.12.020 and 80.12.020.
- 81.12.030 Source—[1941 c 159 § 3; Rem. Supp. 1941 § 10440c.]  
Presently codified as RCW 81.12.030 and 80.12.030.
- 81.12.040 Source—[1941 c 159 § 4; Rem. Supp. 1941 § 10440d.]  
Presently codified as RCW 81.12.040 and 80.12.040.  
"act" to "chapter", since 1941 c 159, as amended, is presented for reenactment in chapter 81.12, alone.
- 81.12.050 Source—[1941 c 159 § 5; Rem. Supp. 1941 § 10440e.]  
Presently codified as RCW 81.12.050 and 80.12.050.  
"act" to "chapter".
- 81.12.060 Source—[1941 c 159 § 6; Rem. Supp. 1941 § 10440f.]  
Presently codified as RCW 81.12.060 and 80.12.060.  
"act" to "chapter".

Chapter 81.16 Affiliated Interests

- 81.16.010 Source—[1953 c 95 § 13; 1933 c 152 § 1, part; RRS § 10440-1, part.]  
Presently codified as RCW 81.16.010.
- 81.16.020 Source—[1941 c 160 § 1; 1933 c 152 § 1; Rem. Supp. 1941 § 10440-2.]  
Presently codified as RCW 81.16.020 and 80.16.020.  
"act" to "chapter" since 1933 c 152, as amended, is presented for reenactment in this title as chapter 81.16, alone.  
"the effective date of this act" to "March 18, 1933".
- 81.16.030 Source—[1933 c 152 § 3; RRS § 10440-3.]  
Presently codified as RCW 81.16.030 and 80.16.030.
- 81.16.040 Source—[1933 c 152 § 4; RRS § 10440-4.]  
Presently codified as RCW 81.16.040 and 80.16.040.  
"foregoing sections" to "RCW 81.16.010 through 81.16.030".
- 81.16.050 Source—[1933 c 152 § 5; RRS § 10440-5.]  
Presently codified as RCW 81.16.050 and 80.16.050.
- 81.16.060 Source—[1933 c 152 § 6; RRS § 10440-6.]  
Presently codified as RCW 81.16.060 and 80.16.060.  
Note on page 121, line 6, after the word "approval" the phrase "as required by this section" has been deleted as a mis-reference since the section requiring approval is 81.16.030.
- 81.16.070 Source—[1933 c 152 § 7; RRS § 10440-7.]  
Presently codified as RCW 81.16.070 and 80.16.070.
- 81.16.080 Source—[1933 c 152 § 8; RRS § 10440-8.]  
Presently codified as RCW 81.16.080 and 80.16.080.
- 81.16.090 Source—[1933 c 152 § 9; RRS § 10440-9.]  
Presently codified as RCW 81.16.090 and 80.16.090.

## Chapter 81.20 Investigation of Public Service Companies

Explanatory  
note.

- 81.20.010 Source—[1953 c 95 § 14; 1939 c 203 § 1; RRS § 10458-6.]  
Presently codified as RCW 81.20.010.
- 81.20.020 Source—[1939 c 203 § 2(a); RRS § 10458-6a(a).]  
Presently codified as RCW 81.20.020 and 80.20.020.
- 81.20.030 Source—[1939 c 203 § 2(b); RRS § 10458-6a(b).]  
Presently codified as RCW 81.20.030 and 80.20.030.
- 81.20.040 Source—[1939 c 203 § 2(c); RRS § 10458-6a(c).]  
Presently codified as RCW 81.20.040 and 80.20.040.  
“this section” to “sections 81.20.020 through 81.20.060”.
- 81.20.050 Source—[1939 c 203 § 2(d); RRS § 10458-6a(d).]  
Presently codified as RCW 81.20.050 and 80.20.050.  
“this section” to “sections 81.20.020 through 81.20.060”.
- 81.20.060 Source—[1939 c 203 § 2(e); RRS § 10458-6a(e).]  
Presently codified as RCW 81.20.060 and 80.20.060.  
“act” to “chapter”, since 1939 c 203, as amended is presented  
for reenactment in chapter 81.20, alone.

## Chapter 81.24 Regulatory Fees

- 81.24.010 Source—[1957 c 185 § 1; 1955 c 125 § 4. Prior: 1939 c 123 § 1,  
part; 1937 c 158 § 1, part; 1929 c 107 § 1, part; 1923 c 107 § 1,  
part; 1921 c 113 § 1, part; RRS § 10417, part.]  
Presently codified as RCW 81.24.010.  
See notes to 80.24.010.
- 81.24.020 Source—[1955 c 125 § 5. Prior: 1937 c 158 § 2, part; RRS § 10417-1,  
part.]  
Presently codified as RCW 81.24.020.
- 81.24.030 Source—[1955 c 125 § 6. Prior: 1939 c 123 § 3, part; 1937 c 158  
§ 4, part; RRS § 10417-3, part.]  
Presently codified as RCW 81.24.030.
- 81.24.040 Source—[1955 c 125 § 7. Prior: 1949 c 124 § 1, part; 1939 c 123  
§ 2, part; 1937 c 158 § 3, part; Rem. Supp. 1949 § 10417-2, part.]  
Presently codified as RCW 81.24.040.
- 81.24.050 Source—[1955 c 125 § 8. Prior: (i) 1939 c 123 § 1, part; 1937 c 158  
§ 1, part; RRS § 10417, part. (ii) 1937 c 158 § 2, part; RRS §  
10417-1, part. (iii) 1939 c 123 § 3, part; 1937 c 158 § 4, part; RRS  
§ 10417-3, part. (iv) 1939 c 123 § 2, part; 1937 c 158 § 3, part;  
RRS § 10417-2, part. (v) 1949 c 124 § 1, part; Rem. Supp. 1949  
§ 10417-2, part.]  
Presently codified as RCW 81.24.050.
- 81.24.060 Source—[1937 c 158 § 7; RRS § 10417-5.]  
Presently codified as RCW 81.24.060 and 80.24.030.  
See notes to 80.24.030.
- 81.24.070 Source—[1937 c 158 § 6; RRS § 10417-4.]  
Presently codified as RCW 81.24.070 and 80.24.040.  
See notes to 80.24.040.  
“act” to “chapter”.
- 81.24.080 Source—[1923 c 107 § 2; 1921 c 113 § 3; RRS § 10419.]  
Presently codified as RCW 81.24.080 and 80.24.050.  
See notes to 80.24.040.

## Chapter 81.28 Common Carriers in General

- 81.28.010 Source—[1911 c 117 § 9; RRS § 10345.]
- 81.28.020 Source—[1911 c 117 § 10; RRS § 10346.]
- 81.28.030 Source—[(i) 1890 p 291 § 1; RRS § 10491. (ii) 1890 p 291 § 2;  
RRS § 10492. (iii) 1890 p 291 § 3; RRS § 10493.]  
The 1941 Code Committee combined and codified 1890 p 291  
§§ 1, 2 and 3 as RCW 81.28.030. The sections are also combined  
for this proposed reenactment with the session law language  
restored.  
“section one of this act” to “this section” to correspond with  
the combining of the session laws.

- Explanatory note.
- 81.28.040 Source—[1911 c 117 § 14; RRS § 10350.]
- 81.28.050 Source—[1957 c 205 § 3; 1911 c 117 § 15; RRS § 10351.]  
“as aforesaid” to “as provided in RCW 81.28.050”.
- 81.28.060 Source—[1911 c 117 § 16; RRS § 10352.]
- 81.28.070 Source—[1911 c 117 § 17; RRS § 10353.]
- 81.28.080 Source—[1929 c 96 § 1, part; 1911 c 117 § 18, part; RRS § 10354, part.]  
The 1941 Code Committee divided and codified 1929 c 96 § 1 as RCW 81.28.080 through 81.28.130, 81.28.150 through 81.28.170, and 80.36.130. For the most part these sections after 81.28.080, which itself contains exceptions, are exceptions to the operation of RCW 81.28.080 and appeared as provisos in the session law but were made straight matter by the 1941 Code Committee. The section is here restored to its 1929 session law organization and language.  
“act” to “title”.  
See notes to 80.36.130.
- 81.28.140 Source—[1937 c 26 § 1; RRS § 10354-1.]
- 81.28.180 Source—[1911 c 117 § 20; RRS § 10356.]  
“act” to “title”.
- 81.28.190 Source—[1911 c 117 § 21; RRS § 10357.]
- 81.28.200 Source—[1911 c 117 § 22; RRS § 10358.]  
“act” to “title”.
- 81.28.210 Source—[1911 c 117 § 23; RRS § 10359.]  
“act” to “title”.
- 81.28.220 Source—[1937 c 169 § 5; RRS § 10447-1.]
- 81.28.230 Source—[1911 c 117 § 53, part; RRS § 10389, part.]  
The 1941 Code Committee divided and codified 1911 c 117 § 53 as RCW 81.28.230 and 81.28.240. This division has been followed as each section contains a separate paragraph, and it does not appear that any substantive change is involved. “as hereinafter provided” deleted as an unnecessary and confusing reference in view of the fact that 1911 c 117 will appear in several chapters of the title and that the session law sequence of 1911 c 117 has not been preserved. The 1941 Code Committee also deleted the reference.
- 81.28.240 Source—[1911 c 117 § 53, part; RRS § 10389, part.]  
See notes to 81.28.230.  
“as hereinafter provided” deleted, see notes to 81.28.230.
- 81.28.250 Source—[1911 c 117 § 58; RRS § 10394.]  
The 1941 Code Committee also codified this section as RCW 80.36.250, limiting its application there to telephone and telegraph companies. See notes to 80.36.250. In RCW 81.28.250 the reference to “or the transmission of messages or conversations” has been deleted as was done by the 1941 Code Committee.
- 81.28.260 Source—[1899 c 15 § 1; RRS § 10495.]  
“act” to “section” since 1899 c 15 contains but one section.
- 81.28.270 Source—[1945 c 117 § 1; Rem. Supp. 1945 § 167-1.]
- 81.28.280 Source—[1953 c 104 § 3. Prior: 1911 c 117 § 63, part; RRS § 10399, part.]
- 81.28.290 Source—[1953 c 104 § 4. Prior: 1911 c 117 § 63, part; RRS § 10399, part.]

#### Chapter 81.29 Common Carriers—Limitations on Liability

This is a new chapter containing provisions formerly codified in chapter 81.32 which are not a part of the uniform Bills of Lading Act. See also the introductory note to chapter 81.32.

- 81.29.010 Source—[1945 c 203 § 1; Rem. Supp. 1945 § 3673-0.]  
Presently codified in RCW 81.32.010.  
“act” to “chapter”.

- 81.29.020 Source—[1945 c 203 § 1; 1923 c 149 § 1; Rem. Supp. 1945 § 3673-1.] Explanatory note.  
Presently codified as RCW 81.32.290 through 81.32.330.  
“section 2 of this act” to “RCW 81.29.030”.
- 81.29.030 Source—[1945 c 203 § 3; 1923 c 149 § 2; Rem. Supp. 1945 § 3673-2.]  
Presently codified as RCW 81.32.340.
- 81.29.040 Source—[1923 c 149 § 3; RRS § 3673-3.]  
Presently codified as RCW 81.32.350.  
“act” to “chapter”.
- 81.29.050 Source—[1945 c 209 § 1; Rem. Supp. 1945 § 10495-1.]  
Presently codified as RCW 81.32.360.  
“act” to “section”, since 1945 c 209 contains but one section.

#### Chapter 81.32 Bills of Lading

Introductory—This chapter as it appears in RCW contains the Uniform Bills of Lading Act, 1915 c 159, and three other independent session laws on the liability of common carriers, 1945 c 209, 1945 c 203, and 1923 c 149. More particularly 1945 c 209 (RCW 81.32.360) limits the liability of carriers for loss or damage to baggage. It contains no reference to bills of lading. 1945 c 203 §§ 2 and 3 which amend 1923 c 149 §§ 1 and 2, relate to liability of carriers “whether such receipt or bill of lading has been issued or not”. 1945 c 203 § 1 contains a definition of “common carrier” which was included by the 1941 Code Committee in RCW 81.32.010 with the definitions of the Uniform Bills of Lading Act (1915 c 159 § 53). 1923 c 149 § 3 (RCW 81.32.350) is the penalty section for violations of 1923 c 149 §§ 1 and 2 (amended by 1945 c 203 §§ 2 and 3).

In this bill, the 1923 and 1945 acts are codified in a new chapter, chapter 81.29, and the instant chapter, chapter 81.32, contains only the provisions of the 1915 uniform act. Furthermore, the sections of chapter 81.32 have been renumbered to bring them into conformity with the sectionalization of the uniform act and chapter 159, Laws of 1915. Thus section 1 of the uniform act is herein numbered 81.32.011, section 2 is numbered 81.32.021, section 3 is numbered 81.32.031, etc. The part and section captions used in the uniform act, unless otherwise noted, are likewise employed herein.

- 81.32.010 Source—[(1) 1915 c 159 § 53; RRS § 3699; herein 81.32.531; 1945 c 203 § 1; Rem. Supp. 1945 § 3673-0; herein 81.29.010.]
- 81.32.011 Source—[1915 c 159 § 1; RRS § 3647.]  
Presently codified as RCW 81.32.020.  
“act” to “chapter”.
- 81.32.021 Source—[1915 c 159 § 2; RRS § 3648.]  
Presently codified as RCW 81.32.030.  
“section 23” to “RCW 81.32.231”.
- 81.32.031 Source—[1915 c 159 § 3; RRS § 3649.]  
Presently codified as RCW 81.32.040.
- 81.32.041 Source—[1915 c 159 § 4; RRS § 3650.]  
Presently codified as RCW 81.32.050.
- 81.32.051 Source—[1915 c 159 § 5 RRS § 3651.]  
Presently codified as RCW 81.32.060.  
“act” to “chapter”.
- 81.32.061 Source—[1915 c 159 § 6; RRS § 3652.]  
Presently codified as RCW 81.32.070.
- 81.32.071 Source—[1915 c 159 § 7; RRS § 3653.]  
Presently codified as RCW 81.32.080.
- 81.32.081 Source—[1915 c 159 § 8; RRS § 3654.]  
Presently codified as RCW 81.32.090.
- 81.32.091 Source—[1915 c 159 § 9; RRS § 3655.]  
Presently codified as RCW 81.32.100.
- 81.32.101 Source—[1915 c 159 § 10; RRS § 3656.]  
Presently codified as RCW 81.32.110.  
“act” to “chapter”.

- Explanatory  
note.
- 81.32.111 Source—[1915 c 159 § 11; RRS § 3657.]  
Presently codified as RCW 81.32.120.
- 81.32.121 Source—[1915 c 159 § 12; RRS § 3658.]  
Presently codified as RCW 81.32.130.  
“the three following sections” to “RCW 81.32.131, 81.32.141, and 81.32.151.”
- 81.32.131 Source—[1915 c 159 § 13; RRS § 3659.]  
Presently codified as RCW 81.32.140.  
“the preceding section” to “RCW 81.32.121.”
- 81.32.141 Source—[1915 c 159 § 14; RRS § 3660.]  
Presently codified as RCW 81.32.150.  
“section 27” to “RCW 81.32.271.”
- 81.32.151 Source—[1915 c 159 § 15; RRS § 3661.]  
Presently codified as RCW 81.32.160.
- 81.32.161 Source—[1915 c 159 § 16; RRS § 3662.]  
Presently codified as RCW 81.32.170.
- 81.32.171 Source—[1915 c 159 § 17; RRS § 3663.]  
Presently codified as RCW 81.32.180.
- 81.32.181 Source—[1915 c 159 § 18; RRS § 3664.]  
Presently codified as RCW 81.32.190.
- 81.32.191 Source—[1915 c 159 § 19; RRS § 3665.]  
Presently codified as RCW 81.32.200.
- 81.32.201 Source—[1915 c 159 § 20; RRS § 3666.]  
Presently codified as RCW 81.32.210.
- 81.32.211 Source—[1915 c 159 § 21; RRS § 3667.]  
Presently codified as RCW 81.32.220.
- 81.32.221 Source—[1915 c 159 § 22; RRS § 3668.]  
Presently codified as RCW 81.32.230.  
Session law caption changed from “Adverse Title Is No Defense, Except as Above Provided” to “Adverse title is no defense—Exceptions.”  
“the two preceding sections and in section 12” to “RCW 81.32.121, 81.32.201 and 81.32.211”.
- 81.32.231 Source—[1915 c 159 § 23; RRS § 3669.]  
Presently codified as RCW 81.32.240.
- 81.32.241 Source—[1915 c 159 § 24; RRS § 3670.]  
Presently codified as RCW 81.32.250.
- 81.32.251 Source—[1915 c 159 § 25; RRS § 3671.]  
Presently codified as RCW 81.32.260.
- 81.32.261 Source—[1915 c 159 § 26; RRS § 3672.]  
Presently codified as RCW 81.32.270.
- 81.32.271 Source—[1915 c 159 § 27; RRS § 3673.]  
Presently codified as RCW 81.32.280.
- 81.32.281 Source—[1915 c 159 § 28; RRS § 3674.]  
Presently codified as RCW 81.32.370.
- 81.32.290 through 81.32.360 Source—[1945 c 203; 1945 c 209; 1923 c 149; Rem. Supp. 1945 §§ 3673-0, 3673-1, 3673-2, 10495-1; RRS § 3673-3; Herein chapter 81.29.]
- 81.32.291 Source—[1915 c 159 § 29; RRS § 3675.]  
Presently codified as RCW 81.32.380.
- 81.32.301 Source—[1915 c 159 § 30; RRS § 3676.]  
Presently codified as RCW 81.32.390.
- 81.32.311 Source—[1915 c 159 § 31; RRS 3677.]  
Presently codified as RCW 81.32.400.
- 81.32.321 Source—[1915 c 159 § 32; RRS § 3678.]  
Presently codified as RCW 81.32.410.
- 81.32.331 Source—[1915 c 159 § 33; RRS § 3679.]  
Presently codified as RCW 81.32.420.
- 81.32.341 Source—[1915 c 159 § 34; RRS § 3680.]  
Presently codified as RCW 81.32.430.
- 81.32.351 Source—[1915 c 159 § 35; RRS § 3681.]  
Presently codified as RCW 81.32.440.

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| 81.32.361 | Source—[1915 c 159 § 36; RRS § 3682.]<br>Presently codified as RCW 81.32.450.  | Explanatory<br>note. |
| 81.32.371 | Source—[1915 c 159 § 37; RRS § 3683.]<br>Presently codified as RCW 81.32.460.  |                      |
| 81.32.381 | Source—[1915 c 159 § 38; RRS § 3684.]<br>Presently codified as RCW 81.32.470.  |                      |
| 81.32.391 | Source—[1915 c 159 § 39; RRS § 3685.]<br>Presently codified as RCW 81.32.480.  |                      |
| 81.32.401 | Source—[1915 c 159 § 40; RRS § 3686.]<br>Presently codified as RCW 81.32.490.  |                      |
| 81.32.411 | Source—[1915 c 159 § 41; RRS § 3687.]<br>Presently codified as RCW 81.32.500.  |                      |
| 81.32.421 | Source—[1915 c 159 § 42; RRS § 3688.]<br>Presently codified as RCW 81.32.510.  |                      |
| 81.32.431 | Source—[1915 c 159 § 43; RRS § 3689.]<br>Presently codified as RCW 81.32.520.<br>"section 42" to "RCW 81.32.421".<br>"act" to "chapter".                             |                      |
| 81.32.441 | Source—[1915 c 159 § 44; RRS § 3690.]<br>Presently codified as RCW 81.32.530.<br>"—Penalty" added to session law caption in this and other<br>sections of this part. |                      |
| 81.32.451 | Source—[1915 c 159 § 45; RRS § 3691.]<br>Presently codified as RCW 81.32.540.  |                      |
| 81.32.461 | Source—[1915 c 159 § 46; RRS § 3692.]<br>Presently codified as RCW 81.32.550.<br>"Section 7" to "RCW 81.32.071".   |                      |
| 81.32.471 | Source—[1915 c 159 § 47; RRS § 3693.]<br>Presently codified as RCW 81.32.560.  |                      |
| 81.32.481 | Source—[1915 c 159 § 48; RRS § 3694.]<br>Presently codified as RCW 81.32.570.  |                      |
| 81.32.491 | Source—[1915 c 159 § 49; RRS § 3695.]<br>Presently codified as RCW 81.32.580.  |                      |
| 81.32.501 | Source—[1915 c 159 § 50; RRS § 3696.]<br>Presently codified as RCW 81.32.590.  |                      |
| 81.32.511 | Source—[1915 c 159 § 51; RRS § 3697.]<br>Presently codified as RCW 81.32.600.<br>"act" to "chapter".   |                      |
| 81.32.521 | Source—[1915 c 159 § 52; RRS § 3698.]<br>Presently codified as RCW 81.32.610.<br>"act" to "chapter".   |                      |
| 81.32.531 | Source—[1915 c 159 § 53; RRS § 3699.]<br>Presently codified as RCW 81.32.010.<br>"act" to "chapter".   |                      |
| 81.32.541 | Source—[1915 c 159 § 54; RRS § 3700.]<br>"act" to "chapter".<br>Omitted by the 1941 Code Committee as an "application"<br>section.                                   |                      |
| 81.32.561 | Source—[1915 c 159 § 56; RRS § 3701.]<br>Presently a footnote to RCW 81.32.010.<br>"act" to "chapter".   |                      |

**Chapter 81.36 Railroads—Corporate Powers and Duties**

- 81.36.010 Source—[1907 c 244 § 1; 1903 c 180 § 1; 1895 c 80 § 2; 1888 p 63 § 2; Code 1881 § 2456; 1869 p 343 § 2; RRS § 10539.]  
In the proviso, the phrase "now occupied by any established state or county road, said corporation shall be responsible to the county commissioners of said county or counties in which such state or county road so appropriated is located, for all expenses incurred by such county or counties in relocating . . ." to "now occupied by any established state or county road, said corporation shall be responsible to the state or

Explanatory  
note.

- county in which such state or county road so appropriated is located, for all expenses incurred by the state or county in relocating . . ."; for the purpose of harmonizing this section with existing highway laws.
- 81.36.020 Source—[1895 c 80 § 1; 1888 p 63 § 1; Code 1881 § 2455; 1869 p 34 § 1; RRS § 10538.]
- 81.36.030 Source—[1895 c 80 § 3; 1888 p 64 § 3; Code 1881 § 2456½; RRS § 10535.]  
"this chapter" to "the laws of this state" in the phrase "every corporation formed under this chapter", since "this chapter" has no provisions on formation. The 1941 Code Committee omitted the reference. See 1895 c 80 § 4 (RCW 81.36.040) where the phrase "the laws of this state" is used.
- 81.36.040 Source—[1895 c 80 § 4; 1888 p 64 § 3; RRS § 10536.]
- 81.36.050 Source—[Code 1881 § 2457; 1869 p 34 § 3; RRS § 10537.]
- 81.36.060 Source—[1890 p 526 § 1; RRS § 10460.]  
Period inserted after "date" and new sentence started with "Before".
- 81.36.070 Source—[1925 ex.s. c 188 § 1; 1915 c 136 § 1; 1909 c 196 § 1; 1890 p 526 § 2; RRS § 10463.]  
The 1941 Code Committee divided this section as RCW 81.36.070 and 81.36.080. It is here recombined.  
In third from last proviso, "this act" to "this section and RCW 81.36.075."  
In last sentence "this act" to "this section".  
In last sentence "heretofore made in substantial compliance with the provisions of this section" to "made in substantial compliance with the provisions of this section prior to April 8, 1926", since the effective date of the laws of 1925 extraordinary session was midnight, April 7th, 1926; see preface, session laws 1925 extraordinary session.
- 81.36.075 Source—[1909 c 196 § 2; RRS § 10464.]  
Not codified in RCW.  
"heretofore" to "March 18, 1909".
- 81.36.080 Source—[1925 ex.s. c 188 § 1, part; 1915 c 136 § 1, part; 1909 c 196 § 1, part; RRS § 10463, part.]  
Herein rejoined with 81.36.070.
- 81.36.090 Source—[1890 p 527 § 3; RRS § 10466.]
- 81.36.100 Source—[1890 p 53 § 1; RRS § 10468.]
- 81.36.110 Source—[1909 c 158 § 1; RRS § 10469.]  
This section relating to structures across state waterways was reenacted in the 1927 public land act (1927 c 255 §§ 93 and 94) and the 1909 act was later expressly repealed by the 1935 public lands repealer (1935 c 115). It is herein repealed without reenactment, but said repeal contains a proviso saving the provisions of the 1927 enactment, see sec. 81.98.040 (35) herein.
- 81.36.120 Source—[1890 p 529 § 1; RRS § 10461.]
- 81.36.130 Source—[1890 p 529 § 2; RRS § 10462.]
- 81.36.140 Source—[1951 c 191 § 1; 1949 c 169 § 1; 1883 p 62 § 1; Rem. Supp. 1949 § 10540.]
- 81.36.150 Source—[1949 c 169 § 2; 1883 p 63 § 2; Rem. Supp. 1949 § 10541.]
- 81.36.160 Source—[1949 c 169 § 3; Rem. Supp. 1949 § 10541a.]  
"section 1" to "RCW 81.36.140".

## Chapter 81.40—Railroads—Employee Requirements and Regulations

- 81.40.010 Source—[1911 c 134 § 1; RRS § 10486.]
- 81.40.020 Source—[1911 c 134 § 2; RRS § 10487.]
- 81.40.030 Source—[(i) 1911 c 134 § 3; RRS § 10488. (ii) 1911 c 134 § 4; RRS § 10489. (iii) 1911 c 134 § 5; RRS § 10490.]  
The 1941 Code Committee combined and codified these sections as RCW 81.40.030. This combination, with the session



- law language restored, has been followed since it does not appear that any substantive change is involved. Explanatory note.
- "section one or two of this act" to "RCW 81.40.010 or 81.40.020".
- "this act" to "RCW 81.40.010 through 81.40.030".
- 81.40.040 Source—[1907 c 20 § 1; RRS § 7652.]
- 81.40.050 Source—[1907 c 20 § 2; RRS § 7653.]
- "this act" to "RCW 81.40.040".
- 81.40.060 Source—[1907 c 224 § 1; RRS § 10504.]
- 81.40.070 Source—[1907 c 224 § 1; RRS § 10505.]
- "this act" to "RCW 81.40.060".
- 81.40.080 Source—[1941 c 238 § 1; Rem. Supp. 1941 § 7666-40.]
- "act" to "section" since the remaining section of the "act" is the penalty provision.
- 81.40.090 Source—[1941 c 238 § 2; Rem. Supp. 1941 § 7666-41.]
- "this act" to "RCW 81.40.080".
- 81.40.095 Source—[1957 c 71 § 1.]
- Presently codified as RCW 81.04.162.
- 81.40.100 Source—[1909 c 249 § 274; RRS § 2526.]
- 81.40.110 Source—[1907 c 138 § 1, part; 1899 c 35 § 1, part; RRS § 10480, part.]
- The 1941 Code Committee divided and codified 1907 c 138 § 1 as RCW 81.40.110 and 81.44.130. The part in RCW 81.44.130 is the same as a later enactment, 1911 c 117 § 68, which also was codified in RCW 81.44.130. Only that part of 1907 c 138 § 1 used by the 1941 Code Committee as a basis for RCW 81.40.110 is set forth herein for reenactment.
- 81.40.120 Source—[1955 c 228 § 1.]
- 81.40.130 Source—[1955 c 228 § 2.]
- 81.40.140 Source—[1955 c 228 § 3.]

#### Chapter 81.44 Common Carriers—Equipment

- 81.44.010 Source—[1911 c 117 § 64; RRS § 10400.]
- 81.44.020 Source—[1911 c 117 § 65; RRS § 10401.]
- 81.44.030 Source—[1911 c 117 § 66, part; RRS § 10402, part.]
- The 1941 Code Committee divided and codified 1911 c 117 § 66 as RCW 81.44.030 through 81.44.060, and 81.64.120. It should be noted here that the 1941 Code Committee deleted any reference to street railroads in the RCW sections appearing in chapter 81.44. This was done by codifying the paragraph on street car equipment as RCW 81.64.120 and by omitting the reference to street railroad as it originally appears in that part of the session law codified in RCW 81.44.050 and 81.44.060. For the purposes of this proposed reenactment the division of 1911 c 117 § 66 has been followed with the exception that the paragraph on street car equipment has been added to RCW 81.44.040 which contains the preceding paragraph in the session law.
- 81.44.040 Source—[1911 c 117 § 66, part; RRS § 10402, part.]
- Paragraph of session law on street cars removed from RCW 81.64.120 and added to this section, see notes to 81.44.030.
- 81.44.050 Source—[1911 c 117 § 66, part; RRS § 10402, part.]
- "herein" to "RCW 81.44.030 and 81.44.040".
- "the taking effect of this act" to "the taking effect of chapter 117, Laws of 1911".
- "this act" to "this title".
- In the first proviso "section" to "RCW 81.44.030 through 81.44.060" and "at the date of passage of this act" to "at the date of passage of chapter 117, Laws of 1911".
- 81.44.060 Source—[1911 c 117 § 66, part; RRS § 10402, part.]
- "this section" to "RCW 81.44.030 through 81.44.060" although RCW 81.44.060 is only a part of the original session law section. However, the Committee might be correct depending on

Explanatory  
note.

- whether the proviso is to the entire section or only the last paragraph.
- 81.44.065 Source—[1955 c 165 § 1.]  
Presently codified as RCW 43.53.055.  
“now vested in” to “which prior to April 1, 1955 were vested in”, April 1, 1955 being the effective date of chapter 165, Laws of 1955.
- 81.44.070 Source—[1911 c 117 § 67; RRS § 10403.]  
The 1941 Code Committee divided and codified 1911 c 117 § 67 as RCW 81.44.070 and 81.44.080. It is here recombined.  
At the end of the first paragraph, the phrase “as such companies are defined in this title or in Title 80” has been added to compensate for that fact that portions of the basic 1911 act have been codified in this title while other portions relating also to public service companies have been codified in Title 80.
- 81.44.080 Source—[1911 c 117 § 67, part; RRS § 10403, part.]  
Herein recombined with 81.44.070.
- 81.44.085 Source—[1951 c 66 §§ 1, 2, 3.]  
The 1941 Code Committee combined and codified 1951 c 66 §§ 1, 2 and 3 as RCW 81.44.085. This combination has been followed.  
“act” to “section” since the entire act will appear in this section.  
“approved by the director of labor and industries” to “approved by the commission” to accord with the devolution of powers set forth herein as 81.44.065.
- 81.44.090 Source—[1909 c 31 § 1; RRS § 10483.]  
“this act” to “RCW 81.44.090 and 81.44.100”.
- 81.44.100 Source—[1909 c 31 § 2; RRS § 10484.]  
“Sec. 1 of this act” to “RCW 81.44.090”.
- 81.44.101 Source—[1951 c 42 § 1.]
- 81.44.102 Source—[1951 c 42 § 2.]  
“section 1” to “RCW 81.44.101”.
- 81.44.103 Source—[1951 c 42 § 3.]
- 81.44.104 Source—[1951 c 42 § 4.]  
“section 3” to “RCW 81.44.103”.
- 81.44.105 Source—[1951 c 42 § 5.]  
“this act” to “RCW 81.44.101 through 81.44.105”.
- 81.44.110 Source—[1907 c 218 § 1; RRS § 10470.]
- 81.44.120 Source—[1907 c 218 § 2; RRS § 10473.]
- 81.44.130 Source—[1911 c 117 § 68; RRS § 10404.]  
The 1941 Code Committee combined and codified 1911 c 117 § 68 and 1907 c 138 § 1, part as RCW 81.44.130. 1907 c 138 § 1, part, has been omitted since it is repetitious of 1911 c 117 § 68, the later act. As to the part of 1907 c 138 § 1 which appears in this proposed reenactment see 81.40.110 and the notes thereto.
- 81.44.140 Source—[1899 c 35 § 2; RRS § 10481.]  
This section, reading as follows:  
“Any person or persons, railroad companies or corporations owning or operating a railroad or railroads in this state shall be liable for any damage received from a failure to comply with the provisions of this act; such damages to be recovered by the parties entitled to recover as provided in sections 137, 138 and 139 of volume 2 of Hill’s Annotated Codes and Statutes of Washington, being sections 4827, 4828 and 4829, Ballinger’s Annotated Codes and Statutes of Washington.”  
is hereby repealed without reenactment, inasmuch as the substantive section, 1899 c 35 § 1 is likewise repealed without reenactment, as superseded by 1911 c 117 § 68 (herein 81.44.130).

The instant section proclaims liability for failure to safeguard switches and authorizes the recovery of damages by representative actions. Our supreme court in *Albers v. Campbell Lumber Co.*, 66 Wash. 84, has held that notwithstanding the above language a plaintiff could sue for his own injury on the basis of common law negligence. See herein 81.04.440 declaring companies liable for damages and 81.04.470—Rights of action not released. The right to maintain a representative action in such cases appears to be adequately covered by the general laws of this subject.

Explanatory  
note.

81.44.150 Source—[1911 c 117 § 19; RRS § 10355.]

81.44.160 Source—[1911 c 117 § 60; RRS § 10396.]

#### Chapter 81.48 Railroads—Operating Requirements and Regulations

81.48.010 Source—[1909 c 249 § 276; RRS § 2528.]

81.48.020 Source—[1909 c 249 § 278; RRS § 2530.]

81.48.030 Source—[1943 c 228 § 1; Rem. Supp. 1943 § 10547-1.]  
“state department of public service” to “commission”.  
“this act” to “RCW 81.48.030 and 81.48.040”.

81.48.040 Source—[1943 c 228 § 2; Rem. Supp. 1943 § 10547-2.]  
“director of public service” and “department” to “commission”.  
“this act” to “RCW 81.48.030 and 81.48.040”.  
“the effective date of this act” to “June 9, 1943”.

81.48.050 Source—[1911 c 117 § 69; RRS § 10405.]

81.48.060 Source—[1909 c 249 § 277; RRS § 2529.]

#### Chapter 81.52 Railroads—Rights of Way—Spurs—Fences

81.52.010 Source—[1919 c 153 § 1; 1911 c 117 § 61; RRS § 10397.]

81.52.020 Source—[1911 c 17 § 13; RRS § 10349.]

81.52.030 Source—[1911 c 117 § 62; RRS § 10398.]

81.52.040 Source—[1907 c 223 § 1; RRS § 10465.]  
“act” to “section” since 1907 c 223 is but a one section act.  
“the operation of the act of March 28, 1890, relating to the construction of branch lines (Ballinger’s Annotated Codes and Statutes, Sec. 4303)” to “RCW 81.36.060 through 81.36.090” wherein the 1890 act will appear.

81.52.050 Source—[1907 c 88 § 1; RRS § 10507.]  
“within six months after the passage of this act” deleted as having expired.

81.52.060 Source—[1907 c 88 § 2; RRS § 10508.]

81.52.070 Source—[1907 c 88 § 3; RRS § 10509.]

81.52.080 through 81.52.380 Source—[1913 c 30 as amended and 1941 c 161 as amended. These two acts were consolidated by the 1941 Code Committee. They are herein restored to session law language and made separate chapters. The 1913 act appears herein as chapter 81.53—Railroads—Crossings, and the 1941 act as chapter 81.54—Railroads—Inspection of industrial crossings.

#### Chapter 81.53 Railroads—Crossings

81.53.010 Source—[1959 c 283 § 2. Prior: (i) 1913 c 30 § 1; RRS § 10511. (ii) 1941 c 161 § 1; Rem. Supp. 1941 § 10511-1.]  
Presently codified as RCW 81.53.010.

In combining the provisions of 1913 c 30 and 1941 c 161, the 1941 Code Committee combined the definitions sections of both acts as RCW 81.53.010. These are herein re-divided, the definitions section of the 1913 act being codified herein as 81.53.010 while the definitions section of the 1941 act appears herein as 81.54.010.

- Explanatory note.
- 81.53.020 Source—[1913 c 30 § 2; RRS § 10512.]  
Presently codified as RCW 81.52.090.
- 81.53.030 Source—[1959 c 283 § 1; 1955 c 310 § 3. Prior: 1937 c 22 § 1, part; 1913 c 30 § 3, part; RRS § 10513, part.]  
Presently codified as RCW 81.52.100.  
“state parks committee” to “state parks and recreation commission” as the powers and duties of the committee have devolved upon the commission through a chain of statutes as follows: 1921 c 7 § 10; 1945 c 36 § 1; 1947 c 271 § 1.
- 81.53.040 Source—[1955 c 310 § 5. Prior: 1937 c 22 § 1, part; 1913 c 30 § 3, part; RRS § 10513, part.]  
Presently codified as RCW 81.52.110.
- 81.53.050 Source—[1955 c 310 § 5. Prior: 1937 c 22 § 1, part; 1913 c 30 § 3, part; RRS § 10513, part.]  
Presently codified as RCW 81.52.120.  
Note that “take, damage, or injuriously affect”, the session law phrase in 1937 c 22 § 1, has been substituted for “take or damage,” although 1955 c 310 § 5 enacted the RCW language without amendment. The phrase “or injuriously affected” was deleted by the 1941 Code Committee in RCW 81.52.130 and later sections, but no legislative action has enacted the deletion, so in the proposed reenactment the session law language has been restored.
- 81.53.060 Source—[1937 c 22 § 2, part; 1921 c 138 § 1, part; 1913 c 30 § 4, part; RRS § 10514, part.]  
Presently codified as RCW 81.52.130.  
The 1941 Code Committee divided and codified 1937 c 22 § 2 as RCW 81.52.130 through 81.52.150. This division has been followed as it does not appear that any substantive change is involved.  
“or injuriously affected”, see notes to 81.53.050.  
“state parks committee” to “state parks and recreation commission”, see notes to 81.53.030.
- 81.53.070 Source—[1937 c 22 § 2, part; 1921 c 138 § 1, part; 1913 c 30 § 4, part; RRS § 10514, part.]  
Presently codified as RCW 81.52.140.  
See notes to 81.53.060.  
In the first sentence: “in the preceding section” deleted as the rest of the sentence provides a definite reference.
- 81.53.080 Source—[1937 c 22 § 2, part; 1921 c 138 § 1, part; 1913 c 30 § 4; RRS § 10514, part.]  
Presently codified as RCW 81.52.150.  
See notes to 81.53.060.  
“Hereafter” to “February 24, 1937”, the effective date of the 1937 act.
- 81.53.090 Source—[1937 c 22 § 3; 1913 c 30 § 5; RRS § 10515.]  
Presently codified as RCW 81.52.160.  
“future installation or repairs” to “installation or repairs made after February 24, 1937”, the effective date of 1937 c 22.
- 81.53.100 Source—[1937 c 22 § 4A; 1925 ex.s. c 73 § 1A; 1921 c 138 § 2A; 1913 c 30 § 6A; RRS § 10516A.]  
Presently codified as RCW 81.52.170.  
The 1941 Code Committee divided and codified 1937 c 22 § 4A; B, C as RCW 81.52.170, 81.52.180 and 81.52.190. This division, with the session law language restored, has been followed since it does not appear that any substantive change is involved and the subdivisions A, B and C seem to be “meaningless” as stated by the 1941 Code Committee.  
“this act” to “this chapter”.  
“subdivision” to “section” since subdivision A will appear alone in the section.

- 81.53.110 Source—[1937 c 22 § 4B; 1925 ex.s. c 73 § 1B; 1921 c 138 § 2B; Explanatory note.  
1913 c 30 § 6B; RRS § 10516B.]  
Presently codified as RCW 81.52.180.  
“this act” to “this chapter”.
- 81.53.120 Source—[1937 c 22 § 4C; 1925 ex.s. c 73 § 1C; 1921 c 138 § 2C; 1913 c 30 § 6C; RRS § 10516C.]  
Presently codified as RCW 81.52.190.  
“this act” to “this chapter”.
- 81.53.130 Source—[1937 c 22 § 5; 1913 c 30 § 7; RRS § 10517.]  
Presently codified as RCW 81.52.200.  
“the preceding section” to “RCW 81.53.100 through 81.53.120”.
- 81.53.140 Source—[1913 c 30 § 10; RRS § 10520.]  
Presently codified as RCW 81.52.210.
- 81.53.150 Source—[1913 c 30 § 11; RRS § 10521.]  
Presently codified as RCW 81.52.220.  
“this act” to “this chapter”.  
“The Public Service Commission Law, being chapter 117, of the Laws of 1911 for procedure under that act” to “other provisions of this title”.
- 81.53.160 Source—[1913 c 30 § 12; RRS § 10522.]  
Presently codified as RCW 81.52.230.  
“this act” to “this chapter”.
- 81.53.170 Source—[1937 c 22 § 6; 1913 c 30 § 13; RRS § 10523.]  
Presently codified as RCW 81.52.240.  
“this act” to “this chapter”.  
“as provided in the Public Service Commission Law for the review of findings and orders made under that act” to “as provided in this title for the review of the commission’s orders generally”.
- 81.53.180 Source—[1913 c 30 § 15; RRS § 10525.]  
Presently codified as RCW 81.52.250.  
“this act” to “this chapter”.  
“Subdivision A”, “Subdivision B” and “Subdivision C” changed to (1), (2) and (3), respectively, to conform to RCW style.
- 81.53.190 Source—[1913 c 30 § 16; RRS § 10526.]  
Presently codified as RCW 81.52.260.  
“this act” to “this chapter”.
- 81.53.200 Source—[1913 c 30 § 17; RRS § 10527.]  
Presently codified as RCW 81.52.270.  
“this act” to “this chapter”.
- 81.53.210 Source—[1913 c 30 § 18; RRS § 10528.]  
Presently codified as RCW 81.52.280.  
“this act” to “this chapter”.
- 81.53.220 Source—[1925 ex.s. c 179 § 2; 1913 c 30 § 19; RRS § 10529.]  
Presently codified as RCW 81.52.290.  
“this act” to “this chapter”.  
Nomenclature modernized i.e. “state highway engineer” to “Director of highways” and “state road” to “state highway”.
- 81.53.230 Source—[1913 c 30 § 20; RRS § 10530.]  
Not codified in RCW.  
“act” to “chapter”.
- 81.53.240 Source—[(i) 1953 c 95 § 15; 1925 ex.s. c 179 § 3; 1913 c 30 § 21; RRS § 10531. (ii) 1959 c 283 § 7.]  
Presently codified as RCW 81.52.300 and 81.52.380.  
“RCW 81.52.080 through 81.52.300 inclusive” to “this chapter”.
- 81.53.250 Source—[1937 c 22 § 7; 1913 c 30 § 14; RRS § 10524.]  
Presently codified as RCW 81.52.330.  
“this act” to “this chapter”.
- 81.53.260 Source—[1959 c 283 § 3.]  
Presently codified as RCW 81.52.340.
- 81.53.270 Source—[1959 c 283 § 4.]  
Presently codified as RCW 81.52.350.

Explanatory  
note.

- 81.53.280 Source—[1959 c 283 § 5.]  
Presently codified as RCW 81.52.360.  
“act” to “chapter”.
- 81.53.290 Source—[1959 c 283 § 6.]  
Presently codified as RCW 81.52.370.  
“this amendatory act” to “RCW 81.53.260 through 81.53.280” as  
these are the only sections thereof relating to the allocation of  
funds.

**Chapter 81.54 Railroads—Inspection of Industrial Crossings**

- 81.54.010 Source—[1941 c 161 § 1; Rem. Supp. 1941 § 10511-1.]  
Presently codified in RCW 81.52.080 in combination with 1913  
c 30 § 1; RRS § 10511. See notes to 81.52.080.  
“act” to “chapter”.
- 81.54.020 Source—[1941 c 161 § 2; Rem. Supp. 1941 § 10511-2.]  
Presently codified as RCW 81.52.310.
- 81.54.030 Source—[1951 c 111 § 1; 1941 c 161 § 3; Rem. Supp. 1941 § 10511-3.]  
Presently codified as RCW 81.52.320.
- 81.54.040 Source—[1953 c 95 § 16; 1951 c 111 § 2.]  
Presently codified as RCW 81.52.325.

**Chapter 81.56 Railroads—Shippers and Passengers**

- 81.56.010 Source—[1911 c 117 § 11; RRS § 10347.]
- 81.56.020 Source—[1911 c 117 § 12; RRS § 10348.]
- 81.56.030 Source—[1911 c 117 § 24; RRS § 10360.]
- 81.56.040 Source—[1890 p 292 § 4; RRS § 11341.]
- 81.56.050 Source—[1911 c 117 § 57; RRS § 10393.]
- 81.56.060 Source—[1905 c 126 § 1; RRS § 10474.]  
“hereafter” deleted.
- 81.56.070 Source—[1905 c 126 § 2; RRS § 10475.]  
“this act” to “RCW 81.56.060 through 81.56.110”.
- 81.56.080 Source—[1905 c 126 § 3; RRS § 10476.]
- 81.56.090 Source—[1905 c 126 § 4; RRS § 10477.]
- 81.56.100 Source—[1905 c 126 § 5; RRS § 10478.]  
“this act” to “RCW 81.56.060 through 81.56.110”.
- 81.56.110 Source—[1905 c 126 § 6; RRS § 10479.]  
“this bill” to “RCW 81.56.060 through 81.56.110”.
- 81.56.120 Source—[1893 c 27 § 4; RRS § 10494.]
- 81.56.130 Source—[1911 c 117 § 59; RRS § 10395.]
- 81.56.140 Source—[1905 c 180 § 2; RRS § 10497.]  
“Section 1 of this act” to “RCW 81.56.150”.
- The 1941 Code Committee treated this section as in pari materia with 1909 c 249 §§ 396 and 397 (1909 Criminal Code) and treated the remainder of 1905 c 180 as obsolete. The 1909 sections appear to cover the subject matter of the 1905 law with the exception of the express requirement of the 1905 act that the agent must have a fixed place of business, and such requirement is strongly implied in 1909 c 249 § 396. The 1941 Code treatment of these sections is followed herein, with 1905 c 180 § 2 appearing as Sec. 81.56.140, 1909 c 249 § 396 as 81.56.150, and 1909 c 397 as 81.56.160. The remainder of the 1905 act is proposed for repeal without reenactment.
- 81.56.150 Source—[1909 c 249 § 396; RRS § 2648.]  
See notes to 81.56.140.
- 81.56.160 Source—[1909 c 249 § 397; RRS § 2649.]  
See notes to 81.56.140.

**Chapter 81.60 Railroads—Special Police and Police Regulations**

- 81.60.010 Source—[1915 c 118 § 1; RRS § 10542.]  
In this section and in 81.60.020, the 1941 Code Committee deleted the words “steam or electric” from the phrase “any steam or electric railroad corporation”. The words are like-

- wise herein deleted because 81.60.020 was amended by 1955 c 99 § 1, by which the deletion was ratified. Explanatory note.
- 81.60.020 Source—[1955 c 99 § 1; 1915 c 118 § 2; RRS § 10543.]  
See notes to 81.60.010.
- 81.60.030 Source—[1915 c 118 § 3; RRS § 10544.]  
“this act” to “RCW 81.60.010 through 81.60.060”.
- 81.60.040 Source—[1915 c 118 § 4; RRS § 10545.]  
“this act” to “RCW 81.60.010 through 81.60.060”.
- 81.60.050 Source—[1915 c 118 § 5; RRS § 10546.]
- 81.60.060 Source—[1915 c 118 § 6; RRS § 10547.]
- 81.60.070 Source—[1909 c 249 § 398; RRS § 2650.]
- 81.60.080 Source—[1941 c 212 § 1; Rem. Supp. 1941 § 2650-1.]
- 81.60.090 Source—[1941 c 212 § 2; Rem. Supp. 1941 § 2650-2.]  
“section 1” to “RCW 81.60.080”.

## Chapter 81.64 Street Railways

- 81.64.010 Source—[1907 c 99 § 1, part; 1903 c 175 § 1, part; RRS § 11082, part.]  
The 1941 Code Committee divided and codified 1907 c 99 § 1 as RCW 81.64.010 through 81.64.030. This division has been followed for purposes of this proposed reenactment since it does not appear that any substantive change is involved.
- 81.64.020 Source—[1907 c 99 § 1, part; 1903 c 175 § 1, part; RRS § 11082, part.]  
See notes to 81.64.010.  
“PROVIDED, That hereafter” deleted to facilitate the division of 1907 c 99 § 1.
- 81.64.030 Source—[1907 c 99 § 1, part; 1903 c 175 § 1, part; RRS § 11082, part.]  
See notes to 81.64.010.
- 81.64.040 Source—[1903 c 175 § 2; RRS § 11083.]  
“section one of this act” to “RCW 81.64.010 through 81.64.030”.
- 81.64.050 Source—[1899 c 94 § 2; RRS § 11085.]  
Presently codified as RCW 80.32.070 and 81.64.050.  
The 1941 Code Committee added a reviser’s note to this section reading as follows:  
The 1899 act was superseded by 1903 c 173 and 175 but there was no express repeal in the 1903 acts so the non-conflicting part of the 1899 act still stands.  
“such corporation” in the session law referred to both electric power companies and electric railways. The 1941 Code Committee codified this section, 1899 c 94 § 2, twice, RCW 81.64.050 and 80.32.070 which latter section appears in the chapter on “Electric franchises and rights of way” and it is so treated herein.
- 81.64.060 Source—[1903 c 175 § 3; RRS § 11084.]  
In the last clause, “heretofore made or entered” to “made or entered prior to the effective date of chapter 175, Laws of 1903.”
- 81.64.070 Source—[1917 c 170 § 1; RRS § 11086.]
- 81.64.080 Source—[1919 c 33 § 1; 1911 c 117 § 25; RRS § 10361.]  
“this act” to “this title”.
- 81.64.090 Source—[1901 c 103 § 1; RRS § 11073.]  
“hereafter” deleted.
- 81.64.100 Source—[1901 c 103 § 2; RRS § 11074.]
- 81.64.110 Source—[1901 c 103 § 3; RRS § 11075.]
- 81.64.120 Source—[1897 c 94 § 1; RRS § 11076.]  
The 1941 Code Committee combined and codified 1911 c 117 § 66, part, and 1897 c 94 § 1 as RCW 81.64.120. That part derived from 1911 c 117 § 66, part, has been replaced in RCW 81.44.040 for purposes of this reenactment.  
See notes to 81.44.030.

- Explanatory note. 81.64.130 Source—[1897 c 94 § 2; RRS § 11077.]  
 “this act” to “RCW 81.64.120”.  
 The last phrase: “and all moneys collected under and by virtue of this act shall be paid into the common school fund” omitted as superseded by the general act on the disposition of fines; 1919 c 30 § 1, RCW 10.82.070, see Slayden v. Carr, 94 Wash. 412.
- 81.64.140 Source—[(i) 1895 c 144 § 1; RRS § 11078. (ii) 1895 c 144 § 2; RRS § 11079.]  
 The 1941 Code Committee combined and codified 1895 c 144 §§ 1 and 2 as RCW 81.64.140. This combination has been followed since it does not appear that any substantive change is involved.  
 “provided for in section one hereof” deleted in view of the combination.
- 81.64.150 Source—[1895 c 144 § 3; RRS § 11080.]  
 “this act” to “RCW 81.64.140”.  
 Last phrase, relating to disposition of fines deleted, see notes for 81.64.130.
- 81.64.160 Source—[1895 c 100 § 1; RRS § 7648.]
- 81.64.170 Source—[1895 c 100 § 2; RRS § 7649.]  
 “section one of this act” to “RCW 81.64.160”.  
 “this act” to “RCW 81.64.160 and 81.64.170”.

#### Chapter 81.68 Auto Transportation Companies

- 81.68.010 Source—[1935 c 120 § 1; 1921 c 111 § 1; RRS § 6387.]  
 “The term” and “when used in this act” deleted from each definition and the RCW introductory phrase “As used in this chapter;” substituted.  
 Definition of “commission” deleted as covered in Sec. 81.04.010. In the last sentence, “this act” to “this section” in the phrase “between fixed termini or over a regular route” within the meaning of this act”.  
 In subdivision (3) after “persons” and before “for compensation” the phrase “, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers,” substituted for “and, or, property” to harmonize this chapter with the chapter on motor freight carriers. The auto transportation company law (chapter 81.68 RCW) was a 1921 act regulating the transportation of “persons and/or property”. The motor freight carriers act regulating the hauling of freight by motor vehicle was enacted in 1935, and for the most part superseded the 1921 act as to the transportation of freight, see 1935 c 184 § 45, which states in pertinent part “. . . the provisions of chapter 111 of the Laws of 1921, or acts amendatory thereto which are in conflict with this act, are hereby superseded as to such conflicting provisions”. Note also the provisions of the definitions section of the 1935 act (RCW 81.80.010) which defines “motor vehicle” as “any truck, trailer, semi-trailer, tractor or any self-propelled or motor driven vehicle used upon any public highway of this state for the purpose of transporting property, but not including baggage, mail and express transported on the vehicles of auto transportation companies carrying passengers”. As a matter of executive construction, the commission certifies the carriage of baggage, mail and express by auto transportation companies, as an adjunct to the carriage of passengers, under the authority of the 1921 act. We accordingly, in this section and in other sections of this chapter have substituted for the phrase “persons and/or property” the phrase “persons, and baggage, mail and express on the vehicles of auto transportation companies carrying passengers”.



In the second paragraph of subdivision (3) after "or towns" and before "and for a distance" the words "under a franchise granted by a city prior to the enactment of this act" have been deleted for the following reasons. The original session law, 1921 c 111 § 1(d) provided that the term "auto transportation company" should not apply to vehicles "operating exclusively within the incorporated limits of any city or town". In other words, city bus lines were not to be required to obtain the certificate of public convenience and necessity provided in the act for auto stage operations. The difficulty arises from the amendment of this section by 1935 c 120 § 1(d) which, while retaining the aforementioned exemption, added the second paragraph of subdivision (d) which in substance provided that the act should not apply to persons operating motor vehicles when operated wholly within the limits of incorporated cities or towns *under a franchise granted by a city prior to the enactment of this law*, and for a distance not exceeding three road miles beyond the corporate limits of the city or town in which the starting point of the vehicle is located. The phrase contained in the 1935 amendment "prior to the enactment of this law" is ambiguous in that it cannot be ascertained whether "this law" means the 1921 act, as would be dictated by the ordinary rules of statutory construction or whether it means the 1935 act, in which case doubt has been cast upon its constitutionality, the theory having been advanced that it may in such case constitute a grant of special privileges or immunities, see *State ex rel Bacich v. Huse*. We are informed that as a result of this ambiguity, neither the commission nor its predecessor has ever applied the franchise provision. To accord with this administrative construction which has been followed for a period of some twenty-six years, the phrase is herewith deleted.

Explanatory  
note.

- 81.68.020 Source—[1927 c 166 § 1; 1921 c 111 § 2; RRS § 6388.]  
"act" to "chapter".  
"and, or, property" to "and baggage, mail and express on the vehicles of auto transportation companies carrying passengers,".
- 81.68.030 Source—[1921 c 111 § 3; RRS § 6389.]  
"State of Washington" deleted from phrase "commission of the State of Washington".  
See notes to 81.68.010.  
"Section 6 of this act" to "RCW 81.68.070".  
In first paragraph, last sentence: "act" to "chapter".  
In second paragraph, "section" to "chapter".
- 81.68.040 Source—[1921 c 111 § 4; RRS § 6390.]  
"act" to "chapter".  
"and, or, property" to ". and baggage, mail and express on the vehicles of auto transportation companies carrying passengers,".  
See notes to 81.68.010.  
In first sentence, "hereafter" deleted from phrase "shall hereafter operate".
- 81.68.050 Source—[1955 c 125 § 9. Prior: 1937 c 158 § 2, part; RRS § 10417-1, part.]
- 81.68.060 Source—[1921 c 111 § 5; RRS § 6391.]  
", and, or, property," to ". and baggage, mail and express on the vehicles of auto transportation companies carrying passengers,".  
See notes to 81.68.010.
- 81.68.065 Source—[(i) 949 c 127 § 1; Rem. Supp. 1949 § 6386-5a. (ii) 1949 c 127 § 2; Rem. Supp. 1949 § 6386-5b.]

- Explanatory note. 81.68.070 Source—[1921 c 111 § 6; RRS § 6392.]  
 “act” to “chapter”.  
 “the public service commission law of this state” to “this title”.
- 81.68.080 Source—[1921 c 111 § 7; RRS § 6393.]  
 “act” to “chapter”.  
 “director” to “direction” to correct manifest clerical error.
- 81.68.090 Source—[1921 c 111 § 8; RRS § 6394.]  
 “act” to “chapter”.

Chapter 81.80 Motor Freight Carriers

- 81.80.010 Source—[1937 c 166 § 2; 1935 c 184 § 2; RRS § 6382-2.]  
 “act” to “chapter” since 1935 c 184, as amended and specifically added to, appears in chapter 81.80, alone.  
 Definition of department deleted as the public service commission has succeeded to the powers and duties of the department of public service, and commission is defined as the public service commission in RCW 81.04.010.  
 “The term” deleted where it appears in the session law definitions, to conform with the style of definitions in the general definition section, RCW 81.04.010.  
 “section 3 hereof” to “RCW 81.80.040”.
- 81.80.020 Source—[1937 c 166 § 1; 1935 c 184 § 1; RRS § 6382-1.]  
 In the second sentence, “existing law” has reference to the law in existence prior to 1935, and is retained herein on the basis of Sec. 81.98.010 which provides that the provisions of this title shall be construed as continuations and not as new enactments.
- 81.80.030 Source—[1937 c 166 § 3; RRS § 6382-2a.]  
 “the act” to “this chapter”.
- 81.80.040 Source—[1957 c 205 § 4; 1949 c 133 § 1; 1947 c 264 § 1; 1937 c 166 § 4; 1935 c 184 § 3; Rem. Supp. 1949 § 6382-3.]
- 81.80.050 Source—[1935 c 184 § 4; RRS § 6382-4.]  
 “act” to “chapter”.
- 81.80.060 Source—[1937 c 166 § 5; RRS § 6382-4a.]
- 81.80.070 Source—[1953 c 95 § 17; 1947 c 264 § 2; 1941 c 163 § 1; 1937 c 166 § 6; 1935 c 184 § 5; Rem. Supp. 1947 § 6382-5.]
- 81.80.080 Source—[1935 c 184 § 6; RRS § 6382-6.]
- 81.80.090 Source—[1941 c 163 § 2; 1937 c 166 § 7; 1935 c 184 § 7; RRS § 6382-7.]
- 81.80.100 Source—[1935 c 194 § 8; RRS § 6382-8.]
- 81.80.110 Source—[1947 c 264 § 3; 1935 c 184 § 9; Rem. Supp. 1947 § 6382-9.]  
 “act” to “chapter”.
- 81.80.120 Source—[1937 c 166 § 8; 1935 c 184 § 10; RRS § 6382-10.]  
 “act” to “chapter”.
- 81.80.130 Source—[1957 c 205 § 5; 1937 c 166 § 9; 1935 c 184 § 11; RRS § 6382-11.]
- 81.80.140 Source—[1937 c 166 § 11; 1935 c 184 § 12; RRS § 6382-12.]
- 81.80.150 Source—[1959 c 248 § 5; 1957 c 205 § 6; 1947 c 264 § 4; 1941 c 163 § 3; 1937 c 166 § 10; Rem. Supp. 1947 § 6382-11a.]
- 81.80.170 Source—[1953 c 95 § 18; 1947 c 264 § 5; 1937 c 166 § 12; 1935 c 184 § 14; Rem. Supp. 1947 § 6382-14.]
- 81.80.180 Source—[1941 c 163 § 4; 1937 c 166 § 13; 1935 c 184 § 15; RRS § 6382-15.]  
 “section 2 of this act” to “RCW 81.80.010”.  
 “section 2 herein” to “RCW 81.80.010”.  
 “section 1” to “RCW 81.80.020”.  
 “act” to “chapter”.
- 81.80.190 Source—[1935 c 184 § 16; RRS § 6382-16.]  
 “act” to “chapter”.
- 81.80.200 Source—[1937 c 166 § 14; 1935 c 184 § 17; RRS § 6382-17.]  
 “the provisions of section 10 hereof” to “RCW 81.80.120”

- wherein appears 1935 c 184 § 10 although the phrase first appears in 1937 c 166 § 14. Explanatory note.
- 81.80.211 Source—[1953 c 95 § 23.]
- 81.80.220 Source—[1937 c 166 § 16; 1935 c 184 § 19; RRS § 6382-19.]  
“act” to “chapter”.
- 81.80.230 Source—[1947 c 264 § 6; Rem. Supp. 1947 § 6382-19a.]  
“act” to chapter”.
- 81.80.240 Source—[1937 c 166 § 17; 1935 c 184 § 20; RRS § 6382-20.]
- 81.80.250 Source—[1935 c 184 § 21; RRS § 6382-21.]
- 81.80.260 Source—[1935 c 184 § 22; RRS § 6382-22.]
- 81.80.270 Source—[1959 c 248 § 24; 1937 c 166 § 18; 1935 c 184 § 23; RRS § 6382-23.]
- 81.80.280 Source—[1935 c 184 § 24; RRS § 6382-24.]  
“act” to “chapter”.
- 81.80.290 Source—[1935 c 184 § 25; RRS § 6382-25.]  
“act” to “chapter”.
- 81.80.300 Source—[1935 c 184 § 26; RRS § 6382-26.]  
“act” to “chapter.”
- 81.80.310 Source—[1959 c 248 § 6; 1953 c 95 § 19; 1949 c 129 § 1; 1947 c 264 § 7; 1937 c 166 § 19; 1935 c 184 § 27; Rem. Supp 1949 § 6382-27.]
- 81.80.312 Source—[1953 c 95 § 20.]
- 81.80.314 Source—[1959 c 248 § 7; 1953 c 95 § 21.]
- 81.80.316 Source—[1959 c 248 § 8; 1953 c 129 § 3.]
- 81.80.317 Source—[1955 c 79 § 9.]  
“effective date of this act” to “June 9, 1955”.
- 81.80.318 Source—[1955 c 79 § 10.]
- 81.80.320 Source—[1959 c 248 § 9; 1955 c 205 § 7; 1955 c 79 § 8; 1943 c 104 § 1; 1937 c 166 § 20; 1935 c 184 § 28; Rem. Supp. 1943 § 6382-28.]
- 81.80.330 Source—[1935 c 184 § 29; RRS § 6382-29.]  
“act” to “chapter”.
- 81.80.340 Source—[1947 c 264 § 9; 1935 c 184 § 30; RRS § 6382-30.]  
“act” to “chapter”.  
“the public service commission law of this state” to “this title”.
- 81.80.350 Source—[1937 c 166 § 21; 1935 c 184 § 31; RRS § 6382-31.]  
“act” to “chapter”.
- 81.80.355 Source—[1957 c 205 § 8; 1953 c 95 § 22.]
- 81.80.360 Source—[1937 c 166 § 22; RRS § 6382-31a.]  
“act” to “chapter”.  
“chapter 117, Laws of 1911, as amended and supplemented,” to “this title”.
- 81.80.370 Source—[1935 c 184 § 32; RRS § 6382-32.]  
“act” to “chapter”.
- 81.80.380 Source—[1935 c 184 § 33; RRS § 6382-33.]
- 81.80.391 Source—[1953 c 129 § 1.]

## Chapter 81.84 Steamboat Companies

- 81.84.010 Source—[1950 ex.s. c 6 § 1, part; 1927 c 248 § 1, part; RRS § 10361-1, part.]  
The 1941 Code Committee divided and codified 1950 ex.s. c 6 § 1 as RCW 81.84.010 through 81.84.030. This division has been followed as it does not appear that any substantive change is involved.  
“this act” to “this chapter”.  
“Washington Public Service” deleted from phrase, “Washington Public Service Commission” in view of definition of “commission” in 81.04.010.
- 81.84.020 Source—[1950 ex.s. c 6 § 1, part; 1927 c 248 § 1, part; RRS § 10361-1, part.]  
See notes to 81.84.010.
- 81.84.030 Source—[1950 ex.s. c 6 § 1, part; 1927 c 248 § 1, part; RRS § 10361-1, part.]

Explanatory  
note.

See notes to 81.84.010.  
"this act" to "this chapter".  
"this act" to "this title".

- 81.84.040 Source—[1955 c 125 § 10. Prior: 1939 c 123 § 3, part; 1937 c 158 § 4, part; RRS § 10417-3, part.]
- 81.84.050 Source—[1937 c 169 § 6; RRS § 10361-2.]  
In first sentence, "this act" to "this title".  
In last sentence, "this act" to "this chapter".

#### Chapter 81.88 Gas and Oil Pipe Lines

- 81.88.020 Source—[1951 c 94 § 2; 1915 c 132 § 2; RRS § 9965.]  
"act" to "section" since 1951 c 94 § 1 is a repealer section, repealing 1915 c 132 § 1, and 1915 c 132 § 2 is the only remaining section of 1915 c 132.
- 81.88.030 Source—[1933 ex.s. c 61 § 1; RRS § 9965-1.]  
"chapter 117, Laws of 1911 and all acts amendatory thereof and supplemental thereto" to "this title".  
"act" to "section" as 1933 ex.s. c 61 § 1 is but a one section act.

#### Chapter 81.92 Storage Warehousemen

This chapter, presently codified as chapter 22.20 RCW, is here presented for enactment as part of Title 81, because storage warehousemen are regulated by the public service commission, and by the provisions of RCW 22.20.012 (herein 81.92.020). They are declared to be public service companies.

- 81.92.010 Source—[1959 c 248 § 4; 1955 c 300 § 3. Prior: 1937 c 202 § 1, part; 1933 c 154 § 1, part; RRS § 11569-1, part. Cf. 1911 c 91 § 1.]  
Presently codified as RCW 22.20.010.  
Definition of "commission" deleted as covered by identical definition in 81.04.010 which applies to the entire title.
- 81.92.020 Source—[1953 c 95 § 1.]  
Presently codified as RCW 22.20.012.  
"Title 81" to "this title".
- 81.92.030 Source—[1933 c 154 § 2; RRS § 11569-2.]  
Presently codified as RCW 22.20.020.  
"act" to "chapter".
- 81.92.040 Source—[1955 c 300 § 4. Prior: 1937 c 202 § 1, part; 1933 c 154 § 1; RRS § 11569-1, part. Cf. 1911 c 91 § 1.]  
Presently codified as RCW 22.20.030.
- 81.92.050 Source—[1951 c 110 § 1; 1937 c 202 § 3; 1933 c 154 § 6; RRS § 11569-6.]  
Presently codified as RCW 22.20.040.  
"transportation revolving fund [public service revolving fund]" to "public service revolving fund".
- 81.92.060 Source—[1933 c 154 § 3; RRS § 11569-3. Cf. 1911 c 91 § 10.]  
Presently codified as RCW 22.20.050.
- 81.92.070 Source—[1953 c 95 § 2; 1949 c 128 § 1; Rem. Supp. 1949 § 11569-4A.]  
Presently codified as RCW 22.20.060.
- 81.92.080 Source—[1949 c 128 § 2; Rem. Supp. 1949 § 11569-4B.]  
Presently codified as RCW 22.20.070.
- 81.92.090 Source—[1933 c 154 § 4; RRS § 11569-4. Cf. 1911 c 91 §§ 10, 11.]  
Presently codified as RCW 22.20.080.  
"act" to "chapter".
- 81.92.100 Source—[1937 c 202 § 2; RRS § 11569-5. Prior: 1933 c 154 § 5.]  
Presently codified as RCW 22.20.090.
- 81.92.110 Source—[1933 c 154 § 7; RRS § 11569-7.]  
Presently codified as RCW 22.20.100.  
"the public service commission laws of this state" to "this title".
- 81.92.120 Source—[1933 c 154 § 10; RRS § 11569-10.]  
Presently codified as RCW 22.20.110.

- 81.92.130 Source—[1933 c 154 § 9; RRS § 11569-9.]  
Presently codified as RCW 22.20.120.  
“act” to “chapter”. Explanatory note.
- 81.92.140 Source—[1933 c 154 § 8; RRS § 11569-8.]  
Presently codified as RCW 22.20.130.  
“act” to “chapter”.
- 81.92.150 Source—[1957 c 205 § 1].  
Presently codified as RCW 22.20.135.
- 81.92.160 Source—[1955 c 164 § 1.]  
This section is based upon RCW 22.01.010 [1955 c 164 § 1] which appears to have application to the whole of Title 22. The removal of chapter 22.20 and its reenactment herein as chapter 81.92, necessitates the repetition herein of RCW 22.01.010 with the exception that “any warehouseman as defined in this title” is changed to “any warehouseman as defined in this chapter”.

#### Chapter 81.94 Wharfingers and Warehousemen

This chapter, presently codified as chapter 22.24 RCW, is here presented for enactment as part of Title 81, because wharfingers and warehousemen subject to this chapter are expressly declared public service companies, and are regulated by the public service commission. Furthermore this chapter was originally part of the basic 1911 public service commission law.

- 81.94.010 Source—[1957 c 12 § 1. Prior: 1929 c 223 § 1, part; 1923 c 116 § 1, part; 1911 c 117 § 8, part; RRS § 10344, part.]  
Presently codified as RCW 22.24.010.  
Definition of “commission” deleted as covered by identical definition in 81.04.010 which applies to the entire title.
- 81.94.020 Source—[1953 c 95 § 3.]  
Presently codified as RCW 22.24.012.  
“Title 81” to “this title”.
- 81.94.030 Source—[1911 c 117 § 46; RRS § 10382.]  
Presently codified as RCW 22.24.020.
- 81.94.040 Source—[1911 c 117 § 47; RRS § 10383.]  
Presently codified as RCW 22.24.030.
- 81.94.050 Source—[1911 c 117 § 48; RRS § 10384.]  
Presently codified as RCW 22.24.040.  
“RCW 22.24.030” to “RCW 81.94.040”.
- 81.94.060 Source—[1911 c 117 § 49; RRS § 10385.]  
Presently codified as RCW 22.24.050.]
- 81.94.070 Source—[1911 c 117 § 50; RRS § 10386.]  
Presently codified as RCW 22.24.060.
- 81.94.080 Source—[1911 c 117 § 51; RRS § 10387.]  
Presently codified as RCW 22.24.070.  
“act” to “chapter” since the exceptions referred to are contained in the sections of 1911 c 117 codified in chapter 81.94.
- 81.94.090 Source—[1911 c 117 § 52; RRS § 10388.]  
Presently codified as RCW 22.24.080.
- 81.94.100 Source—[1911 c 117 § 56; RRS § 10392.]  
Presently codified as RCW 22.24.090.  
The phrase appearing in the session law at the end of each paragraph, “as hereinafter provided”, was based on the relative position of sections in the 1911 act. It is here deleted.
- 81.94.110 Source—[1911 c 117 § 72; RRS § 10408.]  
Presently codified as RCW 81.94.110.
- 81.94.130 Source—[1955 c 164 § 1.]  
This section is based upon RCW 22.01.010 [1955 c 164 § 1] which appears to have application to the whole of Title 22. The removal of chapter 22.24 and its reenactment herein as chapter 81.92, necessitates the repetition herein of RCW 22.01-

Explanatory  
note.

.010 with the exception that "any warehouseman as defined in this title" is changed to "any warehouseman as defined in this chapter".

Chapter 81.98 Construction

- 81.98.010 This section has been added to preserve continuity with the laws which this bill reenacts.
- 81.98.020 Provides that chapter, etc., headings are not part of the law.
- 81.98.030 Severability.
- 81.98.040 Repeals and saving. (See also notes to 80.98.040).  
 Except as noted below, the laws set forth in the schedule of repeals were either repealed previously, or are substantially reenacted in this bill. The numbers in parentheses correspond with the like numbered subdivisions of the repealer schedule.
  - (7) § 4 omitted as superfluous.
  - (13) Omitted as superseded by 1901 c 103, herein 81.64.090—81.64.110.
  - (16) § 3 omitted as obsolete.
  - (21) §§ 1 and 3 through 8 omitted as obsolete, see note to 81.56.140, above.
  - (30) § 3 omitted as obsolete.
  - (43) § 11 omitted as obsolete.
  - (55) §§ 43, 45, 46, 47 omitted as obsolete.
  - (58) § 23 omitted as obsolete.
- 81.98.050 Effective date. The standard emergency clause is used for the title.