

1967-1969 biennium, to facilitate an orderly transition in state payroll procedures.

Passed the House March 17, 1967.

Passed the Senate March 31, 1967.

Approved by the Governor April 7, 1967.

CHAPTER 26.

[Engrossed House Bill No. 576.]

DEPARTMENT OF REVENUE—BOARD OF TAX APPEALS.

AN ACT relating to state government; providing for the administration of laws pertaining to taxation; establishing the department and director of revenue; establishing the board of tax appeals; abolishing the tax commission of the state of Washington and transferring the powers and duties thereof to the director of revenue and to the board of tax appeals; establishing procedures for review and providing for appeals from the board of tax appeals; transferring appropriations; amending section 43.17.010, chapter 8, Laws of 1965 as amended by section 20, chapter 156, Laws of 1965 and RCW 43.17.010; amending section 43.17.020, chapter 8, Laws of 1965 as amended by section 21, chapter 156, Laws of 1965 and RCW 43.17.020; amending section 82.02.010, chapter 15, Laws of 1961 and RCW 82.02.010; amending section 83.01.010, chapter 15, Laws of 1961 and RCW 83.01.010; amending section 84.04.110, chapter 15, Laws of 1961 and RCW 84.04.110; amending section 84.12.350, chapter 15, Laws of 1961 and RCW 84.12.350; amending section 84.16.110, chapter 15, Laws of 1961 and RCW 84.16.110; amending section 1, chapter 286, Laws of 1957 and RCW 19.91.010, amending section 4, chapter 220, Laws of 1959 and RCW 23.90.040; amending section 7, chapter 278, Laws of 1957 as amended by section 1, chapter 274, Laws of 1959 and RCW 54.28.010; amending section 2, chapter 166, Laws of 1921 as amended by section 2, chapter 236, Laws of 1955 and RCW 60.28.020; amending section 5, chapter 236, Laws of 1955 and RCW 60.28.050; amending section 6, chapter 236, Laws of 1955 and RCW 60.28.060; amending section 1, chapter 91, Laws of 1957 and RCW 60.28.070; amending section 1, chapter 385, Laws of 1955 and RCW 63.28.070; amending section 82.32.160, chapter 15, Laws of 1961 as amended by section 8, chapter 28, Laws of 1963 extraordinary session and RCW 82.32.160; amending section 82.32.170, chapter 15, Laws of 1961 and

RCW 82.32.170; amending section 82.32.180, chapter 15, Laws of 1961 as last amended by section 5, chapter 141, Laws of 1965 extraordinary session and RCW 82.32.180; adding a new section to chapter 15, Laws of 1961 and chapter 82.01 RCW; adding a new section to chapter 11.08 RCW; adding new sections to chapter 15, Laws of 1961 and to Title 82 RCW and providing for a new chapter therein; and repealing sections 82.01.010 through 82.01.040, chapter 15, Laws of 1961 and RCW 82.01.010 through 82.01.040.

Be it enacted by the Legislature of the State of Washington:

Section 1. The purpose of this 1967 amendatory act is to provide for a more efficient administration of the supervision and collection of state taxes and other allied functions, to separate certain of the administrative and quasi-judicial functions of the taxing authority, and to provide a convenient and economical form in which the appeals of individual taxpayers may be determined.

Department of revenue—
Board of tax appeals. Purpose of act.

Sec. 2. There is established a department of state government to be known as the department of revenue of the state of Washington, of which the chief executive officer shall be known as the director of revenue.

Department of revenue—
Director.

Sec. 3. The director of revenue, hereinafter in as they may be revised or rescinded by the director; through the department of revenue, hereinafter in this 1967 amendatory act referred to as the department, shall:

Director—
Duties.

(1) Assess and collect all taxes and administer all programs relating to taxes which are the responsibility of the tax commission at the time this 1967 amendatory act takes effect or which the legislature may hereafter make the responsibility of the director or of the department;

(2) Make, adopt and publish such rules and regulations as he may deem necessary or desirable to carry out the powers and duties imposed upon him or the department by the legislature: *Provided,*

Department of revenue.

That rules and regulations adopted by the tax commission prior to the effective date of this 1967 amendatory act shall remain in force until such time as they may be revised or rescinded by the director;

(3) Provide by general regulations for an adequate system of departmental review of the actions of the department or of its officers and employees in the assessment or collection of taxes;

(4) Maintain a tax research section with sufficient technical, clerical and other employees to conduct constant observation and investigation of the effectiveness and adequacy of the revenue laws of this state and of the sister states in order to assist the governor, the legislature and the director in estimation of revenue, analysis of tax measures, and determination of the administrative feasibility of proposed tax legislation and allied problems;

(5) Recommend to the governor in a report at least sixty days before the meeting of any regular session of the legislature such amendments, changes in, and modifications of the revenue laws as seem proper and requisite to remedy injustice and irregularities in taxation, and to facilitate the assessment and collection of taxes in the most economical manner.

Assistant director—Other personnel.

Sec. 4. The director shall have charge and general supervision of the department of revenue. He shall appoint an assistant director for administration, hereinafter in this 1967 amendatory act referred to as the assistant director, and subject to the provisions of chapter 41.06 RCW may appoint and employ such clerical, technical and other personnel as may be necessary to carry out the powers and duties of the department.

Delegation of duties—Responsibility.

Sec. 5. The director may delegate any power or duty vested in or transferred to him by law, or executive order, to the assistant director or to any of

the director's subordinates; but the director shall be responsible for the official acts of the officers and employees of the department.

Sec. 6. There is added to chapter 15, Laws of 1961 and to chapter 82.01 RCW a new section to read as follows: New section.

Except for the powers and duties devolved upon the board of tax appeals by the provisions of sections 30 through 48 of this 1967 amendatory act, the director of revenue shall, after the effective date of this 1967 amendatory act, exercise those powers, duties and functions theretofore vested in the tax commission of the state of Washington, including all powers, duties and functions of the commission acting as the commission or as the state board of equalization or in any other capacity. Assumption of duties—
Former tax commission.

Sec. 7. The tax commission of the state of Washington is hereby abolished and, except for those powers, duties and functions provided for in sections 30 through 48 of this 1967 amendatory act herewith vested in the board of tax appeals created therein, its powers, duties and functions are transferred to the director of revenue. Tax commission abolished.

Sec. 8. The tax commission of the state of Washington shall transfer and deliver on the effective date of this 1967 amendatory act to the director of revenue and to the board of tax appeals, as the powers and duties assumed by such agencies under the provisions of this 1967 amendatory act shall indicate, all books, documents, records, papers and other writings which have been made, and all cabinets, files, furniture, office equipment, motor vehicles and other tangible property used or held in the exercise of the power and performance of the duties by this 1967 amendatory act transferred to the director of revenue and to the board of tax appeals. Books, records, etc. of tax commission.

Department of revenue.

Sec. 9. All appropriations made to or for the tax commission of the state of Washington are hereby transferred and made available to the department of revenue to be expended in carrying out the powers and duties imposed upon such department of revenue and the director of revenue.

Transfer of appropriations.

Transfer of employees.

Sec. 10. All employees of the tax commission who are employed in performing the functions vested hereby in the department of revenue and who are not exempted from the provisions of chapter 41.06 RCW shall, upon the effective date of this act, be transferred to the department of revenue.

All such employees so transferred shall continue to be governed by the provisions of chapter 41.06 RCW without any loss of rights granted by said law.

Assist other agencies in tax collection.

Sec. 11. Assistance of the department of revenue in the administration or collection of those state taxes which are administered or collected by other state agencies may be requested by the agencies concerned. Such assistance may be given by the director to the extent that the limitations of time, personnel and the conduct of the duties of the department shall allow. The department shall be reimbursed by any agency to which assistance is rendered.

RCW 43.17.010 amended.

Sec. 12. Section 43.17.010, chapter 8, Laws of 1965 as amended by section 20, chapter 156, Laws of 1965 and RCW 43.17.010 are each amended to read as follows:

State departments enumerated.

There shall be departments of the state government which shall be known as (1) the department of public assistance, (2) the department of institutions, (3) the department of health, (4) the department of conservation, (5) the department of labor and industries, (6) the department of agriculture, (7) the department of fisheries, (8) the department of game, (9) the department of highways, (10) the

department of motor vehicles, (11) the department of general administration, (12) the department of commerce and economic development and (13) the department of revenue, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide.

NOTE: See also section 12, chapter 242, Laws of 1967.

Sec. 13. Section 43.17.020, chapter 8, Laws of 1965 as amended by section 21, chapter 156, Laws of 1965 and RCW 43.17.020 are each amended to read as follows:

RCW 43.17.020
amended.

There shall be a chief executive officer of each department to be known as: (1) The director of public assistance, (2) the director of institutions, (3) the director of health, (4) the director of conservation, (5) the director of labor and industries, (6) the director of agriculture, (7) the director of fisheries, (8) the director of game, (9) the director of highways, (10) the director of motor vehicles, (11) the director of general administration, (12) the director of commerce and economic development and (13) the director of revenue.

Executive officers of state departments enumerated.

Such officers, except the director of highways, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. 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 that body his nomination for the office. The director of highways shall be appointed by the state highway commission.

NOTE: See also section 13, chapter 242, Laws of 1967.

Sec. 14. Section 82.02.010, chapter 15, Laws of 1961 and RCW 82.02.010 are each amended to read as follows:

RCW 82.02.010
amended.

Department of revenue.

For the purpose of this title, unless otherwise required by the context:

Definitions.

(1) The terms "tax commission", "department of revenue", "state board of equalization" and "revenue department" and the words "commission" and "department" mean the department of revenue of the state of Washington;

(2) The word "director" means the director of the department of revenue of the state of Washington;

(3) The word "taxpayer" includes any individual, group of individuals, corporation, or association liable for any tax or the collection of any tax hereunder, or who engages in any business or performs any act for which a tax is imposed by this title;

(4) Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include all other genders.

RCW 83.01.010 amended.

Sec. 15. Section 83.01.010, chapter 15, Laws of 1961 and RCW 83.01.010 are each amended to read as follows:

Definitions.

For the purposes of this title, unless otherwise required by the context:

(1) "Supervisor" means and refers to the director of revenue of the state of Washington;

(2) "Tax commission", "commission" or "department" means the department of revenue of the state of Washington;

(3) "Taxpayer" includes any individual, group of individuals, corporation, or association liable for any tax or the collection of any tax under the provisions of this title, or who engages in any business or performs any act for which a tax is imposed by this title;

(4) Words in the singular number shall include the plural and the plural shall include the singular;

(5) Words in one gender shall include all other genders.

Sec. 16. Section 84.04.110, chapter 15, Laws of 1961 and RCW 84.04.110 are each amended to read as follows:

“Tax commission” shall be held and construed to mean the department of revenue of the state of Washington.

RCW 84.04.110 amended.

“Tax commission”
“department of revenue”.

Sec. 17. Section 84.12.350, chapter 15, Laws of 1961 and RCW 84.12.350 are each amended to read as follows:

Upon determination by the department of revenue of the true and correct actual cash value of the property appearing on such rolls it shall apportion such value to the respective counties entitled thereto, as hereinafter provided, and shall determine the equalized assessed valuation of such property in each such county and in the several taxing districts therein, by applying to such actual apportioned value the same ratio as the ratio of assessed to actual value of the general property in such county: *Provided*, That, whenever the amount of the true and correct value of the operating property of any company otherwise apportionable to any county or other taxing district shall be less than two hundred fifty dollars, such amount need not be apportioned to such county or taxing district but may be added to the amount apportioned to an adjacent county or taxing district.

RCW 84.12.350 amended.

Taxation of public utilities. Apportionment of assessment.

Sec. 18. Section 84.16.110, chapter 15, Laws of 1961 and RCW 84.16.110 are each amended to read as follows:

Upon determination by the department of revenue of the true and correct actual cash value of the property appearing on such rolls the department shall apportion such value to the respective counties entitled thereto as hereinafter provided, and shall

RCW 84.16.110 amended.

Taxation of private car companies. Apportionment of assessment.

Department of revenue.

determine the equalized or assessed valuation of such property in such counties by applying to such actual apportioned value the same ratio as the ratio of assessed to actual value of the general property of the respective counties: *Provided*, That, whenever the amount of the true and correct value of the operating property of any company otherwise apportionable to any county shall be less than two hundred fifty dollars, such amount need not be apportioned to such county but may be added to the amount apportioned to an adjacent county.

New section.

Sec. 19. There is added to chapter 11.08 RCW a new section to read as follows:

"Tax commission" means "department of revenue".

The term "tax commission" as used in this chapter shall be held and construed to mean the department of revenue of the state of Washington.

RCW 19.91.010 amended.

Sec. 20. Section 1, chapter 286, Laws of 1957 and RCW 19.91.010 are each amended to read as follows:

Cigarette sales tax—Definitions.

When used in this chapter, the following words and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, municipal corporation, or other political subdivision of this state, trust, receiver, trustee, fiduciary and conservator.

(2) "Wholesaler" includes any person who:

(a) Purchases cigarettes directly from the manufacturer, or

(b) Purchases cigarettes from any other person who purchases from or through the manufacturer, for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only, or

(c) Services retail outlets by the maintenance of an established place of business for the purchase of

cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing contained herein shall prevent a person from qualifying in different capacities as both a "wholesaler" and "retailer" under the applicable provisions of this chapter.

(3) "Retailer" means and includes any person who operates a store, stand, booth, concession, or vending machine for the purpose of making sales of cigarettes at retail.

(4) "Tax commission" means the department of revenue of the state of Washington.

(5) "Cigarettes" means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

(6) "Sale" means any transfer for a consideration, exchange, barter, gift, offer for sale and distribution, in any manner, or by any means whatsoever.

(7) "Sell at wholesale", "sale at wholesale" and "wholesale" sales mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale.

(8) "Sell at retail", "sale at retail" and "retail sales" mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use.

(9) "Basic cost of cigarettes" means the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the

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revenue.

quantity last purchased, whichever is lower, less all trade discounts and customary discounts for cash, to which shall be added the full face value of any stamps which may be required by any cigarette tax act of this state and by ordinance of any municipality thereof, now in effect or hereafter enacted, if not already included by the manufacturer in his list price.

(10) (a) The term "cost to the wholesaler" means the "basic cost of cigarettes" to the wholesaler plus the "cost of doing business by the wholesaler" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said wholesalers "cost of doing business" bears to said wholesalers dollar volume per annum, and said "cost of doing business by the wholesaler" shall be evidenced and determined by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor costs (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling cost, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising.

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the wholesaler making the sale, the "cost of doing business by the wholesaler" shall be presumed to be four percent of the "basic cost of cigarettes" to the wholesaler, plus cartage to the retail outlet, if performed or paid for by the wholesaler, which cartage cost, in the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost, shall be deemed to be one-half of one percent of the "basic cost of cigarettes" to the wholesaler.

(11) (a) The term "cost to the retailer" means the "basic cost of cigarettes" to the retailer plus the "cost of doing business by the retailer" which said cost of doing business amount shall be expressed percentage-wise in the ratio that said retailers "cost of doing business" bears to said retailers dollar volume per annum, and said "cost of doing business by the retailer" shall be evidenced and determined by the standards and methods of accounting regularly employed by him in his allocation of overhead costs and expenses, paid or incurred, and must include, without limitation, labor (including reasonable salaries for partners, executives, and officers), rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance and advertising: *Provided*, That any retailer who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a retailer but also, in whole or in part, discounts ordinarily allowed upon purchases by a wholesaler shall, in determining "cost to the retailer", pursuant to this subdivision, add the "cost of doing business by the wholesaler," as defined in subdivision (10) of this section, to the "basic cost of cigarettes" to said retailer, as well as the "cost of doing business by the retailer".

(b) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business by the retailer making the sale, the "cost of doing business by the retailer" shall be presumed to be ten percent of the "basic cost of cigarettes" to the retailer.

(c) In the absence of the filing with the department of revenue of satisfactory proof of a lesser or higher cost of doing business, the "cost of doing business by the retailer", who, in connection with the retailer's purchase, receives not only the discounts ordinarily allowed upon purchases by a

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revenue.

retailer but also, in whole or in part, the discounts ordinarily allowed upon purchases by a wholesaler, shall be presumed to be ten percent of the sum of the "basic cost of cigarettes" and the "cost of doing business by the wholesaler".

(12) "Business day" means any day other than a Sunday or a legal holiday.

RCW 23.90.040
amended.

Sec. 21. Section 4, chapter 220, Laws of 1959 and RCW 23.90.040 are each amended to read as follows:

Massachusetts
trusts—Filing
trust instru-
ment—Duties
of state and
county
agencies.

(1) Any Massachusetts trust desiring to do business in this state shall file with the secretary of state a verified copy of the trust instrument creating such a trust and any amendment thereto, the assumed business name, if any, and the names and addresses of its trustees; and it shall also file true copies of the foregoing with the county auditor in the county in which it has its principal place of business in this state, and also in any county in which it owns any real property.

(2) Any person dealing with such Massachusetts trust shall be bound by the terms and conditions of the trust instrument and any amendments thereto so filed.

(3) Any Massachusetts trust created under this chapter or entering this state pursuant thereto shall pay such taxes and fees as are imposed by the laws, ordinances, and resolutions of the state of Washington and any counties and municipalities thereof on domestic and foreign corporations, respectively, on an identical basis therewith. In computing such taxes and fees, the shares of beneficial interest of such a trust shall have the character for tax purposes of shares of stock in private corporations.

(4) Any Massachusetts trust shall be subject to such applicable provisions of law, now or hereafter enacted, with respect to domestic and foreign corporations, respectively, as relate to the issuance of securities, filing of required statements or reports,

service of process, general grants of power to act, right to sue and be sued, limitation of individual liability of shareholders, rights to acquire, mortgage, sell, lease, operate and otherwise to deal in real and personal property, and other applicable rights and duties existing under the common law and statutes of this state in a manner similar to those applicable to domestic and foreign corporations.

(5) The secretary of state, director of motor vehicles, and the department of revenue of the state of Washington, and the several county auditors in which any such Massachusetts trust shall have its principal place of business or own any real property are each authorized and directed to prescribe binding rules and regulations applicable to said Massachusetts trusts consistent with this chapter.

Sec. 22. Section 7, chapter 278, Laws of 1957 as amended by section 1, chapter 274, Laws of 1959 and RCW 54.28.010 are each amended to read as follows:

RCW 54.28.010 amended.

As used in this chapter:

“Tax commission” means the department of revenue of the state of Washington;

Public utility districts.
Privilege taxes.
Definitions.

“Operating property” means all of the property utilized by a public utility district in the operation of a plant or system for the generation, transmission, or distribution of electric energy for sale;

“Taxing districts” means counties, cities, towns, school districts, and road districts;

“Distributes to consumers” means the sale of electric energy to ultimate consumers thereof, and does not include sales of electric energy for resale by the purchaser;

“Wholesale value” means all costs of a public utility district associated with the generation and transmission of energy from its own generation and transmission system to the point or points of interconnection with a distribution system owned and used by a district to distribute such energy to con-

Department of revenue.

sumers, or in the event a distribution system owned by a district is not used to distribute such energy, then the term means the gross revenues derived by a district from the sale of such energy to consumers.

RCW 60.28.020 amended.

Sec. 23. Section 2, chapter 166, Laws of 1921 as amended by section 2, chapter 236, Laws of 1955 and RCW 60.28.020 are each amended to read as follows:

Public works —Liens for taxes—Excess over liens.

After the expiration of the thirty day period, and after receipt of the department of revenue's certificate, the reserve in excess of a sum sufficient to discharge the taxes certified as due or to become due by the department of revenue, and the claims of materialmen and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, shall be paid to the contractor.

RCW 60.28.050 amended.

Sec. 24. Section 5, chapter 236, Laws of 1955 and RCW 60.28.050 are each amended to read as follows:

Public works —Liens for taxes.

Upon final acceptance of a contract, the state, county or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue of the completion of said contract. Such officer shall not make any payment from the retained percentage fund to any person, until he has received from the department of revenue a certificate that all taxes, increases and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in the department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

RCW 60.28.060 amended.

Sec. 25. Section 6, chapter 236, Laws of 1955 and RCW 60.28.060 are each amended to read as follows:

Taxes paid.

If within thirty days after receipt of notice by the department of revenue of the completion of the contract, the amount of all taxes, increases and pen-

alties due from the contractor or any of his successors or assignees or to become due with respect to such contract have not been paid, the department of revenue may certify to the disbursing officer the amount of all taxes, increases and penalties due from the contractor, together with the amount of all taxes due and to become due with respect to the contract and may request payment thereof to the department of revenue in accordance with the priority provided by this chapter. The disbursing officer shall within ten days after receipt of such certificate and request pay to the department of revenue the amount of all taxes, increases and penalties certified to be due or to become due with respect to the particular contract, and, after payment of all claims which by statute are a lien upon the retained percentage withheld by the disbursing officer, shall pay to the department of revenue the balance, if any, or so much thereof as shall be necessary to satisfy the claim of the department of revenue for the balance of all taxes, increases or penalties shown to be due by the certificate of the department of revenue. If the contractor owes no taxes imposed pursuant to Title 82, the department of revenue shall so certify to the disbursing officer.

Sec. 26. Section 1, chapter 91, Laws of 1957 and RCW 60.28.070 are each amended to read as follows:

Where final completion of a contract executed by the Washington state highway commission for the construction of any road, bridge, street, or any part of a public highway is delayed by any unforeseen condition beyond the control of the contractor and the reservation of moneys earned as required herein shall work undue hardship on the contractor, then the highway commission thirty days after completion of all work required under the contract other than that delayed by such unforeseen condition and no taxes having been certified as due or to become

RCW 60.28.070 amended.

Public works
—Liens for
taxes—Delay
as excuse.

Department of revenue.

due by the department of revenue and no claims filed by any materialman or laborer, may at its discretion order funds reserved for the work actually completed paid to the contractor upon the contractor's delivering good and sufficient bond, with two or more sureties, or with a surety company, in the amount of the reserved funds then paid to the contractor, to the effect that no taxes shall be certified or claims filed for work done other than that delayed by the unforeseen condition within a period of thirty days following final acceptance of said improvement or work as completed; and if such taxes are certified or claims filed, recovery may be had on such bond by the department of revenue and the materialmen and laborers filing claims.

RCW 63.28.070 amended.

Sec. 27. Section 1, chapter 385, Laws of 1955 and RCW 63.28.070 are each amended to read as follows:

Unclaimed property. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Banking organization" means any bank, trust company, savings bank or land bank engaged in business in this state.

(2) "Business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals.

(3) "Financial organization" means any savings and loan association, building and loan association, industrial loan company, small loan company, credit union or investment company engaged in business in this state.

(4) "Holder" means any person in possession of property subject to this chapter belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to this chapter.

(5) "Life insurance corporation" means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(6) "Owner" means a depositor in case of a deposit, a beneficiary in case of a trust, or creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to this chapter, or his legal representative.

(7) "Person" means any individual, business association, government or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

(8) "Utility" means any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

(9) "Tax commission" means the department of revenue of the state of Washington.

Sec. 28. Sections 82.01.010 through 82.01.040, chapter 15, Laws of 1961 and RCW 82.01.010 through 82.01.040 are each repealed. Repeal.

Sec. 29. There is added to chapter 15, Laws of 1961 and to Title 82 RCW a new chapter to read as set forth in sections 30 through 48 of this act. New chapter.

Sec. 30. There is hereby created the board of tax appeals of the state of Washington as an agency of state government. Board of tax appeals. Created.

Sec. 31. The board of tax appeals, hereinafter in this 1967 amendatory act referred to as the board, shall consist of three members qualified by experi- Membership.

Board of tax
appeals.

ence and training in the field of state and local taxation, appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during their terms shall be members of the same political party.

Members—
Appointment
—Term.

Sec. 32. Members of the board shall be appointed for a term of six years and until their successors are appointed and have qualified. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs: *Provided*, That the terms of the first three members of the board shall be staggered so that one member shall be appointed to serve until March 1, 1969, one member until March 1, 1971, and one member until March 1, 1973.

Removal.

Sec. 33. Any member of the board 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 tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment.

Full or part
time—Salar-
ies, expenses,
etc.

Sec. 34. The board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the board shall operate on a full time basis, each member of the board shall receive an annual salary to be determined by the governor. If it is determined that the board shall operate on a part time basis, each member of the

board shall receive compensation on the basis of seventy-five dollars per diem for each day spent in performance of his duties: *Provided, however,* That such compensation shall not exceed seventy-five hundred dollars in a calendar year. Each board member shall receive reimbursement for travel and other expenses incurred in the discharge of his duties in accordance with RCW 43.03.050.

Sec. 35. Each member of the board of tax appeals:

Members,
limitations.

(1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his duty as a member of the board, nor shall he serve on or under any committee of any political party; and

(2) Shall not for a period of one year after the termination of his membership on the board, act in a representative capacity before the board on any matter.

Sec. 36. The board may appoint, discharge and fix the compensation of an executive secretary, a clerk, and such other clerical professional and technical assistants as may be necessary.

Executive
secretary and
other em-
ployees.

Sec. 37. The board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect such a chairman.

Chairman—
Election.

Sec. 38. The principal office of the board shall be at the state capital, but it may sit or hold hearings at any other place in the state. A majority of the board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act

Offices—Vot-
ing—Rules
and regula-
tions—
Hearings.

Board of tax appeals.

though one position on the board be vacant. One or more members may hold hearings and take testimony to be reported for action by the board when authorized by rule or order of the board. The board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

Findings of fact and written decisions—
Filing decisions.

Sec. 39. The board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decision shall be effective upon being signed by two or more members of the board and upon being filed at the board's principal office, and shall be open to public inspection at all reasonable times.

Publication of findings and decisions.

Sec. 40. The board shall either publish at its expense or make arrangements with a publishing firm for the publication of those of its findings and decisions which are of general public interest, in such form as to assure reasonable distribution thereof.

Journal.

Sec. 41. The board shall maintain at its principal office a journal which shall contain all official actions of the board, with the exception of findings and decisions, together with the vote of each member on such actions. The journal shall be available for public inspection at the principal office of the board at all reasonable times.

Jurisdiction.

Sec. 42. The board shall have jurisdiction to decide the following types of appeals:

(1) Appeals taken pursuant to section 48 of this 1967 amendatory act.

(2) Appeals from a county board of equalization pursuant to RCW 84.08.130.

(3) Appeals by an assessor or land owner from an order of the director of revenue made pursuant to RCW 84.08.010 and RCW 84.08.060, the right to such an appeal being hereby established.

(4) Appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and the apportionment thereof to a county made pursuant to chapter 84.12 RCW and 84.16 RCW, the right to such appeal being hereby established.

Sec. 43. In all appeals over which the board has jurisdiction under section 42 of this 1967 amendatory act, a party taking an appeal may elect either a formal or an informal hearing, such election to be made according to rules of practice and procedure to be promulgated by the board: *Provided, however,* That nothing herein shall be construed to modify the provisions of section 48 of this 1967 amendatory act. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted.

Appeals to board—
Formal or informal hearing.

Sec. 44. In all appeals involving an informal hearing, the board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies by chapter 34.04 RCW. The board shall also have all powers granted the department of revenue pursuant to RCW 82.32.110. In the case of appeals within the scope of section 42(2) of this 1967 amendatory act the board or any member thereof may obtain such assistance, including the making of field investigations, from the staff of the director of revenue as the board or any member thereof may deem necessary or appropriate.

Informal hearings—Powers and procedures.

Sec. 45. In all appeals involving a formal hearing the board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter

Formal hearings—Powers and procedures.

Board of tax
appeals.

34.04 RCW; and the board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.04 RCW relating to contested cases. The board shall also have all powers granted the department of revenue pursuant to RCW 82.32.110. In the case of appeals within the scope of section 42 (2) of this 1967 amendatory act, the board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director of revenue as the board, or any member thereof, may deem necessary or appropriate: *Provided, however,* That any communication, oral or written, from the staff of the director to the board shall be presented only in open hearing.

Rules of
practice and
procedure.

Sec. 46. All proceedings, including both formal and informal hearings, before the board or any of its members shall be conducted in accordance with such rules of practice and procedure as the board may prescribe. The board shall publish such rules and arrange for the reasonable distribution thereof.

Judicial
review.

Sec. 47. Judicial review of a decision of the board of tax appeals shall be de novo in accordance with the provisions of RCW 82.32.180 or RCW 84.68.020 as applicable except when the decision has been rendered pursuant to a formal hearing elected under section 43 or section 48 of this 1967 amendatory act, in which event judicial review may be obtained only pursuant to RCW 34.04.130 and RCW 34.04.140: *Provided, however,* That nothing herein shall be construed to modify the rights of a taxpayer conferred by RCW 82.32.180 and RCW 84.68.020 to sue for tax refunds: *And provided further,* That no review from a decision made pursuant to section 42(1) of this 1967 amendatory act may be obtained by a taxpayer unless within the petition period provided by RCW 34.04.130 the taxpayer shall have

first paid in full the contested tax, together with all penalties and interest thereon, if any. The director of revenue shall have the same right of review from a decision made pursuant to section 42(1) of this 1967 amendatory act as does a taxpayer.

Sec. 48. Any person having received notice of a denial of a petition or a notice of determination made under sections 49 and 50 of this 1967 amendatory act may appeal, within thirty days from the date of the notice of such denial or determination, to the board of tax appeals. In the notice of appeal the taxpayer shall set forth the amount of the tax which he contends should be reduced or refunded and the reasons for such reduction or refund, in accordance with rules of practice and procedure prescribed by the board. The appeal shall be perfected by serving a copy of the notice of appeal upon the department of revenue within the time specified herein and by filing the original thereof with proof of service with the clerk of the board. If the taxpayer intends that the hearing before the board be held pursuant to the administrative procedure act (chapter 34.04 RCW), the notice of appeal shall also so state. In the event that the notice of appeal does not so state, the department may, within ten days from the date of its receipt of the notice of appeal, file with the clerk of the board notice of its intention that the hearing be held pursuant to the administrative procedure act.

Appeal
procedure.

Sec. 49. Section 82.32.160, chapter 15, Laws of 1961 as amended by section 8, chapter 28, Laws of 1963 extraordinary session and RCW 82.32.160 are each amended to read as follows:

RCW 82.32.160
amended.

Any person having been issued a notice of additional taxes, delinquent taxes, interest, or penalties assessed by the department of revenue, may within twenty days after the issuance of the original notice

Correction of
tax—Admin-
istrative pro-
cedure—
Hearing.

Taxation—
Administra-
tion and
procedures.

of the amount thereof or within the period covered by any extension of the due date thereof granted by the department petition the department in writing for a correction of the amount of the assessment, and a conference for examination and review of the assessment. The petition shall set forth the reasons why the correction should be granted and the amount of the tax, interest, or penalties, which the petitioner believes to be due. The department shall promptly consider the petition and may grant or deny it. If denied, the petitioner shall be notified by mail thereof forthwith. If a conference is granted, the department shall fix the time and place therefor and notify the petitioner thereof by mail. After the conference the department may make such determination as may appear to it to be just and lawful and shall mail a copy of its determination to the petitioner. If no such petition is filed within the twenty day period the assessment covered by the notice shall become final.

RCW 82.32.170
amended.

Sec. 50. Section 82.32.170, chapter 15, Laws of 1961 and RCW 82.32.170 are each amended to read as follows:

Reduction of
tax after
payment.

Any person, having paid any tax, original assessment, additional assessment, or corrected assessment of any tax, may apply to the department within the time limitation for refund provided in this chapter, by petition in writing for a correction of the amount paid, and a conference for examination and review of the tax liability, in which petition he shall set forth the reasons why the conference should be granted, and the amount in which the tax, interest, or penalty, should be refunded. The department shall promptly consider the petition, and may grant or deny it. If denied, the petitioner shall be notified by mail thereof forthwith; if a conference is granted, the department shall notify the petitioner by mail of the time and place fixed therefor. After

the hearing the department may make such determination as may appear to it just and lawful, and shall mail a copy of its determination to the petitioner.

Sec. 51. Section 82.32.180, chapter 15, Laws of 1961 as last amended by section 5, chapter 141, Laws of 1965 extraordinary session and RCW 82.32.180 are each amended to read as follows:

RCW 82.32.180
amended.

Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24, having paid any tax as required and feeling aggrieved by the amount of the tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW. In the appeal the taxpayer shall set forth the amount of the tax imposed upon him which he concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. Within ten days after filing notice of appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety bond payable to the state in the sum of two hundred dollars, conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained.

Court appeals
—Procedure.

The trial in the superior court on the appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove that the tax as paid by him is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both

Taxation—
Administration and
procedure.

parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party shall be allowed to appeal to the supreme court in the same manner as other civil actions are appealed to that court.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.

Savings.

Sec. 52. Nothing in this 1967 amendatory act shall be construed to affect any existing rights acquired under the sections amended or repealed herein except as to the governmental agencies referred to and their officials and employees, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation or order promulgated thereunder nor any administrative action taken thereunder; and neither the abolishment of any agency, nor any transfer of powers, duties and functions as provided herein, shall affect the validity of any act performed by such agency or any officer thereof prior to July 1, 1967. All matters relating to functions transferred under the provisions of this 1967 amendatory act which at the time of transfer have not been completed may be undertaken and completed by that agency to which they have been transferred which agency is authorized, empowered

and directed to promulgate any and all orders, rules and regulations necessary to accomplish this purpose.

Sec. 53. This act shall take effect July 1, 1967.

Passed the House March 30, 1967.

Passed the Senate March 29, 1967.

Approved by the Governor April 7, 1967.

CHAPTER 27.

[House Bill No. 638.]

CRIME INFORMATION CENTER.

AN ACT establishing a crime information center under the direction of the Washington state patrol; providing rules and regulations for the operation thereof; assigning costs of terminal facilities; and adding new sections to chapter 8, Laws of 1965 and to chapter 43.43 RCW.

Be it enacted by the Legislature of the State of Washington:

There is added to chapter 8, Laws of 1965 and to chapter 43.43 RCW a new section to read as follows: New section.

Section 1. There is established the Washington state crime information center to be located in the records division of the Washington state patrol and to function under the direction of the chief of the Washington state patrol. The center shall serve to coordinate crime information, by means of data processing, for all law enforcement agencies in the state. It shall make such use of the facilities of the law enforcement teletype system as is practical. It shall provide access to the national crime information center, to motor vehicle and driver license information and to such other public records as may be accessed by data processing and which are pertinent to law enforcement. Crime information center.