

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

Section 1. Section 2106, Code of 1881 as amended by section 1, page 35, Laws of 1883 and RCW 10.46.220 are each amended to read as follows:

In all convictions for felony, whether capital or punishable by imprisonment in the penitentiary, the clerk of the superior court shall forthwith, after sentence, tax the costs in the case. The cost bill shall be made out in triplicate, and be examined by the prosecuting attorney of the county in which the trial was had. After which the judge of the superior court shall allow and approve such bill or so much thereof, as is allowable by law. The clerk of the superior court shall thereupon, under his hand, and under the seal of the court, certify said triplicate cost bills, and shall file one with the papers of cause, and shall transmit one to the ~~((state auditor))~~ administrator for the courts and one to the county auditor of the county in which said felony was committed.

Sec. 2. Section 316, page 250, Laws of 1873 as last amended by section 1, page 35, Laws of 1883 and RCW 10.46.230 are each amended to read as follows:

Upon the receipt of the cost bill, as provided for in the preceding section, the county auditor shall draw warrants for the amounts due each person, as certified in said cost bill, which warrants shall be paid as other county warrants are paid. On receipt of the certified copy of said cost bill, the ~~((state auditor))~~ administrator for the courts shall examine and audit said bill and allow the ~~((same or so much thereof as may be allowable against the state, and shall credit the amount so allowed to the county from whence the bill came as so much state tax paid. The state auditor shall immediately notify the state treasurer and county auditor, each of whom shall credit and charge accordingly))~~ payment by the state of statutorily required witness fees in cases where conviction of a felony is obtained and the defendant is sentenced to pay a fine or is given a prison sentence even if the sentence is deferred or suspended. Payment shall be allowed by the administrator for the courts in such cases even when the conviction is subsequently reversed or if a new trial is granted.

Passed the House February 16, 1979.

Passed the Senate March 8, 1979.

Approved by the Governor March 26, 1979.

Filed in Office of Secretary of State March 26, 1979.

CHAPTER 130

[House Bill No. 795]

CHARITABLE GIFT ANNUITIES—STATE UNIVERSITIES AND COLLEGE— EXEMPT INSURERS AND INSTITUTIONS

AN ACT Relating to charitable gift annuities; amending section .23.01, chapter 79, Laws of 1947 and RCW 48.23.010; amending section 60, chapter 282, Laws of 1959 as last

amended by section 1, chapter 188, Laws of 1977 ex. sess. and RCW 21.20.005; amending section 1, chapter ... (HB 342), Laws of 1979 and RCW 21.20.310; amending section 3, chapter 199, Laws of 1967 as last amended by section 3, chapter 188, Laws of 1977 ex. sess. and RCW 21.20.325; adding a new chapter to Title 48 RCW; and adding new sections to chapter 28B.10 RCW.

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

NEW SECTION. Section 1. There is added to chapter 28B.10 RCW a new section to read as follows:

The boards of the state universities, regional universities, and the state college are authorized to issue charitable gift annuities paying a fixed dollar amount to individual annuitants for their lifetimes in exchange for the gift of assets to the respective institution in a single transaction. The boards shall invest one hundred percent of the charitable gift annuity assets in a reserve for the lifetimes of the respective annuitants to meet liabilities that result from the gift program.

Sec. 2. Section .23.01, chapter 79, Laws of 1947 and RCW 48.23.010 are each amended to read as follows:

The provisions of this chapter apply to contracts of life insurance and annuities other than group life insurance, group annuities, and, except for RCW 48.23.260, 48.23.270, 48.23.340, and 48.23.350, other than industrial life insurance: PROVIDED, That the provisions of Title 48 RCW shall not apply to charitable gift annuities issued by a board of a state university, regional university, or a state college, nor to the issuance thereof.

Sec. 3. Section 60, chapter 282, Laws of 1959 as last amended by section 1, chapter 188, Laws of 1977 ex. sess. and RCW 21.20.005 are each amended to read as follows:

The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Director" means the director of (~~((motor vehicles))~~) licensing of this state.

(2) "Salesman" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but "salesman" does not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by RCW 21.20.310(1), (2), (3), (4), (9), (10), (~~((or))~~) (11), (12), or (13), as now or hereafter amended, (b) effecting transactions exempted by RCW 21.20.320, or (c) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for his own account. "Broker-dealer" does not include (a) a salesman, issuer, bank, savings institution, or trust company, (b) a person who has no place of business in this state if he effects transactions in this state exclusively with

or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months he does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in subsection (b) above.

(4) "Guaranteed" means guaranteed as to payment of principal, interest, or dividends.

(5) "Full business day" means all calendar days, excluding therefrom Saturdays, Sundays, and all legal holidays, as defined by statute.

(6) "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession, (c) a broker-dealer, (d) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation, (e) a person whose advice, analyses, or reports relate only to securities exempted by RCW 21.20.310(1), (f) a person who has no place of business in this state if (i) his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the investment company act of 1940, pension or profit-sharing trust, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during any period of twelve consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in clause (i) above, or (g) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after June 10, 1959.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; charitable gift annuity; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land or any interest therein where such land is situated outside of the state of Washington and such sale or its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(13) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(14) "Investment adviser salesman" means a person retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients.

(15) "Relatives", as used in RCW 21.20.310(11) as now or hereafter amended, shall include:

- (a) A member's spouse;
- (b) Grandparents of the member or the member's spouse;
- (c) Natural or adopted children of the member or the member's spouse;
- (d) Aunts and uncles of the member or the member's spouse; and
- (e) First cousins of the member or the member's spouse.

Sec. 4. Section 1, chapter ... (HB 342), Laws of 1979 and RCW 21.20-.310 are each amended to read as follows:

RCW 21.20.140 through 21.20.300, inclusive, shall not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing; but this exemption shall not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations; but this exemption shall not include any security payable solely from revenues to be received from a nongovernmental industrial or commercial enterprise unless such payments shall be made or unconditionally guaranteed by a person whose securities are exempt from registration by subsections (7) or (8) of this section.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province; also equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security listed or approved for listing upon notice of issuance on the New York stock exchange, the American stock exchange, the Midwest stock exchange, the Spokane stock exchange or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing. The director shall have power at any time by written order to withdraw the exemption so granted as to any particular security.

(9) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transaction, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, when such commercial paper is sold to the banks or insurance companies.

(10) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on June 10, 1959, within sixty days thereafter (or within thirty days before they are reopened if they are closed on June 10, 1959).

(11) Any security issued by any person organized and operated as a nonprofit organization as defined in RCW 84.36.800(4) exclusively for religious, educational, and charitable purposes and which nonprofit organization also possesses a current tax exempt status under the laws of the United States, which security is offered or sold only to persons who, prior to their

solicitation for the purchase of said securities, were members of, contributors to, or listed as participants in, the organization, or their relatives, if such nonprofit organization first files a notice specifying the terms of the offering and the director does not by order disallow the exemption within the next ten full business days: PROVIDED, That no offerings shall be made until expiration of the ten full business days. Every such nonprofit organization which files a notice of exemption of such securities shall pay a filing fee as set forth in RCW 21.20.340(12) as now or hereafter amended.

The notice shall consist of the following:

- (a) The name and address of the issuer;
- (b) The names, addresses, and telephone numbers of the current officers and directors of the issuer;
- (c) A short description of the security, price per security, and the number of securities to be offered;
- (d) A statement of the nature and purposes of the organization as a basis for the exemption under this section;
- (e) A statement of the proposed use of the proceeds of the sale of the security; and
- (f) A statement that the issuer shall provide to a prospective purchaser written information regarding the securities offered prior to consummation of any sale, which information shall include the following statements: (i) "ANY PROSPECTIVE PURCHASER IS ENTITLED TO REVIEW FINANCIAL STATEMENTS OF THE ISSUER WHICH SHALL BE FURNISHED UPON REQUEST."; (ii) "RECEIPT OF NOTICE OF EXEMPTION BY THE WASHINGTON ADMINISTRATOR OF SECURITIES DOES NOT SIGNIFY THAT THE ADMINISTRATOR HAS APPROVED OR RECOMMENDED THESE SECURITIES, NOR HAS THE ADMINISTRATOR PASSED UPON THE OFFERING. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE."; and (iii) "THE RETURN OF THE FUNDS OF THE PURCHASER IS DEPENDENT UPON THE FINANCIAL CONDITION OF THE ORGANIZATION."

(12) Any charitable gift annuities issued by a board of a state university, regional university, or of the state college.

(13) Any charitable gift annuity issued by an insurer or institution holding a certificate of exemption under section 6 of this 1979 act.

NEW SECTION. Sec. 5. There is added to chapter 28B.10 RCW a new section to read as follows:

The obligation to make annuity payments to individuals under charitable gift annuity agreements issued by the board of a state university, regional university, or of the state college pursuant to section 1 of this act shall be secured by and limited to the assets given in exchange for the annuity and reserves established by the board. Such agreements shall not constitute:

- (1) An obligation, either general or special, of the state; or
- (2) A general obligation of a state university, regional university, or of the state college or of the board.

NEW SECTION. Sec. 6. The commissioner may grant a certificate of exemption to any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business:

(1) Which is organized and operated exclusively as, or for the purpose of aiding, an educational, religious, charitable, or scientific institution which is organized as a nonprofit organization without profit to any person, firm, partnership, association, corporation, or other entity;

(2) Which possesses a current tax exempt status under the laws of the United States;

(3) Which serves such purpose by issuing charitable gift annuity contracts only for the benefit of such educational, religious, charitable, or scientific institution;

(4) Which appoints the insurance commissioner as its true and lawful attorney upon whom may be served lawful process in any action, suit, or proceeding in any court, which appointment shall be irrevocable, shall bind the insurer or institution or any successor in interest, shall remain in effect as long as there is in force in this state any contract made or issued by the insurer or institution, or any obligation arising therefrom, and shall be processed in accordance with RCW 48.05.210;

(5) Which is fully and legally organized and qualified to do business and has been actively doing business under the laws of the state of its domicile for a period of at least three years prior to its application for a certificate of exemption;

(6) Which files with the insurance commissioner its application for a certificate of exemption showing:

(a) Its name, location, and organization date;

(b) The kinds of charitable annuities it proposes to offer;

(c) A statement of the financial condition, management, and affairs of the organization and any affiliate thereof, as that term is defined in RCW 48.31A.010, on a form satisfactory to, or furnished by the insurance commissioner;

(d) Such other documents, stipulations, or information as the insurance commissioner may reasonably require to evidence compliance with the provisions of this chapter;

(7) Which subjects itself and any affiliate thereof, as that term is defined in RCW 48.31A.010, to periodic examinations as may be deemed necessary by the insurance commissioner;

(8) Which files with the insurance commissioner for the commissioner's advance approval a copy of any policy or contract form to be offered or issued to residents of this state. The grounds for disapproval of the policy or contract form shall be those set forth in RCW 48.18.110; and

(9) Which:

(a) Files with the insurance commissioner on or before March 1 of each year a copy of its annual statement prepared pursuant to the laws of its state of domicile, as well as such other financial material as may be requested, including the annual statement or other such financial materials as may be requested relating to any affiliate, as that term is defined in RCW 48.31A.010; and

(b) Coincident with the filing of its annual statement, pays an annual filing fee of twenty-five dollars plus five dollars for each charitable gift annuity contract written for residents of this state during the previous calendar year; and

(c) Which includes on or attaches to the first page of the annual statement the statement of a qualified actuary setting forth the actuary's opinion relating to annuity reserves and other actuarial items. "Qualified actuary" as used in this subsection means a member in good standing of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the satisfaction of the insurance regulatory official of the domiciliary state.

NEW SECTION. Sec. 7. (1) Upon granting to such insurer or institution under section 6 of this act a certificate of exemption to conduct a charitable gift annuity business, the insurance commissioner shall require it to establish and maintain a reserve fund adequate to meet the future payments under its charitable gift annuity contracts and, in any event, the reserve fund shall not be less than an amount computed in accordance with the standard of valuation based on the 1971 individual annuity mortality table, or any modification of this table approved by the insurance commissioner, with six percent interest for single premium immediate annuity contracts and four percent interest for all other individual annuity contracts.

(2) For any failure on its part to establish and maintain the reserve fund, the insurance commissioner shall revoke its certificate of exemption.

NEW SECTION. Sec. 8. Each charitable annuity contract or policy form shall include the following information:

(1) The value of the property to be transferred;

(2) The amount of the annuity to be paid to the transferor or the transferor's nominee;

(3) The manner in which and the intervals at which payment is to be made;

(4) The age of the person during whose life payment is to be made; and

(5) The reasonable value as of the date of the agreement of the benefits thereby created. This value shall not exceed by more than fifteen percent the net single premium for the benefits, determined in accordance with the standard of valuation set forth in section 7(1) of this act.

NEW SECTION. Sec. 9. An insurer or institution holding a certificate of exemption under this chapter shall be exempt from all other provisions of this title except as specifically enumerated in this chapter by reference.

NEW SECTION. Sec. 10. The insurance commissioner may refuse to grant, or may revoke or suspend, a certificate of exemption if the insurance commissioner finds that the insurer or institution does not meet the requirements of this chapter or if the insurance commissioner finds that the insurer or institution has violated RCW 48.01.030 or any provisions of chapter 48-.30 RCW.

NEW SECTION. Sec. 11. For purposes of this chapter, the provisions of chapter 48.04 RCW are applicable.

NEW SECTION. Sec. 12. For the purposes of this chapter, the insurance commissioner has the same powers and duties of enforcement as are provided in RCW 48.02.080.

NEW SECTION. Sec. 13. Sections 6 through 12 of this act shall constitute a new chapter in Title 48 RCW.

Sec. 14. Section 3, chapter 199, Laws of 1967 as last amended by section 3, chapter 188, Laws of 1977 ex. sess. and RCW 21.20.325 are each amended to read as follows:

The director or administrator may by order deny, revoke, or condition any exemption specified in subsections (10) ~~((or))~~, (11), (12) or (13) of RCW 21.20.310 or in RCW 21.20.320, as now or hereafter amended, with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the director or administrator may by order summarily deny, revoke, or condition any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the director or administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director or administrator, the order will remain in effect until it is modified or vacated by the director or administrator. If a hearing is requested or ordered, the director or administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this section may operate retroactively. No person may be considered to have violated RCW 21.20.140 as now or hereafter amended by reason of any offer or sale effected after the entry of an order under this section if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the order.

NEW SECTION. Sec. 15. If any provision of this 1979 act or its application to any person or circumstance is held invalid, the remainder of the

act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 7, 1979.

Passed the Senate March 2, 1979.

Approved by the Governor March 26, 1979.

Filed in Office of Secretary of State March 26, 1979.

CHAPTER 131

[Substitute House Bill No. 749]

SPOKANE RIVER TOLL BRIDGES

AN ACT Relating to highways; amending section 47.56.220, chapter 13, Laws of 1961 and RCW 47.56.220; adding new sections to chapter 47.56 RCW; repealing section 1, chapter 117, Laws of 1969 ex. sess. and RCW 47.56.710; making an appropriation; and declaring an emergency.

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

NEW SECTION. Section 1. In order to permit the construction of a new state highway bridge across the Spokane river in the vicinity of Trent Avenue in Spokane, the department of transportation acting through the transportation commission is authorized to enter into a contract or contracts with the Washington public employees' retirement system and the Washington state teachers' retirement system, each retirement system acting through the department of retirement systems, pursuant to which the state may issue refunding bonds to be exchanged for all outstanding Spokane river toll bridge revenue bonds held by the retirement systems in return for the agreement by the retirement systems to permit the construction of a new state highway bridge, to be known and designated as the James E. Keefe bridge, across the Spokane river in the vicinity of Trent Avenue in Spokane. If the department of transportation and those retirement systems enter into such contract or contracts, the state finance committee is authorized to issue refunding bonds in accordance with sections 1 through 6 of this 1979 act to carry out the terms of such contract or contracts.

NEW SECTION. Sec. 2. (1) The refunding bonds authorized by section 1 of this 1979 act shall be general obligation bonds of the state of Washington and shall be issued in a total principal amount of not to exceed five million six hundred thousand dollars. The exact amount of the refunding bonds to be issued shall be determined by the state finance committee after calculating the amount of money deposited in the Spokane river bridge revenue bond fund which can be used to redeem outstanding series A Spokane river toll bridge revenue bonds after the setting aside of sufficient money from that fund to pay the first interest installment on the refunding bonds. The refunding bonds shall be serial in form maturing at such time, in such amounts, having such denomination or denominations, redemption