

CHAPTER 260

[Senate Bill No. 3077]

DOUBLE AMENDMENTS—REENACTMENT, AMENDMENT, REPEAL

AN ACT Relating to the judicial council; correcting various state statutes necessitated by the amendment and/or repeal thereof in two or more laws which were enacted without reference to the other; correcting certain internal references and nomenclature therein; amending and reenacting section 5, chapter 45, Laws of 1925 ex. sess. as amended by section 2, chapter 75, Laws of 1977 and by section 3, chapter 112, Laws of 1977 ex. sess. and RCW 2.52.020; reenacting section 9A.48.100, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 3, chapter 145, Laws of 1979 and by section 11, chapter 244, Laws of 1979 ex. sess. and RCW 9A.48.100; reenacting section 70, page 235, Laws of 1854 as last amended by section 2, chapter 53, Laws of 1977 ex. sess. and by section 2, chapter 248, Laws of 1977 ex. sess. and RCW 12.12.030; reenacting section 11, chapter 283, Laws of 1947 as last amended by section 1, chapter 23, Laws of 1975 and by section 47, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.43.080; reenacting section 9, chapter 144, Laws of 1919 as amended by section 57, chapter 30, Laws of 1975 1st ex. sess. and by section 5, chapter 69, Laws of 1975 1st ex. sess. and RCW 18.53.070; reenacting section 35.13.172, chapter 7, Laws of 1965 as amended by section 15, chapter 164, Laws of 1973 1st ex. sess. and by section 14, chapter 195, Laws of 1973 1st ex. sess. and RCW 35.13.172; reenacting section 35.18.020, chapter 7, Laws of 1965 as amended by section 26, chapter 151, Laws of 1979 and by section 19, chapter 126, Laws of 1979 ex. sess. and RCW 35.18.020; reenacting section 4, chapter 233, Laws of 1963 as amended by section 11, chapter 232, Laws of 1977 ex. sess. and by section 96, chapter 169, Laws of 1977 ex. sess. and RCW 40.06.040; reenacting section 14, chapter 289, Laws of 1977 ex. sess. as amended by section 1, chapter 49, Laws of 1979 and by section 11, chapter 156, Laws of 1979 and by section 1, chapter 82, Laws of 1979 ex. sess. and RCW 43.131.140; reenacting section 7, chapter 121, Laws of 1965 ex. sess. as last amended by section 3, chapter 61, Laws of 1979 and by section 1, chapter 63, Laws of 1979 and RCW 46.20.055; reenacting section 1, chapter 1, Laws of 1969 as last amended by section 3, chapter 176, Laws of 1979 ex. sess. and by section 59, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.308; amending and reenacting section 47.12.140, chapter 13, Laws of 1961 as amended by section 6, chapter 78, Laws of 1977 ex. sess. and by section 52, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.140; reenacting section 51.16.060, chapter 23, Laws of 1961 as last amended by section 11, chapter 323, Laws of 1977 ex. sess. and by section 26, chapter 350, Laws of 1977 ex. sess. and RCW 51.16.060; amending and reenacting section 1, chapter 166, Laws of 1921 as last amended by section 5, chapter 166, Laws of 1977 ex. sess. and by section 1, chapter 205, Laws of 1977 ex. sess. and RCW 60.28.010; reenacting section 10, chapter 307, Laws of 1971 ex. sess. as amended by section 6, chapter 94, Laws of 1979 and by section 219, chapter 158, Laws of 1979 and RCW 70.93.100; amending and reenacting section 82.50.170, chapter 15, Laws of 1961 as last amended by section 1, chapter 9, Laws of 1975 1st ex. sess. and by section 97, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.50.170; reenacting section 84.48.110, chapter 15, Laws of 1961 as last amended by section 4, chapter 86, Laws of 1979 ex. sess. and section 185, chapter 151, Laws of 1979 and RCW 84.48.110; repealing section 15.32.370, chapter 11, Laws of 1961, section 1, chapter 73, Laws of 1965, section 1, chapter 40, Laws of 1967 ex. sess. and RCW 15.32.370; repealing section 1, chapter 186, Laws of 1963, section 12, chapter 87, Laws of 1980 and RCW 34.04.160; repealing section 36.76.010, chapter 4, Laws of 1963, section 72, chapter 232, Laws of 1969 ex. sess., section 21, chapter 42, Laws of 1970 ex. sess., section 52, chapter 56, Laws of 1970 ex. sess., section 1, chapter 9, Laws of 1971 and RCW 36.76.010; repealing section 94, chapter 130, Laws of 1943, section 138, chapter 220, Laws of 1963 and RCW 38.32.130; repealing section 43.22.160, chapter 8, Laws of 1965, section 80, chapter 154, Laws of 1973 1st ex. sess. and RCW 43.22.160; repealing section 43.22.170, chapter 8, Laws of 1965, section 81, chapter 154, Laws of 1973 1st ex. sess. and RCW 43.22.170; repealing section 2, chapter 76, Laws of 1972 ex. sess., section 65, chapter 75, Laws of 1977 and RCW 43.125.020; repealing section 47.12.060, chapter 13, Laws of 1961, section 1, chapter 96, Laws of 1975 1st ex.

sess., section 47, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.060; repealing section 47.12.070, chapter 13, Laws of 1961, section 2, chapter 91, Laws of 1969, section 2, chapter 96, Laws of 1975 1st ex. sess., section 48, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.070; repealing section 51.40.010, chapter 23, Laws of 1961, section 61, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.010; repealing section 51.40.020, chapter 23, Laws of 1961, section 1, chapter 36, Laws of 1965, section 2, chapter 80, Laws of 1965 ex. sess., section 62, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.020; repealing section 51.40.030, chapter 23, Laws of 1961, section 63, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.030; repealing section 51.40.040, chapter 23, Laws of 1961, section 29, chapter 106, Laws of 1973, section 64, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.040; repealing section 51.40.050, chapter 23, Laws of 1961, section 65, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.050; repealing section 51.40.060, chapter 23, Laws of 1961, section 66, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.060; repealing section 51.40.070, chapter 23, Laws of 1961, section 67, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.070; repealing section 72.50.040, chapter 28, Laws of 1959, section 6, chapter 49, Laws of 1970 ex. sess. and RCW 72.50.040; and repealing section 74.09.170, chapter 26, Laws of 1959, section 340, chapter 141, Laws of 1979 and RCW 74.09.170; and declaring an emergency.

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

Section 1. Section 5, chapter 45, Laws of 1925 ex. sess. as amended by section 2, chapter 75, Laws of 1977 and by section 3, chapter 112, Laws of 1977 ex. sess. and RCW 2.52.050 are each amended and reenacted to read as follows:

It shall be the duty of the council:

(1) Continuously to survey and study the operation of the judicial department of the state, the volume and condition of business in the courts, whether of record or not, the methods of procedure therein, the work accomplished, and the character of the results;

(2) To receive and consider suggestions from judges, public officers, members of the bar, and citizens as to remedies for faults in the administration of justice;

(3) To devise ways of simplifying judicial procedure, expediting the transaction of judicial business, and correcting faults in the administration of justice;

(4) To submit from time to time to the courts or the judges such suggestions as it may deem advisable for changes in rules, procedure, or methods of administration;

(5) To report (~~biennially~~) annually to the governor and the legislature with the council's recommendations as to needed changes in the organization of the judicial department or the courts or in judicial procedure; and

(6) To assist the judges in giving effect to Art. 4, Section 25 of the state Constitution.

Sec. 2. Section 9A.48.100, chapter 260, Laws of 1975 1st ex. sess. as last amended by section 3, chapter 145, Laws of 1979 and by section 11, chapter 244, Laws of 1979 ex. sess. and RCW 9A.48.100 are each reenacted to read as follows:

For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

(1) "Physical damage", in addition to its ordinary meaning, shall include the alteration, damage, or erasure of records, information, data, or computer programs which are electronically recorded for use in computers;

(2) If more than one item of property is physically damaged as a result of a common scheme or plan by a person and the physical damage to the property would, when considered separately, constitute mischief in the third degree because of value, then the value of the damages may be aggregated in one count. If the sum of the value of all the physical damages exceeds two hundred fifty dollars, the defendant may be charged with and convicted of malicious mischief in the second degree.

Sec. 3. Section 70, page 235, Laws of 1854 as last amended by section 2, chapter 53, Laws of 1977 ex. sess. and by section 2, chapter 248, Laws of 1977 ex. sess. and RCW 12.12.030 are each reenacted to read as follows:

After the appearance of the defendant, and before the justice shall proceed to enquire into the merits of the cause, either party may demand a jury to try the action, which jury shall be composed of six good and lawful persons having the qualifications of jurors in the superior court of the same county, unless the parties shall agree upon a lesser number: PROVIDED, That the party demanding the jury shall first pay to the justice the sum of twenty-five dollars, which shall be paid over by the justice to the county, and said amount shall be taxed as costs against the losing party.

Sec. 4. Section 11, chapter 283, Laws of 1947 as last amended by section 1, chapter 23, Laws of 1975 and by section 47, chapter 30, Laws of 1975 1st ex. sess. and RCW 18.43.080 are each reenacted to read as follows:

Certificates of registration, and certificates of authorization and renewals thereof shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the administrator of the division of professional licensing to notify every person, firm or corporation registered under this chapter, of the date of the expiration of his certificate and the amount of the renewal fee that shall be required for its renewal for one year. Such notice shall be mailed at least thirty days before the end of December of each year. Renewal may be effected during the month of December by the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. In case any professional engineer and/or land surveyor registered under this chapter shall fail to pay the renewal fee hereinabove provided for, within ninety days from the date when the same shall become due, the renewal fee shall be the current fee plus an amount equal to one year's fee.

Sec. 5. Section 9, chapter 144, Laws of 1919 as amended by section 57, chapter 30, Laws of 1975 1st ex. sess. and by section 5, chapter 69, Laws of

1975 1st ex. sess. and RCW 18.53.070 are each reenacted to read as follows:

The fees for application for examination and for issuing a certificate of registration shall be determined by the director as provided in RCW 43.24-.085 as now or hereafter amended, which shall be paid to the director as he shall prescribe.

Sec. 6. Section 35.13.172, chapter 7, Laws of 1965 as amended by section 15, chapter 164, Laws of 1973 1st ex. sess. and by section 14, chapter 195, Laws of 1973 1st ex. sess. and RCW 35.13.172 are each reenacted to read as follows:

Whenever a petition is filed as provided in RCW 35.13.020 or a resolution is adopted by the city or town council, as provided in RCW 35.13.015, and the area proposed for annexation is less than ten acres and less than eight hundred thousand dollars in assessed valuation, such review procedures shall be dispensed with.

Sec. 7. Section 35.18.020, chapter 7, Laws of 1965 as amended by section 26, chapter 151, Laws of 1979 and by section 19, chapter 126, Laws of 1979 ex. sess. and RCW 35.18.020 are each reenacted to read as follows:

(1) The number of councilmen shall be in proportion to the population of the city or town indicated in its petition for incorporation and thereafter shall be in proportion to its population as last determined by the office of financial management as follows:

(a) A city or town having not more than two thousand inhabitants, five councilmen;

(b) A city having more than two thousand, seven councilmen.

(2) All councilmen shall be elected at large or from such wards or districts as may be established by ordinance, and shall serve for a term of four years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170: PROVIDED, HOWEVER, That at the first general municipal election held in the city in accordance with RCW 29.13.020, after the election approving the council-manager plan, the following shall apply:

(a) One councilman shall be nominated and elected from each ward or such other existing district of said city as may have been established for the election of members of the legislative body of the city and the remaining councilmen shall be elected at large; but if there are no such wards or districts in the city, or at an initial election for the incorporation of a community, the councilmen shall be elected at large.

(b) In cities electing five councilmen, the candidates having the three highest number of votes shall be elected for a four year term and the other two for a two year term commencing immediately when qualified in accordance with RCW 29.01.135 and continuing until their successors are elected and qualified and have assumed office in accordance with RCW 29.04.170.

(c) In cities electing seven councilmen, the candidates having the four highest number of votes shall be elected for a four year term and the other three for a two year term commencing immediately when qualified in accordance with RCW 29.01.135 and continuing until their successors are elected and qualified and have assumed office in accordance with RCW 29.04.170.

(d) In determining the candidates receiving the highest number of votes, only the candidate receiving the highest number of votes in each ward, as well as the councilman-at-large or councilmen-at-large, are to be considered.

(3) When a municipality has qualified for an increase in the number of councilmen from five to seven by virtue of the next succeeding population determination made by the office of financial management after the majority of the voters thereof have approved operation under the council-manager plan, at the first election when two additional councilmen are to be elected, one of the two additional councilmen receiving the highest number of votes shall be elected for a four year term and the other additional councilman shall be elected for a two year term. The terms of the two additional councilmen shall commence immediately when qualified in accordance with RCW 29.01.135.

(4) In the event such population determination as provided in subsection (3) of this section requires an increase in the number of councilmen, the city or town council shall fill the additional councilmanic positions by appointment not later than thirty days following the release of said population determination, and the appointee shall hold office only until the next regular city or town election at which a person shall be elected to serve for the remainder of the unexpired term. In the event such population determination results in a decrease in the number of councilmen, said decrease shall not take effect until the next regular city or town election: PROVIDED, That the council shall by ordinance indicate which, if any, of the remaining positions shall be elected at-large or from wards or districts.

(5) If a vacancy in the council occurs, the remaining members shall appoint a person to fill such office only until the next regular general municipal election at which a person shall be elected to serve for the remainder of the unexpired term.

Sec. 8. Section 4, chapter 233, Laws of 1963 as amended by section 11, chapter 232, Laws of 1977 ex. sess. and by section 96, chapter 169, Laws of 1977 ex. sess. and RCW 40.06.040 are each reenacted to read as follows:

To provide economical public access to state publications, the center may enter into depository contracts with any free public library, The Evergreen State College, regional university, or state university library, or, if needed, the library of any privately incorporated college or university in this state. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations

of the state librarian. The standards shall include and take into consideration the type of library, available housing and space for the publications, the number and qualifications of personnel, and availability for public use. The center may also contract with public, out-of-state libraries for the exchange of state and other publications on a reciprocal basis. Any state publication to be distributed to the public and the legislature shall be mailed at the lowest available postal rate.

Sec. 9. Section 14, chapter 289, Laws of 1977 ex. sess. as amended by section 1, chapter 49, Laws of 1979 and by section 11, chapter 156, Laws of 1979 and by section 1, chapter 82, Laws of 1979 ex. sess. and RCW 43.131.140 are each reenacted to read as follows:

(1) The following programs shall be terminated on June 30, 1978:

- (a) Proprietary schools (chapter 18.82 RCW);
- (b) Grist mills (chapter 19.44 RCW); and
- (c) Regulation of vessels (chapter 88.04 RCW).

(2) The following state agencies and programs shall be terminated on June 30, 1979:

- (a) Driving instructors examining committee;
- (b) Water well construction operators examining board;
- (c) Escrow commission.

(3) The state agencies scheduled for termination in this section shall be subject to all of the processes provided in this chapter. The state agencies set forth in this section may also be included in the schedule of state agencies to be terminated which shall be developed by the select joint committee as provided in RCW 43.131.120. If any state agency set forth in this section is reestablished or modified, such agency shall remain subject to the provisions of RCW 43.131.120. If any state agency set forth in this section is not reestablished or modified according to the provisions of this section, then the inclusion of that state agency in the schedule provided in RCW 43.131.120 shall be null.

Sec. 10. Section 7, chapter 121, Laws of 1965 ex. sess. as last amended by section 3, chapter 61, Laws of 1979 and by section 1, chapter 63, Laws of 1979 and RCW 46.20.055 are each reenacted to read as follows:

(1) Any person who is at least fifteen and a half years of age may apply to the department for an instruction permit for the operation of any motor vehicle except a motorcycle. Any person who is at least sixteen years of age may apply for an instruction permit for the operation of a motorcycle. The department may in its discretion, after the applicant has successfully passed all parts of the examination other than the driving test, issue to the applicant an instruction permit which shall entitle the applicant while having such permit in immediate possession to drive a motor vehicle upon the public highways for a period of one year when accompanied by a licensed driver who has had at least five years of driving experience and is occupying a seat beside the driver, except if the permittee is operating a motorcycle. Only

one additional instruction permit may be issued. The department after investigation may in its discretion issue a third instruction permit where it finds that the permittee is diligently seeking to improve driving proficiency.

(2) The department upon receiving proper application may in its discretion issue an instruction permit effective for a school semester or other restricted period to an applicant who is at least fifteen years of age and is enrolled in a traffic safety education program which includes practice driving and which is approved and accredited by the superintendent of public instruction. Such instruction permit shall entitle the permittee having the permit in immediate possession to drive a motor vehicle only when an approved instructor or other licensed driver with at least five years of driving experience, is occupying a seat beside the permittee.

(3) The department may in its discretion issue a temporary driver's permit to an applicant for a driver's license permitting the applicant to drive a motor vehicle for a period not to exceed sixty days while the department is completing its investigation and determination of all facts relative to such applicant's right to receive a driver's license. Such permit must be in the applicant's immediate possession while driving a motor vehicle, and it shall be invalid when the applicant's license has been issued or for good cause has been refused.

Sec. 11. Section 1, chapter 1, Laws of 1969 as last amended by section 3, chapter 176, Laws of 1979 ex. sess. and by section 59, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.308 are each reenacted to read as follows:

(1) Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent, subject to the provisions of RCW 46.61.506, to a chemical test or tests of his breath or blood for the purpose of determining the alcoholic content of his blood if arrested for any offense where, at the time of the arrest, the arresting officer has reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of intoxicating liquor. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor. Such officer shall inform the person of his right to refuse the test, and of his right to have additional tests administered by any qualified person of his choosing as provided in RCW 46.61.506. The officer shall warn the driver that his privilege to drive will be revoked or denied if he refuses to submit to the test. Unless the person to be tested is unconscious, the chemical test administered shall be of his breath only: PROVIDED, That if an individual is under arrest for the crime of negligent homicide by motor vehicle as provided in RCW 46.61.520, or if an individual is under arrest for the crime of driving while under the influence of intoxicating liquor or drugs as provided in RCW 46.61.502, which arrest results from an accident in which another person has

been injured and there is a reasonable likelihood that such other person may die as a result of injuries sustained in the accident, a breath or blood test may be administered without the consent of the individual so arrested. In such circumstances, the provisions of subsections (2) through (6) of this section shall not apply.

(2) Any person who is dead, unconscious, or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by subsection (1) of this section and the test or tests may be administered, subject to the provisions of RCW 46.61.506.

(3) If, following his arrest, the person arrested refuses upon the request of a law enforcement officer to submit to a chemical test of his breath, after being informed that his refusal will result in the revocation or denial of his privilege to drive, no test shall be given. The department of licensing, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor and that the person had refused to submit to the test upon the request of the law enforcement officer after being informed that such refusal would result in the revocation or denial of his privilege to drive, shall revoke his license or permit to drive or any nonresident operating privilege. If the person is a resident without a license or permit to operate a motor vehicle in this state, the department shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided.

(4) Upon revoking the license or permit to drive or the nonresident operating privilege of any person, or upon determining that the issuance of a license or permit shall be denied to the person, as hereinbefore in this section directed, the department shall immediately notify the person involved in writing by personal service or by registered or certified mail of its decision and the grounds therefor, and of his right to a hearing, specifying the steps he must take to obtain a hearing. The person upon receiving such notice may, in writing and within ten days therefrom request a formal hearing. Upon receipt of such request, the department shall afford him an opportunity for a hearing as provided in RCW 46.20.329 and 46.20.332. The scope of such hearing for the purposes of this section shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle upon the public highways of this state while under the influence of intoxicating liquor, whether the person was placed under arrest and whether he refused to submit to the test upon request of the officer after having been informed that such refusal would result in the revocation or denial of his

privilege to drive. The department shall order that the revocation or determination that there should be a denial of issuance either be rescinded or sustained. Any decision by the department revoking a person's driving privilege shall be stayed and shall not take effect while a formal hearing is pending as herein provided or during the pendency of a subsequent appeal to superior court: PROVIDED, That this stay shall be effective only so long as there is no conviction for a moving violation or no finding that the person has committed a traffic infraction which is a moving violation during pendency of the hearing and appeal.

(5) If the revocation or determination that there should be a denial of issuance is sustained after such a hearing, the person whose license, privilege, or permit is so affected shall have the right to file a petition in the superior court of the county wherein he resides, or, if a nonresident of this state, where the charge arose, to review the final order of revocation or denial by the department in the manner provided in RCW 46.20.334.

(6) When it has been finally determined under the procedures of this section that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the department shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license.

Sec. 12. Section 47.12.140, chapter 13, Laws of 1961 as amended by section 6, chapter 78, Laws of 1977 ex. sess. and by section 52, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.140 are each amended and reenacted to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, whenever the department shall have acquired any lands for highway purposes, except state granted lands, upon which are located any structures, timber or other thing of value attached to the land, which the department shall deem it best to sever from the land and sell as personal property, the same may be sold by the department at public auction after due notice thereof shall have been given in accordance with general regulations adopted by the secretary. The department may set minimum prices that will be accepted for any item offered for sale at public auction as herein provided and may prescribe terms or conditions of sale and, in the event that any item shall be offered for sale at such auction and for which no satisfactory bids shall be received or for which the amount bid shall be less than the minimum set by the department, it shall be lawful for the department to sell such item at private sale for the best price which it deems obtainable but at not less than the highest price bid at the public auction. The proceeds of all sales under this section shall be placed in the motor vehicle fund.

(2) The department (~~(of highways)~~) may issue permits to residents of this state to remove specified quantities of standing or downed trees and shrubs, rock, sand, gravel, or soils which have no market value in place and which the department desires to be removed from state owned lands which

are under the jurisdiction of the (~~(highway commission)~~) department. An applicant for such a permit must certify that the materials so removed are to be used by himself and that they will not be disposed of to any other person. Removal of materials pursuant to permit shall be in accordance with such regulations as the department shall prescribe. The fee for a permit shall be two dollars and fifty cents which shall be deposited in the motor vehicle fund. The (~~(highway commission)~~) department may adopt regulations providing for special access to limited access facilities for the purpose of removal of materials pursuant to permits authorized in this section.

Sec. 13. Section 51.16.060, chapter 23, Laws of 1961 as last amended by section 11, chapter 323, Laws of 1977 ex. sess. and by section 26, chapter 350, Laws of 1977 ex. sess. and RCW 51.16.060 are each reenacted to read as follows:

Every employer not qualifying as a self-insurer, shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which workers were employed by it during the preceding calendar quarter, the total amount paid to such workers during such preceding calendar quarter, and a segregation of employment in the different classes established pursuant to this title, and shall pay its premium thereon to the appropriate fund. The sufficiency of such statement shall be subject to the approval of the director: **PROVIDED**, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: **PROVIDED FURTHER**, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: **PROVIDED FURTHER**, That the department may promulgate rules and regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll: **AND PROVIDED FURTHER**, That a temporary help company which provides workers on a temporary basis to its customers shall be considered the employer for purposes of reporting and paying premiums and assessments under this title according to the appropriate rate classifications as determined by the department: **PROVIDED**, That the employer shall be liable for paying premiums and assessments, should the temporary help company fail to pay the premiums and assessments under this title.

Sec. 14. Section 1, chapter 166, Laws of 1921 as last amended by section 5, chapter 166, Laws of 1977 ex. sess. and by section 1, chapter 205, Laws of 1977 ex. sess. and RCW 60.28.010 are each amended and reenacted to read as follows:

(1) Contracts for public improvements or work, other than for professional services, by the state, or any county, city, town, district, board, or other public body, herein referred to as "public body", shall provide, and there shall be reserved by the public body from the moneys earned by the contractor on estimates during the progress of the improvement or work, a sum equal to ten percent of the first one hundred thousand dollars and five percent for all amounts over one hundred thousand dollars of such estimates, said sum to be retained by the state, county, city, town, district, board, or other public body, as a trust fund for the protection and payment of any person or persons, mechanic, subcontractor or materialman who shall perform any labor upon such contract or the doing of said work, and all persons who shall supply such person or persons or subcontractors with provisions and supplies for the carrying on of such work, and the state with respect to taxes imposed pursuant to Title 82 RCW which may be due from such contractor. Every person performing labor or furnishing supplies toward the completion of said improvement or work shall have a lien upon said moneys so reserved: PROVIDED, That such notice of the lien of such claimant shall be given in the manner and within the time provided in RCW 39.08.030 (~~through 39.08.060~~) as now existing and in accordance with any amendments that may hereafter be made thereto: PROVIDED FURTHER, That the board, council, commission, trustees, officer or body acting for the state, county or municipality or other public body; (a) at any time after fifty percent of the original contract work has been completed, if it finds that satisfactory progress is being made, may make any of the partial payments which would otherwise be subsequently made in full; but in no event shall the amount to be retained be reduced to less than five percent of the amount of the moneys earned by the contractor; and (b) thirty days after completion and acceptance of all contract work other than landscaping, may release and pay in full the amounts retained during the performance of the contract (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of RCW 60.28.020.

(2) The moneys reserved under the provisions of subsection (1) of this section, at the option of the contractor, shall be:

(a) Retained in a fund by the public body until thirty days following the final acceptance of said improvement or work as completed; or

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association, not subject to withdrawal until after the final acceptance of said improvement or work as completed, or until agreed to by both parties: PROVIDED, That interest on such account shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body until thirty days following the final acceptance of said improvement or work as completed.

When the moneys reserved are to be placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. Such check shall be converted into bonds and securities chosen by the contractor and approved by the public body and such bonds and securities shall be held in escrow. Interest on such bonds and securities shall be paid to the contractor as the said interest accrues.

(3) If the public body administering a contract, other than a contract governed by the provisions of RCW 60.28.070, as amended, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in such case any amounts retained and accumulated under this section shall be held for a period of thirty days following such acceptance. In the event that the work shall have been terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter 60.28 RCW shall be deemed exclusive and shall supersede all provisions and regulations in conflict herewith.

(4) Whenever the (~~tolled bridge authority or the~~) department of (~~highways~~) transportation has contracted for the construction of two or more ferry vessels, thirty days after completion and final acceptance of each ferry vessel, (~~the authority or~~) the department may release and pay in full the amounts retained in connection with the construction of such vessel subject to the provisions of RCW 60.28.020: PROVIDED, That the (~~tolled bridge authority or the~~) department of (~~highways~~) transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on such ferry after a period of thirty days following final acceptance of such ferry; 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.

Sec. 15. Section 10, chapter 307, Laws of 1971 ex. sess. as amended by section 6, chapter 94, Laws of 1979 and by section 219, chapter 158, Laws of 1979 and RCW 70.93.100 are each reenacted to read as follows:

The department shall design and produce a litter bag bearing the state-wide anti-litter symbol and a statement of the penalties prescribed herein for littering in this state. Such litter bags shall be distributed by the department of licensing at no charge to the owner of every licensed vehicle in this state at the time and place of license renewal. The department of ecology shall make such litter bags available to the owners of water craft in this state and shall also provide such litter bags at no charge at points of entry into this state and at visitor centers to the operators of incoming vehicles and watercraft. The owner of any vehicle or watercraft who fails to keep and use a litter bag in his vehicle or watercraft shall be guilty of a violation of this section and shall be subject to a fine as provided in this chapter.

Sec. 16. Section 82.50.170, chapter 15, Laws of 1961 as last amended by section 1, chapter 9, Laws of 1975 1st ex. sess. and by section 97, chapter 278, Laws of 1975 1st ex. sess. and RCW 82.50.170 are each amended and reenacted to read as follows:

In case a claim is made by any person that he has erroneously paid the tax or a part thereof or any charge hereunder, he may apply in writing to the department of (~~(motor vehicles)~~) licensing for a refund of the amount of the claimed erroneous payment within thirteen months of the time of payment of the tax on such a form as is prescribed by the department. The department shall review such application for refund, and, if it determines that an erroneous payment has been made by the taxpayer, it shall certify the amount to be refunded to the state treasurer that such person is entitled to a refund in such amount, and the treasurer shall make such approved refund herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

Any person making any false statement in the affidavit herein mentioned, under which he obtains any amount of refund to which he is not entitled under the provisions of this section, shall be guilty of a gross misdemeanor.

Sec. 17. Section 84.48.110, chapter 15, Laws of 1961 as last amended by section 4, chapter 86, Laws of 1979 ex. sess. and section 185, chapter 151, Laws of 1979 and RCW 84.48.110 are each reenacted to read as follows:

Within three days after the record of the proceedings of the state board of equalization is certified by the director of the department, the department shall transmit to each county assessor a copy of the record of the proceedings of the board, specifying the amount to be levied and collected on said assessment books for state purposes for such year, and in addition thereto it shall certify to each county assessor the amount due to each state fund and unpaid from such county for the seventh preceding year, and such

delinquent state taxes shall be added to the amount levied for the current year. The department shall close the account of each county for the seventh preceding year and charge the amount of such delinquency to the tax levy of the current year. All taxes collected on and after the first day of July last preceding such certificate, on account of delinquent state taxes for the seventh preceding year shall belong to the county and by the county treasurer be credited to the current expense fund of the county in which collected.

NEW SECTION. Sec. 18. The following acts or parts of acts are each repealed:

(1) Section 15.32.370, chapter 11, Laws of 1961, section 1, chapter 73, Laws of 1965, section 1, chapter 40, Laws of 1967 ex. sess. and RCW 15.32.370;

(2) Section 1, chapter 186, Laws of 1963, section 12, chapter 87, Laws of 1980 and RCW 34.04.160;

(3) Section 36.76.010, chapter 4, Laws of 1963, section 72, chapter 232, Laws of 1969 ex. sess., section 21, chapter 42, Laws of 1970 ex. sess., section 52, chapter 56, Laws of 1970 ex. sess., section 1, chapter 9, Laws of 1971 and RCW 36.76.010;

(4) Section 94, chapter 130, Laws of 1943, section 138, chapter 220, Laws of 1963 and RCW 38.32.130;

(5) Section 43.22.160, chapter 8, Laws of 1965, section 80, chapter 154, Laws of 1973 1st ex. sess. and RCW 43.22.160;

(6) Section 43.22.170, chapter 8, Laws of 1965, section 81, chapter 154, Laws of 1973 1st ex. sess. and RCW 43.22.170;

(7) Section 2, chapter 76, Laws of 1972 ex. sess., section 65, chapter 75, Laws of 1977 and RCW 43.125.020;

(8) Section 47.12.060, chapter 13, Laws of 1961, section 1, chapter 96, Laws of 1975 1st ex. sess., section 47, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.060;

(9) Section 47.12.070, chapter 13, Laws of 1961, section 2, chapter 91, Laws of 1969, section 2, chapter 96, Laws of 1975 1st ex. sess., section 48, chapter 151, Laws of 1977 ex. sess. and RCW 47.12.070;

(10) Section 51.40.010, chapter 23, Laws of 1961, section 61, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.010;

(11) Section 51.40.020, chapter 23, Laws of 1961, section 1, chapter 36, Laws of 1965, section 2, chapter 80, Laws of 1965 ex. sess., section 62, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.020;

(12) Section 51.40.030, chapter 23, Laws of 1961, section 63, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.030;

(13) Section 51.40.040, chapter 23, Laws of 1961, section 29, chapter 106, Laws of 1973, section 64, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.040;

(14) Section 51.40.050, chapter 23, Laws of 1961, section 65, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.050;

(15) Section 51.40.060, chapter 23, Laws of 1961, section 66, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.060;

(16) Section 51.40.070, chapter 23, Laws of 1961, section 67, chapter 350, Laws of 1977 ex. sess. and RCW 51.40.070;

(17) Section 72.50.040, chapter 28, Laws of 1959, section 6, chapter 49, Laws of 1970 ex. sess. and RCW 72.50.040; and

(18) Section 74.09.170, chapter 26, Laws of 1959, section 340, chapter 141, Laws of 1979 and RCW 74.09.170.

NEW SECTION. Sec. 19. 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.

Passed the Senate April 25, 1981.

Passed the House April 22, 1981.

Approved by the Governor May 18, 1981.

Filed in Office of Secretary of State May 18, 1981.

CHAPTER 261

[Senate Bill No. 3586]

SALMON ENHANCEMENT FACILITIES—BOND ISSUE

AN ACT Relating to salmon enhancement; amending section 2, chapter 308, Laws of 1977 ex. sess. as amended by section 1, chapter 15, Laws of 1980 and RCW 75.48.020; and amending section 5, chapter 308, Laws of 1977 ex. sess. and RCW 75.48.050.

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

Section 1. Section 2, chapter 308, Laws of 1977 ex. sess. as amended by section 1, chapter 15, Laws of 1980 and RCW 75.48.020 are each amended to read as follows:

For the purpose of providing funds for the planning, acquisition, construction, and improvement of salmon hatcheries, other salmon propagation facilities including natural production sites, and necessary supporting facilities within the state, the state finance committee is authorized to issue, at any time prior to January 1, 1985, general obligation bonds of the state of Washington in the sum of (~~(thirty-two)~~) thirty-four million five hundred thousand dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold.

Sec. 2. Section 5, chapter 308, Laws of 1977 ex. sess. and RCW 75.48.050 are each amended to read as follows:

As used in this chapter, the term "facilities" means salmon propagation facilities including, but not limited to, all equipment, utilities, structures,