

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

NEW SECTION. Sec. 3. 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 House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 67

[Substitute House Bill No. 101]

ADMINISTRATIVE HEARINGS, OFFICE OF

AN ACT Relating to administrative law judges; amending section 2, chapter 234, Laws of 1959 as amended by section 2, chapter 237, Laws of 1967 and RCW 34.04.020; amending section 12, chapter 237, Laws of 1967 and RCW 34.04.022; amending section 73, chapter 151, Laws of 1979 as amended by section 3, chapter 265, Laws of 1979 ex. sess. and RCW 42.17.240; amending section 14, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 326, Laws of 1977 ex. sess. and RCW 9.46.140; amending section 15.36.580, chapter 11, Laws of 1961 and RCW 15.36.580; amending section 8, chapter 256, Laws of 1961 and RCW 15.65.080; amending section 12, chapter 171, Laws of 1967 as amended by section 3, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.120; amending section 15, chapter 57, Laws of 1970 ex. sess. as amended by section 6, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.150; amending section 3, chapter 98, Laws of 1935 as last amended by section 2, chapter 90, Laws of 1979 and RCW 18.64.005; amending section 23, chapter 222, Laws of 1951 and RCW 18.85.251; amending section 4, chapter 71, Laws of 1941 as last amended by section 2, chapter 44, Laws of 1974 ex. sess. and RCW 18.92.030; amending section 14, chapter 71, Laws of 1941 as last amended by section 11, chapter 50, Laws of 1967 ex. sess. and RCW 18.92.180; amending section 13, chapter 222, Laws of 1977 ex. sess. and RCW 19.09.265; amending section 12, chapter 57, Laws of 1971 ex. sess. as amended by section 6, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.19.120; amending section 4, chapter 91, Laws of 1975-'76 2nd ex. sess. and RCW 46.12.330; amending section 36, chapter 121, Laws of 1965 ex. sess. as last amended by section 61, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.329; amending section 3, chapter 75, Laws of 1965 ex. sess. as amended by section 2, chapter 77, Laws of 1977 and RCW 47.52.135; amending section 117, chapter 35, Laws of 1945 and RCW 50.32.010; amending section 27, chapter 62, Laws of 1933 ex. sess. as last amended by section 1, chapter 66, Laws of 1974 ex. sess. and RCW 66.24.010; amending section 69.50.505, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 77, Laws of 1977 ex. sess. and RCW 69.50.505; amending section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 133, chapter 81, Laws of 1971 and RCW 71.02.413; amending section 74.08.070, chapter 26, Laws of 1959 as last amended by section 1, chapter 92, Laws of 1979 ex. sess. and RCW 74.08.070; amending section 80.01.060, chapter 14, Laws of 1961 and RCW 80.01.060; amending section 13, chapter 18, Laws of 1935 as last amended by section 12, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.100; adding a new chapter to Title 34 RCW; making an appropriation; declaring an emergency; and providing an effective date.

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

NEW SECTION. Section 1. A state office of administrative hearings is hereby created. The office shall be independent of state administrative

agencies and shall be responsible for impartial administration of administrative hearings in accordance with the legislative intent expressed by this chapter. Hearings shall be conducted with the greatest degree of informality consistent with fairness and the nature of the proceeding. The office shall be under the direction of a chief administrative law judge, appointed by the governor with the advice and consent of the senate, for a term of five years. The person appointed is required, as a condition of appointment, to be admitted to practice law in the state of Washington, and may be removed for cause.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Office" means the office of administrative hearings.

(2) "Administrative law judge" means any person appointed by the chief administrative law judge to conduct or preside over hearings as provided in this chapter.

(3) "Hearing" means a "contested case" within the meaning of RCW 34.04.010(3) conducted by a state agency.

(4) "State agency" means any state board, commission, department, or officer authorized by law to make rules or to adjudicate contested cases, except those in the legislative or judicial branches, the pollution control hearings board, the shorelines hearings board, the forest practices appeals board, the environmental hearings office, the board of industrial insurance appeals, the state personnel board, the higher education personnel board, the public employment relations commission, and the board of tax appeals.

NEW SECTION. Sec. 3. (1) The chief administrative law judge shall appoint administrative law judges to fulfill the duties prescribed in this chapter. All administrative law judges shall have a demonstrated knowledge of administrative law and procedures. The chief administrative law judge may establish different levels of administrative law judge positions.

(2) The chief administrative law judge may also contract with qualified individuals to serve as administrative law judges for specified hearings. Such individuals shall be compensated for their services on a contractual basis for each hearing, in accordance with chapter 43.88 RCW. The chief administrative law judge may not contract with any individual who is at that time an employee of the state.

(3) The chief administrative law judge may appoint such clerical and other specialized or technical personnel as may be necessary to carry on the work of this chapter.

(4) The administrative law judges appointed under subsection (1) of this section are subject to discipline and termination, for cause, by the chief administrative law judge. Upon written request by the person so disciplined or terminated, the chief administrative law judge shall forthwith put the reasons for such action in writing. The person affected has a right of review by

the superior court of Thurston county on petition for reinstatement or other remedy filed within thirty days of receipt of such written reasons.

(5) All employees of the office except the chief administrative law judge and the administrative law judges are subject to chapter 41.06 RCW.

(6) The office may adopt rules for its own operation and in furtherance of this chapter in accordance with chapter 34.04 RCW.

NEW SECTION. Sec. 4. Whenever a state agency conducts a hearing which is not presided over by officials of the agency who are to render the final decision, the hearing shall be conducted by an administrative law judge assigned under this chapter. In assigning administrative law judges, the chief administrative law judge shall wherever practical (1) use personnel having expertise in the field or subject matter of the hearing, and (2) assign administrative law judges primarily to the hearings of particular agencies on a long-term basis.

NEW SECTION. Sec. 5. (1) Any party to a hearing being conducted under the provisions of this chapter (including the state agency, whether or not it is nominally a party) may file with the chief administrative law judge a motion of prejudice, with supporting affidavit, against the administrative law judge assigned to preside at the hearing. The first such motion filed by any party shall be automatically granted.

(2) Any state agency may request from the chief administrative law judge the assignment of an administrative law judge for the purpose of conducting a rule-making or investigatory proceeding.

NEW SECTION. Sec. 6. When an administrative law judge presides at a hearing under this chapter, it shall be the duty of such judge, or in the event of his unavailability or incapacity, of another judge appointed by the chief administrative law judge, to issue a proposal for decision including findings of fact and conclusions of law in accordance with RCW 34.04.110.

NEW SECTION. Sec. 7. The chief administrative law judge may establish a method of making a record of all hearings and may employ or contract in order to implement such method.

NEW SECTION. Sec. 8. All hearings shall be conducted in conformance with the Administrative Procedure Act, chapter 34.04 RCW. After consultation with affected agencies, the chief administrative law judge may promulgate rules governing the procedural conduct of the hearings. Such rules shall seek the maximum procedural uniformity in agency hearings consistent with demonstrable needs for individual agency variation.

NEW SECTION. Sec. 9. (1) All state employees who have exclusively or principally conducted or presided over hearings for state agencies prior to July 1, 1982, shall be transferred to the office.

(2) All state employees who have exclusively or principally served as support staff for those employees transferred under subsection (1) of this section shall be transferred to the office.

(3) All equipment or other tangible property in possession of state agencies, used or held exclusively or principally by personnel transferred under subsection (1) of this section shall be transferred to the office unless the office of financial management, in consultation with the head of the agency and the chief administrative law judge, determines that the equipment or property will be more efficiently used by the agency if such property is not transferred.

NEW SECTION. Sec. 10. The chief administrative law judge shall be paid a salary fixed by the governor after recommendation of the state committee on salaries. The salaries of administrative law judges appointed under the terms of this chapter shall be determined by the chief administrative law judge after recommendation of the state committee on salaries.

NEW SECTION. Sec. 11. The creation of the office of administrative hearings and the transfer of duties and personnel under this chapter shall not affect the validity of any rule, action, decision, or proceeding held or promulgated by any state agency before July 1, 1982. This chapter applies to hearings occurring after July 1, 1982.

NEW SECTION. Sec. 12. (1) The governor shall appoint a chief administrative law judge to take office no later than the thirtieth day after the effective date of this section. In the interim period between appointment and July 1, 1982, the chief administrative law judge shall specifically plan and administer as efficiently as possible the initial implementation of this chapter and of RCW 34.04.020 and 34.04.022 as now or hereafter amended, and shall develop and submit a plan and budget for financing the office after July 1, 1982.

(2) During this interim period, the chief administrative law judge may hire support staff and purchase facilities and equipment necessary to the task.

Sec. 13. Section 2, chapter 234, Laws of 1959 as amended by section 2, chapter 237, Laws of 1967 and RCW 34.04.020 are each amended to read as follows:

In addition to other rule-making requirements imposed by law:

(1) Each agency shall adopt rules governing the formal and informal procedures prescribed or authorized by this chapter and rules of practice before the agency, together with forms and instructions: PROVIDED, That rules for the conduct of contested cases shall be those which are promulgated by the chief administrative law judge pursuant to RCW 34.04.022 (~~(shall apply to agencies which have not adopted comprehensive rules of practice and procedure, in accordance with the provisions of this chapter, prior to July 1, 1967)~~), as now or hereafter amended.

(2) To assist interested persons dealing with it, each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations and the methods whereby the public may obtain

information and make submissions or requests. No person (~~shall~~) may be required to comply with agency procedure not adopted as a rule as herein required.

(3) To the extent not prohibited by federal law or regulation, nor prohibited for reasons of confidentiality by state law, each agency shall keep on file for public inspection all final orders, decisions, and opinions in contested cases and any digest or index to those orders, decisions, or opinions prepared by the agency for its own use. No agency order, decision, or opinion is valid or effective against any person, nor may it be invoked by the agency for any purpose, unless it is available for public inspection as herein required. This provision is not applicable in favor of any person who has actual knowledge thereof.

Sec. 14. Section 12, chapter 237, Laws of 1967 and RCW 34.04.022 are each amended to read as follows:

On or before July 1, 1967, the code reviser shall add to Title I of the Washington Administrative Code a new chapter to be known as chapter 1-08 WAC—Uniform Procedural Rules, which shall become effective July 1, 1967, and shall govern the administrative practice and procedure in and before all agencies which have not adopted comprehensive rules of practice and procedure prior to that date. Except for the numbering thereof, such rules shall be identical with the rules contained in WAC 308-08-010 through 308-08-590 as the same existed on January 3, 1966: PROVIDED, That in publishing chapter 1-08 WAC the reviser may revise such terms as are used in chapter 308-08 WAC to describe "agency", "department", "board", "commission", and like terms, so as to enable the use of such rules by multiple agencies.

~~((This section shall not prohibit any such agency from hereafter adopting its own rules of practice and procedure in the manner provided by this chapter, if such agency shall elect to promulgate comprehensive rules on this subject and shall, in the order of adoption, expressly negative any further applicability to such agency of the rules contained in chapter 1-08 WAC.))~~ The chief administrative law judge shall promulgate uniform procedural rules governing the conduct of contested cases. The rules may consist of, may be based upon, or may completely replace the rules codified in chapter 1-08 WAC as of June 30, 1981. From time to time thereafter the chief administrative law judge may modify the uniform procedural rules.

The chief administrative law judge may adopt rules with variations from the uniform rules for an agency if the chief administrative law judge determines there are sufficient demonstrable needs for variations. Variations shall, to the greatest practicable extent, embody the uniform rules of practice and procedure.

Sec. 15. Section 73, chapter 151, Laws of 1979 as amended by section 3, chapter 265, Laws of 1979 ex. sess. and RCW 42.17.240 are each amended to read as follows:

(1) Every elected official (except president, vice president, and precinct committeemen), every chief executive state officer as specified in RCW 43-.17.020, as now or hereafter amended, the chief administrative law judge, the director of financial management, the director of personnel, the director of the planning and community affairs agency, the director of the state system of community colleges, the executive director of the data processing authority, the executive secretary of the forest practice appeals board, the director of the gambling commission, the director of the higher education personnel board, the secretary of transportation, the executive secretary of the horse racing commission, the executive secretary of the human rights commission, the administrator of the interagency committee for outdoor recreation, the director of parks and recreation, the executive secretary of the board of prison terms and paroles, the administrator of the public disclosure commission, the director of retirement systems, the secretary of the utilities and transportation commission, the executive secretary of the board of tax appeals, the secretary of the state finance committee, the president of each of the regional and state universities and the president of The Evergreen State College, each district and each campus president of each state community college, each professional staff member of the office of the governor, each professional staff member of the legislature, and each member of the state board for community college education, data processing authority, forest practices board, forest practices appeals board, gambling commission, game commission, higher education personnel board, transportation commission, horse racing commission, human rights commission, board of industrial insurance appeals, liquor control board, interagency committee for outdoor recreation, parks and recreation commission, personnel board, board of prison terms and paroles, public disclosure commission, public employees' retirement system board, public pension commission, University of Washington board of regents, Washington State University board of regents, board of tax appeals, teachers' retirement system board of trustees, Central Washington University board of trustees, Eastern Washington University board of trustees, The Evergreen State College board of trustees, Western Washington University board of trustees, board of trustees of each community college, and the utilities and transportation commission, shall after January 1st and before April 15th of each year for the preceding calendar year; and every candidate, and every person appointed to fill a vacancy in an elective office (except for the offices of president, vice president, and precinct committeeman) shall, within two weeks of becoming a candidate or being appointed to such elective office, and every person appointed to the appointive positions enumerated herein shall, within two weeks of being so appointed, for the preceding twelve months; file with the commission a written statement sworn as to its truth and accuracy stating for himself and all members of his immediate family: PROVIDED, That no individual shall be required to file more than once in any calendar

year: PROVIDED HOWEVER, That a statement of a candidate or appointee filed during the period January 1st to April 15th shall cover the period from January 1st of the preceding calendar year to the time of candidacy or appointment if the filing of such statement would relieve the individual of a prior obligation to file a statement covering the entire preceding calendar year:

(a) Occupation, name of employer, and business address; and

(b) Each bank or savings account or insurance policy in which any such person or persons owned a direct financial interest which exceeded five thousand dollars at any time during such period; each other item of intangible personal property in which any such person or persons owned a direct financial interest, the value of which exceeded five hundred dollars during such period; and the name, address, nature of entity, nature and highest value of each such direct financial interest during the reporting period; and

(c) The name and address of each creditor to whom the value of five hundred dollars or more was owed; the original amount of each debt to each such creditor; the amount of each debt owed to each creditor as of the date of filing; the terms of repayment of each such debt; and the security given, if any, for each such debt: PROVIDED, That debts arising out of a "retail installment transaction" as defined in chapter 63.14 RCW (Retail Installment Sales Act) need not be reported; and

(d) Every public or private office, directorship and position as trustee held; and

(e) All persons for whom any legislation, or any rule, rate, or standard has been prepared, promoted, or opposed for current or deferred compensation: PROVIDED, That for the purposes of this subsection, "compensation" shall not include payments made to the person reporting by the governmental entity for which such person serves as an elected or appointed public officer or professional staff member for his service in office; the description of such actual or proposed legislation, rules, rates, or standards; and the amount of current or deferred compensation paid or promised to be paid; and

(f) The name and address of each governmental entity, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from whom compensation has been received in any form of a total value of five hundred dollars or more; the value of such compensation; and the consideration given or performed in exchange for such compensation; and

(g) The name of any corporation, partnership, joint venture, association, union, or other entity in which is held any office, directorship, or any general partnership interest, or an ownership interest of ten percent or more; the name or title of that office, directorship, or partnership; the nature of ownership interest; and with respect to each such entity: (i) With respect to a governmental unit in which the official holds any office or position, if such

entity has received compensation in any form during the preceding twelve months from such governmental unit, the value of such compensation and the consideration given or performed in exchange for such compensation; (ii) The name of each governmental unit, corporation, partnership, joint venture, sole proprietorship, association, union, or other business or commercial entity from which such entity has received compensation in any form in the amount of two thousand five hundred dollars or more during the preceding twelve months and the consideration given or performed in exchange for such compensation: PROVIDED, That the term "compensation" for purposes of this subsection (1)(g)(ii) shall not include payment for water and other utility services at rates approved by the Washington state utilities and transportation commission or the legislative authority of the public entity providing such service: PROVIDED, FURTHER, That with respect to any bank or commercial lending institution in which is held any such office, directorship, partnership interest, or ownership interest, it shall only be necessary to report either the name, address, and occupation of every director and officer of such bank or commercial lending institution and the average monthly balance of each account held during the preceding twelve months by such bank or commercial lending institution from the governmental entity for which the individual is an official or candidate or professional staff member, or all interest paid by a borrower on loans from and all interest paid to a depositor by such bank or commercial lending institution if such interest exceeds six hundred dollars; and

(h) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was acquired during the preceding calendar year, and a statement of the amount and nature of the financial interest and of the consideration given in exchange for such interest; and

(i) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which any direct financial interest was divested during the preceding calendar year, and a statement of the amount and nature of the consideration received in exchange for such interest, and the name and address of the person furnishing such consideration; and

(j) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds two thousand five hundred dollars in which a direct financial interest was held: PROVIDED, That if a description of such property has been included in a report previously filed, such property may be listed, for purposes of this provision, by reference to such previously filed report; and

(k) A list, including legal or other sufficient descriptions as prescribed by the commission, of all real property in the state of Washington, the assessed valuation of which exceeds five thousand dollars, in which a corporation, partnership, firm, enterprise, or other entity had a direct financial interest, in which corporation, partnership, firm or enterprise a ten percent or greater ownership interest was held; and

(l) Such other information as the commission may deem necessary in order to properly carry out the purposes and policies of this chapter, as the commission shall by rule prescribe.

(2) Where an amount is required to be reported under subsection (1), paragraphs (a) through (k) of this section, it shall be sufficient to comply with such requirement to report whether the amount is less than one thousand dollars, at least one thousand dollars but less than five thousand dollars, at least five thousand dollars but less than ten thousand dollars, at least ten thousand dollars but less than twenty-five thousand dollars, or twenty-five thousand dollars or more. An amount of stock may be reported by number of shares instead of by market value. No provision of this subsection shall be interpreted to prevent any person from filing more information or more detailed information than required.

Sec. 16. Section 14, chapter 218, Laws of 1973 1st ex. sess. as last amended by section 7, chapter 326, Laws of 1977 ex. sess. and RCW 9.46-.140 are each amended to read as follows:

(1) The commission or its authorized representative may:

(a) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder; and

(b) Inspect the books, documents, and records of any person lending money to or in any manner financing any license holder or applicant for a license or receiving any income or profits from the use of such license for the purpose of determining compliance or noncompliance with the provisions of this chapter or the rules and regulations adopted pursuant thereto.

(2) For the purpose of any investigation or proceeding under this chapter, the commission or (~~any officer designated by rule~~) an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) may conduct hearings, administer oaths or affirmations, or upon the commission's or (~~officer's~~) administrative law judge's motion or upon request of any party may subpoena witnesses, compel attendance, take depositions, take evidence, or require the production of any matter which is relevant to the investigation or proceeding, including but not limited to the existence, description, nature, custody, condition, or location of any books, documents, or other tangible things, or the identity or location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

(3) Upon failure to obey a subpoena or to answer questions propounded by the ~~((investigating officer))~~ administrative law judge and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

(4) The ~~((commission may appoint hearing officers to))~~ administrative law judges appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) may conduct hearings respecting the suspension, revocation, or denial of licenses, who may administer oaths, admit or deny admission of evidence, compel the attendance of witnesses, issue subpoenas, issue orders, and exercise all other powers and perform all other functions set out in RCW 34.04.090 (6) and (8), 34.04.100, and 34.04.105. ~~((The salaries and expenses of such hearing officers may be paid from any revenues available to the commission.))~~

(5) Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW.

Sec. 17. Section 15.36.580, chapter 11, Laws of 1961 and RCW 15.36-.580 are each amended to read as follows:

In case of a written protest from any fluid milk producer, fluid milk distributor, or health officer, concerning the enforcement of any provisions of this chapter or of any rules and regulations thereunder, the director, or ~~((his duly authorized assistant,))~~ an administrative law judge within ten days after receipt of such protest and after five days written notice thereof to the party against whom the protest is made, shall hold a summary hearing in the county where either the party protesting or protested against resides, upon the completion of which the director or ~~((his duly authorized assistant))~~ an administrative law judge shall make such written findings of fact and order as the circumstances may warrant: PROVIDED, That if the protest originates with a producer, the hearings shall be held in the county where the protesting producer resides. Such findings and order shall be final and conclusive upon all parties from and after their effective date, which date shall be five days after being signed and deposited postage prepaid in the United States mails addressed to the last known address of all said parties. An appeal from such findings or order may be taken within ten days of their effective date to the superior court of the county in which the hearing is held upon such notice and in such manner as appeals are taken from judgments rendered in justice court.

Sec. 18. Section 8, chapter 256, Laws of 1961 and RCW 15.65.080 are each amended to read as follows:

Every hearing held pursuant to this chapter shall be public and all testimony shall be received under oath and a permanent record thereof maintained. ~~((The director may designate an employee of the department or other qualified person as an examiner (which person is designated herein, "hearing examiner") in))~~ An administrative law judge appointed under

chapter 34... RCW (sections 1 through 12 of this 1981 act) may preside over any inquiry, investigation, hearing, or proceeding held pursuant to this chapter and for such purpose such examiner may exercise any power herein conferred upon the director in connection therewith, including the power to administer oaths, examine witnesses and to issue subpoenas. At each such hearing the director or the administrative law judge shall receive evidence with respect to all of the matters and things upon which he must make a finding.

Sec. 19. Section 12, chapter 171, Laws of 1967 as amended by section 3, chapter 39, Laws of 1975 1st ex. sess. and RCW 18.26.120 are each amended to read as follows:

Any person, firm, corporation, or public officer may submit a written complaint to the secretary charging the holder of a license to practice chiropractic with unprofessional conduct, specifying the grounds therefor. If the board determines that such complaint merits consideration, or if the board shall have reason to believe, without a formal complaint, that any holder of a license has been guilty of unprofessional conduct, the chairman may designate three members to serve as a committee to hear and report upon such charges, or the board may sit as a whole to hear such charges, or the board may (~~designate a hearing officer~~) request the appointment of an administrative law judge under chapter 34... RCW (sections 1 through 12 of this 1981 act) to hear and report to the board upon such charges.

Sec. 20. Section 15, chapter 57, Laws of 1970 ex. sess. as amended by section 6, chapter 243, Laws of 1977 ex. sess. and RCW 18.52.150 are each amended to read as follows:

Unless otherwise specifically provided in this chapter, all proceedings under this chapter of the director and board for rule making, for the hearings required by this chapter, for contested cases, and for appeals shall be conducted in conformity with the administrative procedure act. In matters involving reprimand, suspension, revocation, refusal of reregistration, or denial of licenses, the board shall require clear, cogent, and convincing evidence before the board orders action. Complaints regarding any licensed administrator shall be considered only if submitted to the director in writing and signed. If a complaint indicates a possible violation of the provisions of this chapter, it shall be investigated by the director. Additionally, the director on his own initiative may, or, upon order of the board, shall, initiate an investigation of possible violations of this chapter. The director shall advise the board of all complaints received and action taken.

If, after investigation the chairman of the board, or the board, decides that there is reasonable cause to believe that grounds exist for a reprimand, or for denial, suspension, refusal of reregistration, or revocation of a license issued or to be issued under this chapter, the director shall notify the applicant or licensee in writing and serve him personally, or by certified mail, with return receipt requested, stating the grounds for the reprimand or upon

which the license is to be denied, suspended, revoked, or reregistration refused, and shall make available, upon request, so much of the investigative information as relates to any grounds asserted for proposed action.

Within twenty days of the service or receipt of notice of the alleged grounds for reprimand, denial, suspension, revocation, or refusal ((or)) of reregistration, the applicant or licensee may serve upon the director a written request for hearing before the board. Service of a request for a hearing shall be made personally or by certified mail, return receipt requested, and in the latter event shall be addressed to the director at the director's office in Thurston county.

Upon receiving a request for a hearing, the director shall refer the matter to the board to arrange for a hearing. Hearings may be conducted by the board, by a committee of the board the majority of which shall be administrator members, ~~((a hearing officer engaged by the board who shall be a licensed administrator, or by a hearing examiner of the state))~~ or by an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act).

If the applicant or licensee does not file a timely request for a hearing in accordance with the provisions of this section, the director shall refer the matter to the board for appropriate action which may be taken without further notice to the applicant or licensee.

Sec. 21. Section 3, chapter 98, Laws of 1935 as last amended by section 2, chapter 90, Laws of 1979 and RCW 18.64.005 are each amended to read as follows:

The board shall:

(1) Regulate the practice of pharmacy and administer and enforce all laws placed under its jurisdiction;

(2) Prepare, grade, and administer or determine the nature of, and supervise the grading and administration of, examinations for applicants for pharmacists' licenses;

(3) Examine, inspect, and investigate all applicants for license as pharmacists or pharmacy interns and grant licenses to all applicants whom it shall judge to be properly qualified;

(4) Determine the fees for licenses and examinations;

(5) Employ an executive officer, inspectors, investigators, chemists, and other agents as necessary to assist it for any purpose which it may deem necessary;

(6) Investigate violations of the provisions of law or regulations under its jurisdiction, and cause prosecutions to be instituted in the courts;

(7) Make inspections and investigations of pharmacies and other places, including dispensing machines, in which drugs or devices are stored, held, compounded, dispensed, sold, or administered to the ultimate consumer, to take and analyze any drugs or devices and to seize and condemn any drugs

or devices which are adulterated, misbranded, stored, held, dispensed, distributed, administered, or compounded in violation of or contrary to law;

(8) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, ~~((and/or appoint a hearing officer to conduct such hearings))~~ which hearings may also be conducted by an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act);

(9) Issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(10) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, and/or any other laws or rules under its jurisdiction;

(11) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(12) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter; and

(13) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed in good faith as members of such board. Such immunity shall apply to employees of the board when acting at the direction of the board in the course of disciplinary proceedings.

Sec. 22. Section 23, chapter 222, Laws of 1951 and RCW 18.85.251 are each amended to read as follows:

The proceedings for revocation or suspension of a license or refusal to renew a license or accept an application for renewal shall be had on motion of the director or after a statement in writing verified by some person or persons familiar with the facts upon which the proposed revocation, suspension, or refusal is based has been filed with the director. Upon receipt of such statement or accusation, the director shall make a preliminary investigation of the facts charged to determine whether the statement or accusation is sufficient. If the director shall determine the statement or accusation is sufficient to require formal action, the director shall thereupon set the matter for hearing at a specified time and place. A copy of such order setting time and place and a copy of the verified statement shall be served upon the licensee involved not less than twenty days before the day appointed in the order for said hearing. The department of licenses, the licensee accused, and the person making the accusation may be represented by counsel at such a hearing. The director or ~~((his authorized representative))~~ an administrative law judge appointed under chapter 34... RCW

(sections 1 through 12 of this 1981 act) shall hear and receive pertinent evidence and testimony.

Sec. 23. Section 4, chapter 71, Laws of 1941 as last amended by section 2, chapter 44, Laws of 1974 ex. sess. and RCW 18.92.030 are each amended to read as follows:

It shall be the duty of the board to prepare examination questions, conduct examinations, and grade the answers of applicants. The board shall supervise the conduct of those practicing veterinary medicine, surgery, and dentistry and shall make such recommendations as it deems necessary to the director in regard to the granting, suspension, or revocation of licenses. It shall be the duty of the board to adopt a code of ethics for the practice of the veterinary profession in this state. The board, pursuant to chapter 34.04 RCW, shall have the power to adopt such rules and regulations as may be necessary to effectuate the purposes of this ~~((1974 amendatory act))~~ chapter including the performance of the duties and responsibilities of animal technicians: PROVIDED, HOWEVER, That no animal technician ((shall be allowed to)) may diagnose, prognose, prescribe, or perform surgery, other than inoculations, on any animal. The board shall further have the power to adopt, by reasonable rules and regulations, standards prescribing requirements for veterinary medical facilities and to fix minimum standards of continuing veterinary medical education.

The board may employ a secretary who shall be exempt from the provisions of chapter 41.06 RCW and whose duties shall include carrying on correspondence of the board, maintaining records of board proceedings, and such other duties as may be assigned from time to time to him by the board. The department shall be the official office of record.

The board shall have the power to conduct hearings for the revocation or suspension of licenses ~~((and shall have the authority to appoint a hearing officer to conduct such hearings))~~. Such hearings may be conducted by an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act).

Sec. 24. Section 14, chapter 71, Laws of 1941 as last amended by section 11, chapter 50, Laws of 1967 ex. sess. and RCW 18.92.180 are each amended to read as follows:

In all proceedings having for their purpose the revocation or suspension of a license to practice veterinary medicine, surgery, and dentistry, the holder of such license shall be given twenty days notice in writing which shall specify the offense or offenses against this chapter with which said accused person is charged, and said notice shall also give the day and place where the hearing is to be held. The board or ~~((its designated hearing officer))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) shall have the power to issue subpoenas to compel the attendance of witnesses, or the production of books or documents. The accused person shall have opportunity to make his defense, and

may have issued such subpoenas as he may desire. Witnesses shall testify under oath. The board or (~~its designated hearing officer~~) the administrative law judge shall hear and determine the charges and shall make findings and conclusion upon the evidence produced, and shall file the same in the director's office, together with a transcript of all the evidence, a duplicate copy of which shall be served upon the accused. The revocation or suspension of a license to practice shall be in writing signed by the director, stating the grounds upon which such order is based.

Sec. 25. Section 13, chapter 222, Laws of 1977 ex. sess. and RCW 19-09.265 are each amended to read as follows:

For the purpose of any investigation, proceeding, or hearing under this chapter, the director or (~~any officer designated by rule~~) an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) may (1) administer oaths or affirmations and (2) upon the director's or administrative law judge's own motion, or upon request of any party to a hearing, shall subpoena witnesses, compel their attendance, require the production of any matter which is relevant to the investigation, proceeding, or hearing, and take evidence on all relevant matters, including matters reasonably calculated to lead to the discovery of material evidence. Subpoenas issued by the director or (~~his designee~~) the administrative law judge shall be served in accordance with the provisions of law governing the service of subpoenas in actions in superior court. If any person refuses to obey a subpoena issued under this section, or refuses to answer any proper question put to him during a hearing or proceeding, the director or (~~his designee~~) the administrative law judge may petition the superior court of any county in which such person resides or is found for an order requiring such person to appear and give evidence, or to produce the requested material, or to answer the proposed question. Any failure to obey such order of the court may be punished by the court as a civil contempt may be punished.

Unless another place is named by the director or (~~his designee~~) the administrative law judge, all hearings and proceedings shall be located in Olympia, and all subpoenaed physical evidence or exhibits, whether demanded in relation to a hearing, proceeding, or investigation, shall be produced in Olympia.

Sec. 26. Section 12, chapter 57, Laws of 1971 ex. sess. as amended by section 6, chapter 46, Laws of 1973 1st ex. sess. and RCW 28B.19.120 are each amended to read as follows:

(1) In any contested case where informal procedures authorized by RCW 28B.19.110(1) are not used and where the formal procedures are invoked because of necessity or request in accordance with RCW 28B.19.110(2), or by institutional rule in accordance with RCW 28B.19.110(3), as in section 6, chapter 46, Laws of 1973 1st ex. sess. amended, all parties shall be afforded an opportunity for hearing after not less than ten days' notice. The notice shall include:

(a) A statement of the time, place, and nature of the proceeding;
(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular rules of the institution involved;

(d) A short and plain statement of the matters asserted. If the institution or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Hearings may be held or conducted by any officer or committee authorized by the president of any institution of higher education or administrative law judges appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act). The (~~hearing officer~~) administrative law judge or committee shall determine whether the hearing shall be open to the educational community in which it takes place, or whether particular persons should be permitted in attendance or excluded from attendance.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved, and to examine and cross-examine witnesses.

(4) Statements, testimony, and all other evidence given at an informal proceeding authorized pursuant to RCW 28B.19.110(1) shall be confidential and shall not be subject to discovery or released to anyone, including the officer or committee conducting a formal hearing or the parties involved, or used for impeachment purposes, without permission of the person who divulged the information.

(5) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default, or other established informal procedure.

(6) The record in a contested case shall include:

(a) All documents, motions, and intermediate rulings;

(b) Evidence received or considered;

(c) A statement of matters officially noticed;

(d) Questions and offers of proof, objections, and rulings thereon;

(e) Proposed findings and exceptions; and

(f) Any decision, opinion, or report by the officer or committee chairman presiding at the hearing.

(7) Oral proceedings shall be transcribed if necessary for the purposes of rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the costs thereof.

(8) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(9) Each institution shall adopt appropriate rules of procedure for notice and hearing informal contested cases.

(10) Institutions, or their authorized ((~~hearing~~)) officer, administrative law judge, or committee, may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person ((~~staff~~)) may be compelled to divulge information which he could not be compelled to divulge in a court of law;

(b) Issue subpoenas;

(c) Take or cause depositions to be taken pursuant to rules promulgated by the institution, and no person ((~~staff~~)) may be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;

(d) Regulate the course of the hearing;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(f) Dispose of procedural requests or similar matters;

(g) Make decisions or proposals for decisions; and

(h) Take any other action authorized by rule consistent with this chapter.

Sec. 27. Section 4, chapter 91, Laws of 1975-'76 2nd ex. sess. and RCW 46.12.330 are each amended to read as follows:

(1) Any person may submit a written request for a hearing to establish a claim of ownership or right to lawful possession of the vehicle, watercraft, camper, or component part thereof seized pursuant to this section.

(2) Upon receipt of a request for hearing, one shall be held before the chief law enforcement officer of the seizing agency or ((~~his designee~~)) an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act).

(3) Such hearing shall be held within a reasonable time after receipt of a request therefor. Reasonable investigative activities, including efforts to establish the identity of the article or articles and the identity of the person entitled to the lawful possession or custody of the article or articles shall be considered in determining the reasonableness of the time within which a hearing must be held.

(4) The hearing and any appeal therefrom shall be conducted in accordance with ((~~chapter 34.04~~)) Title 34 RCW.

(5) The burden of producing evidence shall be upon the person claiming to be the lawful owner or to have the lawful right of possession to the article or articles.

(6) Any person claiming ownership or right to possession of an article or articles subject to disposition under RCW 46.12.310 through 46.12.340 may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is two hundred dollars or more. In a

court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to judgment for costs and reasonable attorney's fees. For purposes of this section the seizing law enforcement agency shall not be considered a claimant.

(7) The seizing law enforcement agency shall promptly release the article or articles to the claimant upon a determination by the ~~((hearing officer))~~ administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession thereof.

Sec. 28. Section 36, chapter 121, Laws of 1965 ex. sess. as last amended by section 61, chapter 136, Laws of 1979 ex. sess. and RCW 46.20.329 are each amended to read as follows:

Upon receiving a request for a formal hearing as provided in RCW 46.20.328, the department shall fix a time and place for hearing as early as may be arranged in the county where the applicant or licensee resides, and shall give ten days' notice of the hearing to the applicant or licensee, except that the hearing may be set for a different place with the concurrence of the applicant or licensee and the period of notice may be waived.

Any decision by the department suspending or 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 of a moving violation or a finding that the person has committed a traffic infraction which is a moving violation during pendency of hearing and appeal: PROVIDED FURTHER, That nothing in this section shall be construed as prohibiting the department from seeking an order setting aside the stay during the pendency of such appeal in those cases where the action of the department is based upon physical or mental incapacity, or a failure to successfully complete an examination required by this chapter.

A formal hearing shall be conducted by the director or by ~~((a referee))~~ an administrative law judge or hearing board appointed ~~((by him from officers or employees of the department))~~ under chapter 34... RCW (sections 1 through 12 of this 1981 act). Such ~~((referee))~~ administrative law judge or hearing board may be authorized by the director to make final determinations regarding the issuance, denial, or suspension, or revocation of a license.

Sec. 29. Section 3, chapter 75, Laws of 1965 ex. sess. as amended by section 2, chapter 77, Laws of 1977 and RCW 47.52.135 are each amended to read as follows:

At the hearing any representative of the county, city or town, or any other person may appear and be heard even though such official or person is not an abutting property owner. Such hearing may, at the option of the

highway authority, be conducted in accordance with federal laws and regulations governing highway design public hearings. The members of such authority shall preside, or may ~~((designate some suitable person to preside as examiner))~~ request the appointment of an administrative law judge under chapter 34... RCW (sections 1 through 12 of this 1981 act). The authority shall introduce by competent evidence a summary of the proposal for the establishment of a limited access facility and any evidence that supports the adoption of the plan as being in the public interest. At the conclusion of such evidence, any person entitled to notice who has entered a written appearance shall be deemed a party to this hearing for purposes of this chapter and may thereafter introduce, either in person or by counsel, evidence and statements or counterproposals bearing upon the reasonableness of the proposal. Any such evidence and statements or counterproposals shall receive reasonable consideration by the authority before any proposal is adopted. Such evidence must be material to the issue before the authority and shall be presented in an orderly manner.

Sec. 30. Section 117, chapter 35, Laws of 1945 and RCW 50.32.010 are each amended to read as follows:

The commissioner shall establish one or more impartial appeal tribunals, each of which shall consist of ~~((a salaried examiner))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) who shall decide the issues submitted to the tribunal. No ~~((examiner shall))~~ administrative law judge may hear or decide any disputed claim in any case in which he is an interested party. Wherever the term "appeal tribunal" or "the appeal tribunal" is used in this title the same refers to an appeal tribunal established under the provisions of this section. Notice of any appeal or petition for hearing taken to an appeal tribunal in any proceeding under this title may be filed with such agency as the commissioner may by regulation prescribe.

Sec. 31. Section 27, chapter 62, Laws of 1933 ex. sess. as last amended by section 1, chapter 66, Laws of 1974 ex. sess. and RCW 66.24.010 are each amended to read as follows:

(1) Every license shall be issued in the name of the applicant, and the holder thereof shall not allow any other person to use the license.

(2) For the purpose of considering any application for a license, the board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. The board may, in its discretion, grant or refuse the license applied for. No retail license of any kind ~~((shall))~~ may be issued to:

(a) A person who is not a citizen of the United States, except when the privilege is granted by treaty;

(b) A person who has not resided in the state for at least one month prior to making application, except in cases of licenses issued to dining places on railroads, boats, or aircraft;

(c) A person who has been convicted of a felony within five years prior to filing his application;

(d) A copartnership, unless all of the members thereof are qualified to obtain a license, as provided in this section;

(e) A person whose place of business is conducted by a manager or agent, unless such manager or agent possesses the same qualifications required of the licensee;

(f) A corporation, unless all of the officers thereof are citizens of the United States.

(3) The board may, in its discretion, subject to the provisions of RCW 66.08.150, suspend or cancel any license; and all rights of the licensee to keep or sell liquor thereunder shall be suspended or terminated, as the case may be. The board may ~~((appoint examiners))~~ request the appointment of administrative law judges under chapter 34... RCW (sections 1 through 12 of this 1981 act) who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the board may adopt.

Witnesses shall be allowed fees at the rate of four dollars per day, plus ten cents per mile each way. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

In case of disobedience of any person to comply with the order of the board or a subpoena issued by the board, or any of its members, or ~~((examiners))~~ administrative law judges, or on the refusal of a witness to testify to any matter regarding which he may be lawfully interrogated, the judge of the superior court of the county in which the person resides, on application of any member of the board or ~~((examiner))~~ administrative law judge, shall compel obedience by contempt proceedings, as in the case of disobedience of the requirements of a subpoena issued from said court or a refusal to testify therein.

(4) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the board. Where the license has been suspended only, the board shall return the license to the licensee at the expiration or termination of the period of suspension, with a memorandum of the suspension written or stamped upon the face thereof in red ink. The board shall notify all vendors in the city or place where the licensee has its premises of the suspension or cancellation of the license; and no employee ~~((staff))~~ may allow or cause any liquor to be delivered to or for any person at the premises of that licensee.

(5) Unless sooner canceled, every license issued by the board shall expire at midnight of the thirtieth day of June of the fiscal year for which it was issued: PROVIDED, That the foregoing expiration date shall not apply

to class A, B, C, D, or H licenses issued for premises located on the site of any world exposition approved by the Bureau of International Expositions held in this state, and such licenses shall be valid without renewal for a period of two hundred days from and including the opening day of such exposition, or from and including such earlier date specified by the applicant.

(6) Every license issued under this section shall be subject to all conditions and restrictions imposed by this title or by the regulations in force from time to time.

(7) Every licensee shall post and keep posted its license, or licenses, in a conspicuous place on the premises.

(8) Before the board shall issue a license to an applicant it shall give notice of such application to the chief executive officer of the incorporated city or town, if the application be for a license within an incorporated city or town, or to the ~~((board of))~~ county ~~((commissioners))~~ legislative authority, if the application be for a license outside the boundaries of incorporated cities or towns; and such incorporated city or town, through the official or employee selected by it, or the ~~((board of))~~ county ~~((commissioners))~~ legislative authority or the official or employee, selected by it, shall have the right to file with the board within twenty days after date of transmittal of such notice, written objections against the applicant or against the premises for which the license is asked, and shall include with such objections a statement of all facts upon which such objections are based, and in case written objections are filed, may request and the liquor control board may in its discretion hold a formal hearing subject to the applicable provisions of ~~((chapter 34.04))~~ Title 34 RCW, as now or hereafter amended. Upon the granting of a license under this title the board shall cause a duplicate of the license to be transmitted to the chief executive officer of the incorporated city or town in which the license is granted, or to the ~~((board of))~~ county ~~((commissioners))~~ legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(9) Before the board issues any license to any applicant, it shall give due consideration to the location of the business to be conducted under such license with respect to the proximity of churches, schools, and public institutions: PROVIDED, That the board shall issue no beer retailer license class A, B, or D or wine retailer license class C covering any premises not now licensed, if such premises are within five hundred feet of the premises of any church, parochial, or tax-supported public elementary or secondary school measured along the most direct route over or across established public walks, streets, or other public passageway from the outer property line of the church or school grounds to the nearest public entrance of the premises proposed for license, unless the board shall receive written notice from an official representative or representatives of the schools and/or churches within five hundred feet of said proposed licensed premises, indicating to the board that there is no objection to the issuance of such license because of

proximity to a school or church. For the purpose of this section, church shall mean a building erected for and used exclusively for religious worship and schooling or other activity in connection therewith.

(10) The restrictions set forth in the preceding subsection shall not prohibit the board from authorizing the transfer of existing licenses now located within the restricted area to other persons or locations within the restricted area: **PROVIDED**, Such transfer shall in no case result in establishing the licensed premises closer to a church or school than it was before the transfer.

Sec. 32. Section 69.50.505, chapter 308, Laws of 1971 ex. sess. as amended by section 1, chapter 77, Laws of 1977 ex. sess. and RCW 69.50-.505 are each amended to read as follows:

(a) The following are subject to seizure and forfeiture:

(1) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter;

(2) All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter;

(3) All property which is used, or intended for use, as a container for property described in paragraphs (1) or (2);

(4) All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in paragraphs (1) or (2), but:

(i) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter;

(ii) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent;

(iii) A conveyance is not subject to forfeiture for a violation of RCW 69.50.401(c); and,

(iv) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had knowledge of nor consented to the act or omission; and

(5) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.

(b) Property subject to forfeiture under this chapter may be seized by any board inspector or law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure without process may be made if:

(1) The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant;

(2) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this chapter;

(3) A board inspector or law enforcement officer has probable cause to believe that the property is directly or indirectly dangerous to health or safety; or

(4) The board inspector or law enforcement officer has probable cause to believe that the property was used or is intended to be used in violation of this chapter.

(c) In the event of seizure pursuant to subsection (b), proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, of the seizure and intended forfeiture of the seized property. The notice may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen day period following the seizure.

(d) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) of this section within forty-five days of the seizure, the item seized shall be deemed forfeited.

(e) If any person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (a)(4) of this section within forty-five days of the seizure, the person or persons shall be afforded a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or ~~((the chief law enforcement officer's designee))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act), except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction if the aggregate value of the article or articles involved is more than five hundred dollars. A hearing before the seizing agency and any appeal therefrom shall be under ~~((chapter 34.04))~~ Title 34 RCW. In a court hearing between two or more claimants to the article or articles involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorney's fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of items specified in subsection (a)(4) of this section. The seizing law enforcement agency shall promptly return the article or articles to the claimant upon a determination by the ~~((hearing officer))~~ administrative law judge or

court that the claimant is the present lawful owner or is lawfully entitled to possession thereof of items specified in subsection (a)(4) of this section.

(f) When property is forfeited under this chapter the board or seizing law enforcement agency may:

(1) Retain it for official use or upon application by any law enforcement agency of this state release such property to such agency for the exclusive use of enforcing the provisions of this chapter;

(2) Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising, and court costs;

(3) Request the appropriate sheriff or director of public safety to take custody of the property and remove it for disposition in accordance with law; or

(4) Forward it to the Bureau for disposition.

(g) Controlled substances listed in Schedule I, II, III, IV₂ and V that are possessed, transferred, sold, or offered for sale in violation of this chapter are contraband and shall be seized and summarily forfeited to the state. Controlled substances listed in Schedule I, II, III, IV₂ and V, which are seized or come into the possession of the board, the owners of which are unknown, are contraband and shall be summarily forfeited to the board.

(h) Species of plants from which controlled substances in Schedules I and II may be derived which have been planted or cultivated in violation of this chapter, or of which the owners or cultivators are unknown, or which are wild growths, may be seized and summarily forfeited to the board.

(i) The failure, upon demand by a board inspector or law enforcement officer, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration or proof that he is the holder thereof constitutes authority for the seizure and forfeiture of the plants.

Sec. 33. Section 6, chapter 127, Laws of 1967 ex. sess. as last amended by section 133, chapter 81, Laws of 1971 and RCW 71.02.413 are each amended to read as follows:

In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the monthly charges for hospitalization, and/or charges for outpatient services, a notice of finding of responsibility shall be served on such person or persons and the legal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay per month not to exceed the monthly costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 71.02.410, or as otherwise limited by the provisions of RCW 71.02.230, 71.02.320, and 71.02.410 through 71.02.417. The responsibility for the payment to the department of social and health services shall commence thirty

days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible either personally, or, by registered or certified mail, enclosing a form for acknowledgment of service with return postage prepaid. If service is by mailing and a form of acknowledgment of service is not executed and returned to the department, then personal service must be made for the finding of responsibility to be effective. An appeal may be made to the secretary of social and health services, or his designee within thirty days from the date of posting of such notice and finding of responsibility, upon the giving of written notice of appeal to the secretary of social and health services by registered or certified mail, or by personal service. If no appeal is taken, the notice and finding of responsibility shall become final. If an appeal is taken, the execution of notice and finding of responsibility shall be stayed pending the decision of such appeal. Appeals may be heard in any county seat most convenient to the appellant. The hearing of appeal may be presided over by ~~((a hearing examiner appointed by the secretary))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act), and the proceedings shall be recorded either manually or by a mechanical device. At the conclusion of such hearing, the ~~((hearing examiner))~~ administrative law judge shall make findings of fact and his conclusions and recommended determination of responsibility. Thereafter, the secretary, or his designee, may either affirm, reject, or modify the findings, conclusions, and determination of responsibility made by the ~~((hearing examiner))~~ administrative law judge. Judicial review of the secretary's determination of responsibility in the superior court, the court of appeals, and the supreme court may be taken in accordance with the provisions of the Administrative Procedure Act, chapter 34.04 RCW.

Sec. 34. Section 74.08.070, chapter 26, Laws of 1959 as last amended by section 1, chapter 92, Laws of 1979 ex. sess. and RCW 74.08.070 are each amended to read as follows:

Any applicant or recipient feeling himself aggrieved by the decision of the department or any authorized agency of the department shall have the right to a fair hearing to be conducted by the secretary of the department or by ~~((a duly appointed, qualified hearing examiner especially appointed by the secretary))~~ an administrative law judge appointed under chapter 34... RCW (sections 1 through 12 of this 1981 act) for such purpose. The hearing shall be conducted in the county in which the appellant resides, and a tape recording of the testimony shall be made and included in the record, the costs of which shall be borne by the department. A copy of this tape recording shall be provided the appellant if request for same is made in writing by the appellant or his attorney of record.

In the event an appellant feels aggrieved by the decision in a fair hearing under this section, and if the appellant files an appeal to the superior court for judicial review in accordance with chapter 34.04 RCW as now or hereafter amended, the appellant is entitled to a typed transcript of the tape recordings or such portion thereof as the applicant requests from the department, if the request is made by the appellant or the appellant's attorney of record.

Any appellant who desires a fair hearing shall within ninety days after receiving notice of the decision of the department or an authorized agency of the department, file with the secretary a notice of appeal from the decision. The department shall notify the appellant of the time and place of said hearing at least twenty days prior to the date thereof by registered mail or by personal service upon said appellant, unless otherwise agreed by appellant and the department.

At any time after the filing of the notice of appeal with the secretary, any appellant or attorney for appellant with written authorization or next of kin shall have the right of access to, and can examine any files and records of the department related to the case ~~((of {on}))~~ on appeal.

It shall be the duty of the department within seventy-five days after receipt of the notice of appeal to notify the appellant of the decision of the secretary: PROVIDED, That any overpayment which the department may be entitled to recover as a result of such decision shall be limited to the amount recoverable up to the sixtieth day after receipt of the notice of appeal.

If the decision of the secretary is made in favor of the appellant, assistance shall be paid from the date of the denial of the application or forty-five days following the date of application, whichever is sooner; or in the case of a recipient, from the effective date of the initial departmental county office decision.

Sec. 35. Section 80.01.060, chapter 14, Laws of 1961 and RCW 80.01-.060 are each amended to read as follows:

The commission shall have the power to ~~((designate employees of the commission as examiners))~~ request the appointment of administrative law judges under chapter 34... RCW (sections 1 through 12 of this 1981 act) when it deems such action necessary for its general administration. Such ~~((examiners))~~ administrative law judges shall have power to administer oaths, to issue subpoenas for the attendance of witnesses and the production of papers, waybills, books, accounts, documents, and testimony, to examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under such rules and regulations as the commission may adopt.

Sec. 36. Section 13, chapter 18, Laws of 1935 as last amended by section 12, chapter 337, Laws of 1977 ex. sess. and RCW 88.16.100 are each amended to read as follows:

The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to suspend, withhold, or revoke the license of any pilot for misconduct, incompetency, inattention to duty, intoxication, or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. When the board determines that reasonable cause exists to suspend, revoke, or withhold any pilot's license it shall forthwith prepare and personally serve upon such pilot a notice advising him of the board's intended action, the specific grounds therefor, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before ~~((a hearing officer))~~ an administrative law judge on the issue of suspension, revocation, or withholding of his pilot's license. The board's proposed suspension, revocation, or withholding of a license shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested the board shall ~~((appoint a hearing officer who shall be an active member of the Washington state bar association and, in the opinion of the board;))~~ request the appointment of an administrative law judge under chapter 34... RCW (sections 1 through 12 of this 1981 act) who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of ((chapter 34-04)) Title 34 RCW. All final decisions of the ~~((hearing officer))~~ administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston county or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the ~~((hearing officer))~~ administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action.

NEW SECTION. Sec. 37. To carry out this act, there is appropriated to the office of the chief administrative law judge from the general fund for the fiscal year from July 1, 1981, through June 30, 1982, the sum of one hundred twenty thousand dollars, or so much thereof as may be necessary.

NEW SECTION. Sec. 38. Sections 1 through 12 of this act shall constitute a new chapter in Title 34 RCW.

NEW SECTION. Sec. 39. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or

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

NEW SECTION. Sec. 40. Sections 12 and 37 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately. The remainder of the act shall take effect July 1, 1982.

Passed the House April 16, 1981.

Passed the Senate April 14, 1981.

Approved by the Governor April 25, 1981.

Filed in Office of Secretary of State April 25, 1981.

CHAPTER 68

[Second Substitute House Bill No. 157]

PUBLIC CONTRACTS—UNPAID BALANCES—INTEREST PAYMENT

AN ACT Relating to public contracts; and adding a new chapter to Title 39 RCW.

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

NEW SECTION. Section 1. (1) Except as provided in section 2 of this act, every state agency and unit of local government shall pay interest at the rate of one percent per month, but at least one dollar per month, on amounts due on written contracts for public works, personal services, goods and services, equipment, and travel, whenever the state agency or unit of local government fails to make timely payment.

(2) For purposes of this section, payment shall be timely if:

(a) A check or warrant is mailed or is available on the date specified for the amount specified in the applicable contract documents or, if no date is specified, within thirty days of receipt of a properly completed invoice or receipt of goods or services, whichever is later.

(b) For any amount which is required to be withheld under state or federal law, a check or warrant is mailed or is available in the proper amount on the date the amount may be released under the applicable law.

NEW SECTION. Sec. 2. Section 1 of this act does not apply to the following:

(1) Interagency or intergovernmental transactions;

(2) Amounts payable to employees or prospective employees of state agencies or local governmental units as reimbursement for expenses;

(3) Belated claims for any time of delinquency after July 31 following the second year of the fiscal biennium;

(4) Claims subject to a good faith dispute, when before the date of timely payment, notice of the dispute is:

(a) Sent by certified mail;

(b) Personally delivered; or