

deems satisfactory, or a cash bond)) and the fidelity or surety company is found by the state finance commission to be financially secure at licensing and licensing renewals, if it is a personal bond secured by such collateral as the secretary deems satisfactory and in accordance with RCW 70.121.100, or if it is a cash bond.

Sec. 7. Section 13, chapter 110, Laws of 1979 ex. sess. and RCW 70.121.130 are each amended to read as follows:

All state, local, or other governmental agencies, or subdivisions thereof, are exempt from the bonding requirements of this chapter. ~~((The secretary may by rule exempt classes of licensees from the bonding requirements of this chapter when the secretary finds that the exemption will not result in a significant risk to the public health and safety.))~~

Passed the House March 9, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987.

Filed in Office of Secretary of State April 23, 1987.

CHAPTER 185

[Substitute House Bill No. 1069]

WORKER'S COMPENSATION—OBSOLETE REFERENCES CORRECTED

AN ACT Relating to correcting obsolete references to workmen's compensation; amending RCW 28B.10.567, 28B.16.112, 35A.40.200, 38.40.030, 38.52.090, 38.52.180, 38.52.290, 41.06.163, 41.24.150, 41.26.130, 41.26.150, 41.26.270, 41.40.300, 43.21F.420, 43.22.030, 43.43.040, 48.11.070, 48.12.110, 48.12.120, 48.12.130, 48.12.140, 48.15.160, 48.19.010, 48.20.002, 48.20.202, 48.20.212, 48.20.222, 48.32.020, 48.32.100, 51.12.130, 51.28.025, 51.32.025, 51.32.072, 59.18.100, 60.44.010, 72.05.152, 72.60.100, 74.04.430, and 84.52.0531; and creating a new section.

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

NEW SECTION. Sec. 1. In 1977, in two separate pieces of legislation relating to industrial insurance, the Washington legislature changed certain references from "workmen's" or "workman's" compensation to "workers'" compensation. The purpose of this act is to correct remaining obsolete references to "workmen's compensation" and "workmen."

Sec. 2. Section 1, chapter 81, Laws of 1975-'76 2nd ex. sess. as amended by section 26, chapter 169, Laws of 1977 ex. sess. and RCW 28B.10.567 are each amended to read as follows:

The boards of regents of the state universities and board of trustees of the regional universities and the board of trustees of The Evergreen State College are authorized and empowered, under such rules and regulations as any such board may prescribe for the duly sworn police officers employed by any such board as members of a police force established pursuant to RCW 28B.10.550, to provide for the payment of death or disability benefits or medical expense reimbursement for death, disability, or injury of any such

duly sworn police officer who, in the line of duty, loses his life or becomes disabled or is injured, and for the payment of such benefits to be made to any such duly sworn police officer or his surviving spouse or the legal guardian of his child or children, as defined in RCW 41.26.030(7), or his estate: PROVIDED, That the duty-related benefits authorized by this section shall in no event be greater than the benefits authorized on June 25, 1976 for duty-related death, disability, or injury of a law enforcement officer under chapter 41.26 RCW: PROVIDED FURTHER, That the duty-related benefits authorized by this section shall be reduced to the extent of any amounts received or eligible to be received on account of the duty-related death, disability, or injury to any such duly sworn police officer, his surviving spouse, the legal guardian of his child or children, or his estate, under (~~workmen's~~) workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, or disability income insurance and health care plans under chapter 41.05 RCW.

Sec. 3. Section 11, chapter 152, Laws of 1977 ex. sess. as last amended by section 4, chapter 158, Laws of 1986 and RCW 28B.16.112 are each amended to read as follows:

(1) In the conduct of salary and fringe benefit surveys under RCW 28B.16.110 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations in the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the higher education personnel board in conjunction with the department of personnel established under chapter 41.06 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel.

(3) Interim or special surveys conducted under RCW 28B.16.110 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

- (a) Leave time, including vacation, holiday, civil, and personal leave;
- (b) Employer retirement contributions;
- (c) Health and insurance payments, including life, accident, and health insurance, (~~(workmen's)~~) workers' compensation, and sick leave; and
- (d) Stock options, bonuses, and purchase discounts where appropriate.

Sec. 4. Section 35A.40.200, chapter 119, Laws of 1967 ex. sess. as amended by section 65, chapter 3, Laws of 1983 and RCW 35A.40.200 are each amended to read as follows:

Every code city shall have the authority to make public improvements and to perform public works under authority provided by general law for any class of city and to make contracts in accordance with procedure and subject to the conditions provided therefor, including but not limited to the provisions of: (1) Chapter 39.04 RCW, relating to public works; (2) RCW 35.23.352 relating to competitive bidding for public works, materials and supplies; (3) RCW 9.18.120 and 9.18.150 relating to suppression of competitive bidding; (4) chapter 60.28 RCW relating to liens for materials and labor performed; (5) chapter 39.08 RCW relating to contractor's bonds; (6) chapters 39.12, 39.16, and 43.03 RCW relating to prevailing wages; (7) chapter 49.12 RCW relating to hours of labor; (8) chapter 51.12 RCW relating to (~~(workmen's)~~) workers' compensation; (9) chapter 49.60 RCW relating to antidiscrimination in employment; (10) chapter 39.24 RCW relating to the use of Washington commodities; and (11) chapter 39.28 RCW relating to emergency public works.

Sec. 5. Section 40, chapter 130, Laws of 1943 as amended by section 5, chapter 198, Laws of 1984 and RCW 38.40.030 are each amended to read as follows:

If any member of the organized militia is injured, incapacitated, or otherwise disabled while in active state service as a member of the military force of the state, he or she shall receive from the state of Washington just and reasonable relief in the amount to be determined as provided in this section, including necessary medical care. If the member dies from disease contracted or injury received or is killed while in active state service under order of the governor, then the dependents of the deceased shall receive such compensation as may be allowed as provided in this section. If the United States or any agent thereof, in accordance with any federal statute or regulation, furnishes monetary assistance, benefits, or other temporary or permanent relief to militia members or to their dependents for injuries arising out of and occurring in the course of their activities as militia members, but not including Social Security benefits, then the amount of compensation which any militia member or his or her dependents are otherwise entitled to receive from the state of Washington as provided in this section shall be reduced by the amount of monetary assistance, benefits, or other temporary or permanent relief the militia member or his or her dependents have received and will receive from the United States or any agent thereof as a result of his or her injury. All claims arising under this section shall be inquired into by a board of three officers, at least one being a medical officer, to be appointed by the adjutant general. The board has the same power to take evidence, administer oaths, issue subpoenas, compel witnesses to attend and testify and produce books and papers, and punish their failure to do so as is possessed by a general court martial. The amount of compensation or benefits payable shall conform as nearly as possible to the general schedule of payments and awards provided under the ((workmen's)) workers' compensation law in effect in the state of Washington at the time the disability or death occurred. The findings of the board shall be reviewed by the adjutant general and submitted to the governor for final approval. The reviewing officer or the governor may return the proceedings for revision or for the taking of further testimony. The action of the board when finally approved by the governor is final and conclusive and constitutes the fixed award for the injury or loss and is a debt of the state of Washington.

Sec. 6. Section 10, chapter 178, Laws of 1951 as last amended by section 29, chapter 266, Laws of 1986 and RCW 38.52.090 are each amended to read as follows:

(1) The director of each local organization for emergency management may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state emergency management plan and program, and in time of emergency it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such

mutual aid arrangements. The director of community development shall adopt and distribute a standard form of contract for use by local organizations in understanding and carrying out said mutual aid arrangements.

(2) The director of community development and the director of each local organization for emergency management may, subject to the approval of the governor, enter into mutual aid arrangements with emergency management agencies or organizations in other states for reciprocal emergency management aid and assistance in case of disaster too great to be dealt with unassisted. All such arrangements shall be pursuant to either of the compacts contained in subsection (2) (a) or (b) of this section.

(a) The legislature recognizes that the compact language contained in this subsection is inadequate to meet many forms of emergencies. For this reason, after June 7, 1984, the state may not enter into any additional compacts under this subsection (2)(a).

INTERSTATE CIVIL DEFENSE AND DISASTER COMPACT

The contracting States solemnly agree:

Article 1. The purpose of this compact is to provide mutual aid among the States in meeting any emergency or disaster from enemy attack or other cause (natural or otherwise) including sabotage and subversive acts and direct attacks by bombs, shellfire, and atomic, radiological, chemical, bacteriological means, and other weapons. The prompt, full and effective utilization of the resources of the respective States, including such resources as may be available from the United States Government or any other source, are essential to the safety, care and welfare of the people thereof in the event of enemy action or other emergency, and any other resources, including personnel, equipment or supplies, shall be incorporated into a plan or plans of mutual aid to be developed among the civil defense agencies or similar bodies of the States that are parties hereto. The Directors of Civil Defense (Emergency Services) of all party States shall constitute a committee to formulate plans and take all necessary steps for the implementation of this compact.

Article 2. It shall be the duty of each party State to formulate civil defense plans and programs for application within such State. There shall be frequent consultation between the representatives of the States and with the United States Government and the free exchange of information and plans, including inventories of any materials and equipment available for civil defense. In carrying out such civil defense plans and programs the party States shall so far as possible provide and follow uniform standards, practices and rules and regulations including:

(a) Insignia, arm bands and any other distinctive articles to designate and distinguish the different civil defense services;

(b) Blackouts and practice blackouts, air raid drills, mobilization of civil defense forces and other tests and exercises;

(c) Warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith;

(d) The effective screening or extinguishing of all lights and lighting devices and appliances;

(e) Shutting off water mains, gas mains, electric power connections and the suspension of all other utility services;

(f) All materials or equipment used or to be used for civil defense purposes in order to assure that such materials and equipment will be easily and freely interchangeable when used in or by any other party State;

(g) The conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic, prior, during, and subsequent to drills or attacks;

(h) The safety of public meetings or gatherings; and

(i) Mobile support units.

Article 3. Any party State requested to render mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof; provided that it is understood that the State rendering aid may withhold resources to the extent necessary to provide reasonable protection for such State. Each party State shall extend to the civil defense forces of any other party State, while operating within its State limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving State), duties, rights, privileges and immunities as if they were performing their duties in the State in which normally employed or rendering services. Civil defense forces will continue under the command and control of their regular leaders but the organizational units will come under the operational control of the civil defense authorities of the State receiving assistance.

Article 4. Whenever any person holds a license, certificate or other permit issued by any State evidencing the meeting of qualifications for professional, mechanical or other skills, such person may render aid involving such skill in any party State to meet an emergency or disaster and such State shall give due recognition to such license, certificate or other permit as if issued in the State in which aid is rendered.

Article 5. No party State or its officers or employees rendering aid in another State pursuant to this compact shall be liable on account of any act or omission in good faith on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

Article 6. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that appropriate among other States party hereto, this instrument contains elements of a broad base common to all States, and nothing herein contained shall preclude any State from entering into supplementary agreements with

another State or States. Such supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons, and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, equipment and supplies.

Article 7. Each party State shall provide for the payment of compensation and death benefits to injured members of the civil defense forces of that State and the representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such State.

Article 8. Any party State rendering aid in another State pursuant to this compact shall be reimbursed by the party State receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost incurred in connection with such requests; provided, that any aiding State may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving party State without charge or cost; and provided further that any two or more party States may enter into supplementary agreements establishing a different allocation of costs as among those States. The United States Government may relieve the party State receiving aid from any liability and reimburse the party State supplying civil defense forces for the compensation paid to and the transportation, subsistence and maintenance expenses of such forces during the time of the rendition of such aid or assistance outside the State and may also pay fair and reasonable compensation for the use or utilization of the supplies, materials, equipment or facilities so utilized or consumed.

Article 9. Plans for the orderly evacuation and reception of the civilian population as the result of an emergency or disaster shall be worked out from time to time between representatives of the party States and the various local civil defense areas thereof. Such plans shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing, and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies, and all other relevant factors. Such plans shall provide that the party State receiving evacuees shall be reimbursed generally for the out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care and like items. Such expenditures shall be reimbursed by the party State of which the evacuees are residents, or by the United States Government under plans approved by it. After the termination of the emergency or disaster the party

State of which the evacuees are resident shall assume the responsibility for the ultimate support or repatriation of such evacuees.

Article 10. This compact shall be available to any State, territory or possession of the United States, and the District of Columbia. The term "State" may also include any neighboring foreign country or province or state thereof.

Article 11. The committee established pursuant to Article 1 of this compact may request the Civil Defense Agency of the United States Government to act as an informational and coordinating body under this compact, and representatives of such agency of the United States Government may attend meetings of such committee.

Article 12. This compact shall become operative immediately upon its ratification by any State as between it and any other State or States so ratifying and shall be subject to approval by Congress unless prior Congressional approval has been given. Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval, be deposited with each of the party States and with the Civil Defense Agency and other appropriate agencies of the United States Government.

Article 13. This compact shall continue in force and remain binding on each party State until the legislature or the Governor of such party State takes action to withdraw therefrom. Such action shall not be effective until 30 days after notice thereof has been sent by the Governor of the party State desiring to withdraw to the Governors of all other party States.

Article 14. This compact shall be construed to effectuate the purposes stated in Article 1 hereof. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be effected thereby.

Article 15. (a) This Article shall be in effect only as among those states which have enacted it into law or in which the Governors have adopted it pursuant to constitutional or statutory authority sufficient to give it the force of law as part of this compact. Nothing contained in this Article or in any supplementary agreement made in implementation thereof shall be construed to abridge, impair or supersede any other provision of this compact or any obligation undertaken by a State pursuant thereto, except that if its terms so provide, a supplementary agreement in implementation of this Article may modify, expand or add to any such obligation as among the parties to the supplementary agreement.

(b) In addition to the occurrences, circumstances and subject matters to which preceding articles of this compact make it applicable, this compact and the authorizations, entitlements and procedures thereof shall apply to:

1. Searches for and rescue of person who are lost, marooned, or otherwise in danger.

2. Action useful in coping with disasters arising from any cause or designed to increase the capability to cope with any such disasters.

3. Incidents, or the imminence thereof, which endanger the health or safety of the public and which require the use of special equipment, trained personnel or personnel in larger numbers than are locally available in order to reduce, counteract or remove the danger.

4. The giving and receiving of aid by subdivisions of party States.

5. Exercises, drills or other training or practice activities designed to aid personnel to prepare for, cope with or prevent any disaster or other emergency to which this compact applies.

(c) Except as expressly limited by this compact or a supplementary agreement in force pursuant thereto, any aid authorized by this compact or such supplementary agreement may be furnished by any agency of a party State, a subdivision of such State, or by a joint agency providing such aid shall be entitled to reimbursement therefor to the same extent and in the same manner as a State. The personnel of such a joint agency, when rendering aid pursuant to this compact shall have the same rights, authority and immunity as personnel of party States.

(d) Nothing in this Article shall be construed to exclude from the coverage of Articles 1-15 of this compact any matter which, in the absence of this Article, could reasonably be construed to be covered thereby.

(b) The compact language contained in this subsection (2)(b) is intended to deal comprehensively with emergencies requiring assistance from other states.

INTERSTATE MUTUAL AID COMPACT

Purpose

The purpose of this Compact is to provide voluntary assistance among participating states in responding to any disaster or imminent disaster, that over extends the ability of local and state governments to reduce, counteract or remove the danger. Assistance may include, but not be limited to, rescue, fire, police, medical, communication, transportation services and facilities to cope with problems which require use of special equipment, trained personnel or personnel in large numbers not locally available.

Authorization

Article I, Section 10 of the Constitution of the United States permits a state to enter into an agreement or compact with another state, subject to the consent of Congress. Congress, through enactment of Title 50 U.S.C. Sections 2281(g), 2283 and the Executive Department, by issuance of Executive Orders No. 10186 of December 1, 1950, encourages the states to enter into emergency, disaster and civil defense mutual aid agreements or pacts.

Implementation

It is agreed by participating states that the following conditions will guide implementation of the Compact:

1. Participating states through their designated officials are authorized to request and to receive assistance from a participating state. Requests will be granted only if the requesting state is committed to the mitigation of the emergency, and other resources are not immediately available.

2. Requests for assistance may be verbal or in writing. If the request is made by other than written communication, it shall be confirmed in writing as soon as practical after the request. A written request shall provide an itemization of equipment and operators, types of expertise, personnel or other resources needed. Each request must be signed by an authorized official.

3. Personnel and equipment of the aiding party made available to the requesting party shall, whenever possible, remain under the control and direction of the aiding party. The activities of personnel and equipment of the aiding party must be coordinated by the requesting party.

4. An aiding state shall have the right to withdraw some or all of their personnel and/or equipment whenever the personnel or equipment are needed by that state. Notice of intention to withdraw should be communicated to the requesting party as soon as possible.

General Fiscal Provisions

The state government of the requesting party shall reimburse the state government of the aiding party. It is understood that reimbursement shall be made as soon as possible after the receipt by the requesting party of an itemized voucher requesting reimbursement of costs.

1. Any party rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for any damage to, loss of, or expense incurred in the operation of any equipment used in responding to a request for aid, and for the cost incurred in connection with such requests.

2. Any state rendering aid pursuant to this Agreement shall be reimbursed by the state receiving such aid for the cost of payment of compensation and death benefits to injured officers, agents, or employees and their dependents or representatives in the event such officers, agents, or employees sustain injuries or are killed while rendering aid pursuant to this arrangement, provided that such payments are made in the same manner and on the same terms as if the injury or death were sustained within such state.

Privileges and Immunities

1. All privileges and immunities from liability, exemptions from law, ordinances, rules, all pension, relief disability, ((workmen's)) workers' compensation, and other benefits which apply to the activity of officers, agents, or employees when performing their respective functions within the territorial limits of their respective political subdivisions, shall apply to them to

the same degree and extent while engaged in the performance of any of their functions and duties extra-territorially under the provisions of this Agreement.

2. All privileges and immunities from liability, exemptions from law, ordinances, and rules, (~~workmen's~~) workers' compensation and other benefits which apply to duly enrolled or registered volunteers when performing their respective functions at the request of their state and within its territorial limits, shall apply to the same degree and extent while performing their functions extra-territorially under the provisions of this Agreement. Volunteers may include, but not be limited to, physicians, surgeons, nurses, dentists, structural engineers, and trained search and rescue volunteers.

3. The signatory states, their political subdivisions, municipal corporations and other public agencies shall hold harmless the corresponding entities and personnel thereof from the other state with respect to the acts and omissions of its own agents and employees that occur while providing assistance pursuant to the common plan.

4. Nothing in this arrangement shall be construed as repealing or impairing any existing Interstate Mutual Aid Agreements.

5. Upon enactment of this Agreement by two or more states, and by January 1, annually thereafter, the participating states will exchange with each other the names of officials designated to request and/or provide services under this arrangement. In accordance with the cooperative nature of this arrangement, it shall be permissible and desirable for the parties to exchange operational procedures to be followed in requesting assistance and reimbursing expenses.

6. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

7. This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until the thirtieth consecutive day after the notice provided in the statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal.

Sec. 7. Section 11, chapter 178, Laws of 1951 as last amended by section 17, chapter 38, Laws of 1984 and RCW 38.52.180 are each amended to read as follows:

(1) There shall be no liability on the part of anyone including any person, partnership, corporation, the state of Washington or any political subdivision thereof who owns or maintains any building or premises which have been designated by a local organization for emergency management as a

shelter from destructive operations or attacks by enemies of the United States for any injuries sustained by any person while in or upon said building or premises, as a result of the condition of said building or premises or as a result of any act or omission, or in any way arising from the designation of such premises as a shelter, when such person has entered or gone upon or into said building or premises for the purpose of seeking refuge therein during destructive operations or attacks by enemies of the United States or during tests ordered by lawful authority, except for an act of wilful negligence by such owner or occupant or his servants, agents, or employees.

(2) All legal liability for damage to property or injury or death to persons (except an emergency worker, regularly enrolled and acting as such), caused by acts done, or attempted, under the color of this chapter in a bona fide attempt to comply therewith shall be the obligation of the state of Washington. Suits may be instituted and maintained against the state for the enforcement of such liability, or for the indemnification of persons appointed and regularly enrolled as emergency workers while actually engaged in emergency management duties, or as members of any agency of the state or political subdivision thereof engaged in emergency management activity, or their dependents, for damage done to their private property, or for any judgment against them for acts done in good faith in compliance with this chapter: **PROVIDED**, That the foregoing shall not be construed to result in indemnification in any case of wilful misconduct, gross negligence or bad faith on the part of any agent of emergency management: **PROVIDED**, That should the United States or any agency thereof, in accordance with any federal statute, rule or regulation, provide for the payment of damages to property and/or for death or injury as provided for in this section, then and in that event there shall be no liability or obligation whatsoever upon the part of the state of Washington for any such damage, death, or injury for which the United States government assumes liability.

(3) Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized emergency worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during an emergency described in this chapter.

(4) The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this chapter, or under the (~~workmen's~~) workers' compensation law, or under any pension or retirement law, nor the right of any such person to receive any benefits or compensation under any act of congress.

Sec. 8. Section 13, chapter 223, Laws of 1953 as last amended by section 30, chapter 38, Laws of 1984 and RCW 38.52.290 are each amended to read as follows:

Insofar as not inconsistent with the provisions of this chapter, the maximum amount payable to a claimant shall be not greater than the amount allowable for similar disability under the ((workmen's)) workers' compensation act, chapter 51.32 RCW as amended by this 1971 amendatory act and any amendments thereto. "Employee" as used in said title shall include an emergency worker when liability for the furnishing of compensation and benefits exists pursuant to the provisions of this chapter and as limited by the provisions of this chapter. Where liability for compensation and benefits exists, such compensation and benefits shall be provided in accordance with the applicable provisions of said sections of chapter 51.32 RCW and at the maximum rate provided therein, subject, however, to the limitations set forth in this chapter.

Sec. 9. Section 3, chapter 152, Laws of 1977 ex. sess. as last amended by section 6, chapter 158, Laws of 1986 and RCW 41.06.163 are each amended to read as follows:

(1) In the conduct of salary and fringe benefit surveys under RCW 41.06.160 as now or hereafter amended, it is the intention of the legislature that the surveys be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of financial management, employee organizations, and the standing committees for appropriations of the senate and house of representatives six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include but not be limited to the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(2) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans prepared under this section shall be developed jointly by the department of personnel in conjunction with the higher education personnel board established under chapter 28B.16 RCW. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the department of personnel and the higher education personnel board.

(3) Interim or special surveys conducted under RCW 41.06.160 as now or hereafter amended shall conform when possible to the statistical techniques and principles developed for regular periodic surveys under this section.

(4) The term "fringe benefits" as used in this section and in conjunction with salary surveys shall include but not be limited to compensation for:

- (a) Leave time, including vacation, holiday, civil, and personal leave;
- (b) Employer retirement contributions;
- (c) Health and insurance payments, including life, accident, and health insurance, ((workmen's)) workers' compensation, and sick leave; and
- (d) Stock options, bonuses, and purchase discounts where appropriate.

Sec. 10. Section 15, chapter 261, Laws of 1945 as last amended by section 1, chapter 163, Laws of 1986 and RCW 41.24.150 are each amended to read as follows:

Whenever a fireman serving in any capacity as a member of his own fire department subject to the provisions of this chapter becomes physically or mentally disabled, or sick, in consequence or as the result of the performance of his or her duties, so as to be wholly prevented from engaging in each and every duty of his or her regular occupation, business, or profession, he or she shall be paid from the fund monthly, the sum of one thousand two hundred dollars for a period of not to exceed six months, or forty dollars per day for such period as is part of a month, after which period, if the member is incapacitated to such an extent that he or she is thereby prevented from engaging in any occupation or performing any work for compensation or profit or if the member sustained an injury after October 1, 1978, which resulted in the loss or paralysis of both legs or arms, or one leg and one arm, or total loss of eyesight, but such injury has not prevented the member from engaging in an occupation or performing work for compensation or profit, he or she is entitled to draw from the fund monthly, the sum of six hundred dollars so long as the disability continues, except as hereinafter provided: PROVIDED, That if the member has a wife or husband and/or a child or children unemancipated or under eighteen years of age, he or she is entitled to draw from the fund monthly the additional sums of one hundred twenty dollars because of the fact of his wife or her husband, and fifty dollars because of the fact of each child unemancipated or under eighteen years of age, all to a total maximum amount of one thousand two

hundred dollars. The board may at any time reopen the grant of such disability pension if the pensioner is gainfully employed, and may reduce it in the proportion that the annual income from such gainful employment bears to the annual income received by the pensioner at the time of his disability: PROVIDED, That where a fireman sustains a permanent partial disability the state board may provide that such injured fireman shall receive a lump sum compensation therefor to the same extent as is provided for permanent partial disability under the ((workmen's)) workers' compensation act under Title 51 RCW in lieu of such monthly disability payments.

Sec. 11. Section 13, chapter 209, Laws of 1969 ex. sess. as last amended by section 3, chapter 294, Laws of 1981 and RCW 41.26.130 are each amended to read as follows:

(1) Upon retirement for disability a member shall be entitled to receive a monthly retirement allowance computed as follows: (a) A basic amount of fifty percent of final average salary at time of disability retirement, and (b) an additional five percent of final average salary for each child as defined in RCW 41.26.030(7), (c) the combined total of subsections (1)(a) and (1)(b) of this section shall not exceed a maximum of sixty percent of final average salary.

(2) A disabled member shall begin receiving his disability retirement allowance as of the expiration of his six month period of disability leave or, if his application was filed after the sixth month of discontinuance of service but prior to the one year time limit, the member's disability retirement allowance shall be retroactive to the end of the sixth month.

(3) Benefits under this section will be payable until the member recovers from the disability or dies. If at the time that the disability ceases the member is over the age of fifty, he shall then receive either his disability retirement allowance or his retirement for service allowance, whichever is greater.

(4) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the member receives or is entitled to receive from ((workmen's)) workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability.

(5) A member retired for disability shall be subject to periodic examinations by a physician approved by the disability board prior to his attainment of age fifty, pursuant to rules adopted by the director under RCW 41.26.115. Examinations of members who retired for disability prior to July 26, 1981, shall not exceed two medical examinations per year.

Sec. 12. Section 15, chapter 209, Laws of 1969 ex. sess. as last amended by section 23, chapter 106, Laws of 1983 and RCW 41.26.150 are each amended to read as follows:

(1) Whenever any active member, or any member hereafter retired, on account of service, sickness or disability, not caused or brought on by dissipation or abuse, of which the disability board shall be judge, is confined in any hospital or in his home, and whether or not so confined, requires medical services, the employer shall pay for such active or retired member the necessary medical services not payable from some other source as provided for in subsection (2). In the case of active or retired fire fighters the employer may make the payments provided for in this section from the firemen's pension fund established pursuant to RCW 41.16.050 where such fund had been established prior to March 1, 1970: PROVIDED, That in the event the pension fund is depleted, the employer shall have the obligation to pay all benefits payable under chapters 41.16 and 41.18 RCW: PROVIDED FURTHER, That the disability board in all cases may have the active or retired member suffering from such sickness or disability examined at any time by a licensed physician or physicians, to be appointed by the disability board, for the purpose of ascertaining the nature and extent of the sickness or disability, the physician or physicians to report to the disability board the result of the examination within three days thereafter. Any active or retired member who refuses to submit to such examination or examinations shall forfeit all his rights to benefits under this section for the period of such refusal: AND PROVIDED FURTHER, That the disability board shall designate the medical services available to any sick or disabled member.

(2) The medical services payable under this section will be reduced by any amount received or eligible to be received by the member under (~~workmen's~~) workers' compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, insurance provided by another employer, other pension plan, or any other similar source. Failure to apply for coverage if otherwise eligible under the provisions of Public Law 89-97 as now or hereafter amended shall not be deemed a refusal of payment of benefits thereby enabling collection of charges under the provisions of this chapter.

(3) Upon making such payments as are provided for in subsection (1), the employer shall be subrogated to all rights of the member against any third party who may be held liable for the member's injuries or for the payment of the cost of medical services in connection with a member's sickness or disability to the extent necessary to recover the amount of payments made by the employer.

(4) Any employer under this chapter, either singly, or jointly with any other such employer or employers through an association thereof as provided for in chapter 48.21 RCW, may provide for all or part of one or more plans of group hospitalization and medical aid insurance to cover any of its employees who are members of the Washington law enforcement officers' and fire fighters' retirement system, and/or retired former employees who

were, before retirement, members of said retirement system, through contracts with regularly constituted insurance carriers, with health maintenance organizations as defined in chapter 48.46 RCW, or with health care service contractors as defined in chapter 48.44 RCW. Benefits payable under any such plan or plans shall be deemed to be amounts received or eligible to be received by the active or retired member under subsection (2) of this section.

Sec. 13. Section 14, chapter 257, Laws of 1971 ex. sess. as amended by section 4, chapter 102, Laws of 1985 and RCW 41.26.270 are each amended to read as follows:

The legislature of the state of Washington hereby declares that the relationship between members of the law enforcement officers' and fire fighters' retirement system and their governmental employers is similar to that of workmen to their employers and that the sure and certain relief granted by this chapter is desirable, and as beneficial to such law enforcement officers and fire fighters as ~~((workmen's))~~ workers' compensation coverage is to persons covered by Title 51 RCW. The legislature further declares that removal of law enforcement officers and fire fighters from ~~((workmen's))~~ workers' compensation coverage under Title 51 RCW necessitates the (1) continuance of sure and certain relief for personal injuries incurred in the course of employment or occupational disease, which the legislature finds to be accomplished by the provisions of this chapter and (2) protection for the governmental employer from actions at law; and to this end the legislature further declares that the benefits and remedies conferred by this chapter upon law enforcement officers and fire fighters covered hereunder, shall be to the exclusion of any other remedy, proceeding, or compensation for personal injuries or sickness, caused by the governmental employer except as otherwise provided by this chapter; and to that end all civil actions and civil causes of actions by such law enforcement officers and fire fighters against their governmental employers for personal injuries or sickness are hereby abolished, except as otherwise provided in this chapter.

Sec. 14. Section 31, chapter 274, Laws of 1947 as amended by section 21, chapter 240, Laws of 1949 and RCW 41.40.300 are each amended to read as follows:

Any amounts which may be paid or payable under the provisions of any ~~((workmen's))~~ workers' compensation, or pension, or similar law on account of any disability shall be offset against and payable in lieu of any benefits payable from funds provided by the employer under the provisions of this chapter on account of the same disability.

Sec. 15. Section 5, chapter 9, Laws of 1969 and RCW 43.21F.420 are each amended to read as follows:

The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state

pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same ~~((workmen's))~~ workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment.

Sec. 16. Section 43.22.030, chapter 8, Laws of 1965 and RCW 43.22-.030 are each amended to read as follows:

The director of labor and industries, through the division of industrial insurance, shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of ~~((workmen's))~~ workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state.

Sec. 17. Section 43.43.040, chapter 8, Laws of 1965 as last amended by section 1, chapter 165, Laws of 1981 and RCW 43.43.040 are each amended to read as follows:

(1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than five consecutive work days. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from (~~(workmen's)~~) workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in wilfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty.

Sec. 18. Section .11.07, chapter 79, Laws of 1947 as amended by section 5, chapter 197, Laws of 1953 and RCW 48.11.070 are each amended to read as follows:

"General casualty insurance" includes vehicle insurance as defined in RCW 48.11.060, and in addition is insurance:

(1) Against legal liability for the death, injury, or disability of any human being, or for damage to property.

(2) Of medical, hospital, surgical and funeral benefits to persons injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury or disability of human beings.

(3) Of the obligations accepted by, imposed upon, or assumed by employers under law for (~~(workmen's)~~) workers' compensation.

(4) Against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation or wrongful conversion, disposal or concealment, or from any attempt of any of the foregoing; also insurance against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptances or any other valuable papers or documents, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail.

(5) Upon personal effects against loss or damage from any cause.

(6) Against loss or damage to glass, including its lettering, ornamentation and fittings.

(7) Against any liability and loss or damage to property resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus and to make inspection of and issue certificates of inspection upon elevators, boilers, machinery, and apparatus of any kind.

(8) Against loss or damage to any property caused by the breakage or leakage of sprinklers, water pipes and containers, or by water entering through leaks or openings in buildings.

(9) Against loss or damage resulting from failure of debtors to pay their obligations to the insured (credit insurance).

(10) Against any other kind of loss, damage, or liability properly the subject of insurance and not within any other kind or kinds of insurance as defined in this chapter, if such insurance is not contrary to law or public policy.

Sec. 19. Section .12.11, chapter 79, Laws of 1947 and RCW 48.12.110 are each amended to read as follows:

Any insurer transacting any liability or (~~workmen's~~) workers' compensation insurances shall include in its annual statement filed with the commissioner, a schedule of its experience thereunder in such form as the commissioner may prescribe.

Sec. 20. Section .12.12, chapter 79, Laws of 1947 and RCW 48.12.120 are each amended to read as follows:

The loss reserve for (~~workmen's~~) workers' compensation insurance shall be as follows:

(1) For all compensation claims under policies of compensation insurance written more than three years prior to the date as of which the statement is made, the loss reserve shall be the present values at four percent interest of the determined and the estimated future payments.

(2) For all compensation claims under policies of compensation insurance written in the three years immediately preceding the date as of which the statement is made, the loss reserve shall be sixty-five percent of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years; but in any event such reserve shall be not less than the present value at three and one-half percent interest of the

determined and the estimated unpaid compensation claims under policies written during each of such years.

Sec. 21. Section .12.13, chapter 79, Laws of 1947 and RCW 48.12.130 are each amended to read as follows:

(1) All unallocated ((~~workmen's~~)) workers' compensation loss expense payments shall be distributed as follows:

(a) If made in a given calendar year subsequent to the first three years in which an insurer has been issuing such compensation policies, forty per cent shall be charged to the policies written in that year, forty-five per cent to the policies written in the preceding year, ten per cent to the policies written in the second year preceding and five per cent to the policies written in the third year preceding.

(b) If made in each of the first three calendar years in which an insurer issues compensation policies, in the first calendar year one hundred per cent shall be charged to the policies written in that year; in the second calendar year fifty per cent shall be charged to the policies written in that year, and fifty per cent to the policies written in the preceding year; in the third calendar year forty-five per cent shall be charged to the policies written in that year, forty-five per cent to the policies written in the preceding year and ten per cent to the policies written in the second year preceding.

(2) A schedule showing such distribution shall be included in the annual statement.

Sec. 22. Section .12.14, chapter 79, Laws of 1947 and RCW 48.12.140 are each amended to read as follows:

"Loss payments" and "loss expense payments" as used with reference to liability and ((~~workmen's~~)) workers' compensation insurances shall include all payments to claimants, payments for medical and surgical attendance, legal expenses, salaries and expenses of investigators, adjusters and claims field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home office expenses and all other payments made on account of claims, whether such payments are allocated to specific claims or are unallocated.

Sec. 23. Section .15.16, chapter 79, Laws of 1947 as last amended by section 5, chapter 264, Laws of 1985 and RCW 48.15.160 are each amended to read as follows:

(1) The provisions of this chapter controlling the placing of insurance with unauthorized insurers shall not apply to reinsurance or to the following insurances when so placed by licensed agents or brokers of this state:

(a) Ocean marine and foreign trade insurances.

(b) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(c) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(d) Insurance of aircraft owned or operated by manufacturers of aircraft, or of aircraft operated in schedule interstate flight, or cargo of such aircraft, or against liability, other than ((workmen's)) workers' compensation and employer's liability, arising out of the ownership, maintenance or use of such aircraft.

(2) Agents and brokers so placing any such insurance with an unauthorized insurer shall keep a full and true record of each such coverage in detail as required of surplus line insurance under this chapter and shall meet the requirements imposed upon a surplus line broker pursuant to RCW 48.15.090 and any regulations adopted thereunder. The record shall be preserved for not less than five years from the effective date of the insurance and shall be kept available in this state and open to the examination of the commissioner. The agent or broker shall furnish to the commissioner at the commissioner's request and on forms as designated and furnished by him or her a report of all such coverages so placed in a designated calendar year.

Sec. 24. Section .19.01, chapter 79, Laws of 1947 and RCW 48.19.010 are each amended to read as follows:

(1) Except as is otherwise expressly provided the provisions of this chapter apply to all insurances upon subjects located, resident or to be performed in this state except:

(a) Life insurance;

(b) disability insurance;

(c) reinsurance except as to joint reinsurance as provided in RCW 48.19.360;

(d) insurance against loss of or damage to aircraft, their hulls, accessories, and equipment, or against liability, other than ((workmen's)) workers' compensation and employers' liability, arising out of the ownership, maintenance or use of aircraft;

(e) insurance of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity; and such other risks commonly insured under marine, as distinguished from inland marine, insurance contracts as may be defined by ruling of the commissioner for the purposes of this provision;

(f) title insurance.

(2) Except, that every insurer shall, as to disability insurance, before issuing file with the commissioner its manual of classification, manual of rules and rates, and any modifications thereof.

Sec. 25. Section 1, chapter 229, Laws of 1951 and RCW 48.20.002 are each amended to read as follows:

Nothing in this chapter shall apply to or affect (1) any policy of ((workmen's)) workers' compensation insurance or any policy of liability

insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance; or (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

Sec. 26. Section 21, chapter 229, Laws of 1951 and RCW 48.20.202 are each amended to read as follows:

(1) There may be a provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in RCW 48.20.212, there shall be added to the caption of the foregoing provision the phrase "..... expense incurred benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute

(including any ((~~workmen's~~)) workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 27. Section 22, chapter 229, Laws of 1951 and RCW 48.20.212 are each amended to read as follows:

(1) There may be a provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

(2) If the foregoing policy provision is included in a policy which also contains the policy provision set out in RCW 48.20.202, there shall be added to the caption of the foregoing provision the phrase ". other benefits." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any ((~~workmen's~~)) workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

Sec. 28. Section 23, chapter 229, Laws of 1951 and RCW 48.20.222 are each amended to read as follows:

(1) There may be a provision as follows:

RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the

time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(2) The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age 50 or, (b) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any ((workmen's)) workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

Sec. 29. Section 2, chapter 265, Laws of 1971 ex. sess. as amended by section 2, chapter 109, Laws of 1975-'76 2nd ex. sess. and RCW 48.32.020 are each amended to read as follows:

This chapter shall apply to all kinds of direct insurance, except life, title, surety, disability, credit, mortgage guaranty, ((workmen's)) workers' compensation and ocean marine insurance.

Sec. 30. Section 10, chapter 265, Laws of 1971 ex. sess. and RCW 48.32.100 are each amended to read as follows:

(1) Any person having a claim against his insurer under any provision in his insurance policy which is also a covered claim shall be required to exhaust first his right under such policy. Any amount payable on a covered claim under this chapter shall be reduced by the amount of such recovery under the claimant's insurance policy.

(2) Any person having a claim which may be recovered under more than one insurance guaranty association or its equivalent shall seek recovery

first from the association of the place of residence of the insured except that if it is a first party claim for damage to property with a permanent location, from the association of the location of the property, and if it is a ((~~workmen's~~)) workers' compensation claim, from the association of the residence of the claimant. Any recovery under this chapter shall be reduced by the amount of the recovery from any other insurance guaranty association or its equivalent.

Sec. 31. Section 1, chapter 110, Laws of 1973 and RCW 51.12.130 are each amended to read as follows:

(1) All persons registered as apprentices or trainees with the state apprenticeship council and participating in supplemental and related instruction classes conducted by a school district, a community college, a vocational school, or a local joint apprenticeship committee, shall be considered as ((~~workmen~~)) workers of the state apprenticeship council and subject to the provisions of Title 51 RCW, for the time spent in actual attendance at such supplemental and related instruction classes.

(2) The assumed wage rate for all apprentices or trainees during the hours they are participating in supplemental and related instruction classes, shall be three dollars per hour. This amount shall be used for purposes of computations of premiums, and for purposes of computations of disability compensation payments.

(3) Only those apprentices or trainees who are registered with the state apprenticeship council prior to their injury or death and who incur such injury or death while participating in supplemental and related instruction classes shall be entitled to benefits under the provisions of Title 51 RCW.

(4) The filing of claims for benefits under the authority of this section shall be the exclusive remedy of apprentices or trainees and their beneficiaries for injuries or death compensable under the provisions of Title 51 RCW against the state, its political subdivisions, the school district, community college, or vocational school and their members, officers or employees or any employer regardless of negligence.

(5) This section shall not apply to any apprentice or trainee who has earned wages for the time spent in participating in supplemental and related instruction classes.

Sec. 32. Section 39, chapter 289, Laws of 1971 ex. sess. as last amended by section 1, chapter 347, Laws of 1985 and RCW 51.28.025 are each amended to read as follows:

(1) Whenever an employer has notice or knowledge of an injury or occupational disease sustained by any ((~~workman~~)) worker in his or her employment who has received treatment from a physician, has been hospitalized, disabled from work or has died as the apparent result of such injury or occupational disease, ((~~he~~)) the employer shall immediately report the same to the department on forms prescribed by it. The report shall include:

- (a) The name, address, and business of the employer;
- (b) The name, address, and occupation of the ((workman)) worker;
- (c) The date, time, cause, and nature of the injury or occupational disease;
- (d) Whether the injury or occupational disease arose in the course of the injured ((workman's)) worker's employment;
- (e) All available information pertaining to the nature of the injury or occupational disease including but not limited to any visible signs, any complaints of the ((workman)) worker, any time lost from work, and the observable effect on the ((workman's)) worker's bodily functions, so far as is known; and
- (f) Such other pertinent information as the department may prescribe by regulation.

(2) Failure or refusal to file the report required by subsection (1) shall subject the offending employer to a penalty determined by the director but not to exceed two hundred fifty dollars for each offense, to be collected in a civil action in the name of the department and paid into the supplemental pension fund.

Sec. 33. Section 11, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.025 are each amended to read as follows:

Any payments to or on account of any child or children of a deceased or temporarily or totally permanently disabled ((workman)) worker pursuant to any of the provisions of chapter 51.32 RCW shall terminate when any such child reaches the age of eighteen years unless such child is a dependent invalid child or is permanently enrolled at a full time course in an accredited school, in which case such payments after age eighteen shall be made directly to such child. Payments to any dependent invalid child over the age of eighteen years shall continue in the amount previously paid on account of such child until he shall cease to be dependent. Payments to any child over the age of eighteen years permanently enrolled at a full time course in an accredited school shall continue in the amount previously paid on account of such child until ((he)) the child reaches an age over that provided for in the definition of "child" in this title or ceases to be permanently enrolled whichever occurs first. Where the ((workman)) worker sustains an injury or dies when any of ((his)) the worker's children is over the age of eighteen years and is either a dependent invalid child or is a child permanently enrolled at a full time course in an accredited school the payment to or on account of any such child shall be made as herein provided.

Sec. 34. Section 12, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.072 are each amended to read as follows:

Notwithstanding any other provision of law, every surviving spouse and every permanently totally disabled ((workman)) worker or temporarily totally disabled ((workman)) worker, if such ((workman)) worker was unmarried at the time of ((his)) the worker's injury or was then married but

the marriage was later terminated by judicial action, receiving a pension or compensation for temporary total disability under this title pursuant to compensation schedules in effect prior to July 1, 1971, shall after July 1, 1975, be paid fifty percent of the average monthly wage in the state as computed under RCW 51.08.018 per month and an amount equal to five percent of such average monthly wage per month to such totally disabled ((workman)) worker if married at the time of ((his)) the worker's injury and the marriage was not later terminated by judicial action, and an additional two percent of such average monthly wage for each child of such totally disabled ((workman)) worker at the time of injury in the legal custody of such totally disabled ((workman)) worker or such surviving spouse up to a maximum of five such children. The monthly payments such surviving spouse or totally disabled ((workman)) worker are receiving pursuant to compensation schedules in effect prior to July 1, 1971 shall be deducted from the monthly payments above specified.

Where such a surviving spouse has remarried, or where any such child of such ((workman)) worker, whether living or deceased, is not in the legal custody of such ((workman)) worker or such surviving spouse there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under compensation schedules in effect prior to July 1, 1971 for the benefit of and on account of each such child. In the case of any child or children of a deceased ((workman)) worker not leaving a surviving spouse or where the surviving spouse has later died, there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under such schedules for the benefit of and on account of each such child.

If the character of the injury or occupational disease is such as to render the ((workman)) worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues but such payments shall not obtain or be operative while the ((workman)) worker is receiving care under or pursuant to the provisions of this title except for care granted at the discretion of the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments shall not be considered compensation nor shall they be subject to any limitation upon total compensation payments.

No part of such additional payments shall be payable from the accident fund.

The director shall pay monthly from the supplemental pension fund such an amount as will, when added to the compensation theretofore paid under compensation schedules in effect prior to July 1, 1971, equal the amounts hereinabove specified.

In cases where money has been or shall be advanced to any such person from the pension reserve, the additional amount to be paid under this section shall be reduced by the amount of monthly pension which was or is predicated upon such advanced portion of the pension reserve.

Sec. 35. Section 10, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.100 are each amended to read as follows:

(1) If at any time during the tenancy, the landlord fails to carry out any of the duties imposed by RCW 59.18.060, and notice of the defect is given to the landlord pursuant to RCW 59.18.070, the tenant may submit to the landlord or his designated agent by certified mail or in person at least two bids to perform the repairs necessary to correct the defective condition from licensed or registered persons, or if no licensing or registration requirement applies to the type of work to be performed, from responsible persons capable of performing such repairs. Such bids may be submitted to the landlord at the same time as notice is given pursuant to RCW 59.18.070: PROVIDED, That the remedy provided in this section shall not be available for a landlord's failure to carry out the duties in subsections (6), (9), and (11) of RCW 59.18.060.

(2) If the landlord fails to commence repair of the defective condition within a reasonable time after receipt of notice from the tenant, the tenant may contract with the person submitting the lowest bid to make the repair, and upon the completion of the repair and an opportunity for inspection by the landlord or his designated agent, the tenant may deduct the cost of repair from the rent in an amount not to exceed the sum expressed in dollars representing one month's rental of the tenant's unit in any twelve-month period: PROVIDED, That when the landlord must commence to remedy the defective condition within thirty days as provided in subsection (4) of RCW 59.18.070, the tenant cannot contract for repairs for at least fifteen days following receipt of said bids by the landlord: PROVIDED FURTHER, That the total costs of repairs deducted in any twelve-month period under this subsection shall not exceed the sum expressed in dollars representing one month's rental of the tenant's unit.

(3) If the landlord fails to carry out the duties imposed by RCW 59.18.060 within a reasonable time, and if the cost of repair does not exceed one-half month's rent, including the cost of materials and labor, which shall be computed at the prevailing rate in the community for the performance of such work, and if repair of the condition need not by law be performed only by licensed or registered persons, the tenant may repair the defective condition in a workmanlike manner and upon completion of the repair and an opportunity for inspection, the tenant may deduct the cost of repair from the rent: PROVIDED, That repairs under this subsection are limited to defects within the leased premises: PROVIDED FURTHER, That the total costs of repairs deducted in any twelve-month period under this subsection

shall not exceed one-half month's rent of the unit or seventy-five dollars in any twelve-month period, whichever is the lesser.

(4) The provisions of this section shall not:

(a) Create a relationship of employer and employee between landlord and tenant; or

(b) Create liability under the ((workmen's)) workers' compensation act; or

(c) Constitute the tenant as an agent of the landlord for the purposes of RCW 60.04.010 and 60.04.040.

(5) Any repair work performed under the provisions of this section shall comply with the requirements imposed by any applicable code, statute, ordinance, or regulation. A landlord whose property is damaged because of repairs performed in a negligent manner may recover the actual damages in an action against the tenant.

(6) Nothing in this section shall prevent the tenant from agreeing with the landlord to undertake the repairs himself in return for cash payment or a reasonable reduction in rent, the agreement thereof to be agreed upon between the parties, and such agreement does not alter the landlord's obligations under this chapter.

· Sec. 36. Section 1, chapter 69, Laws of 1937 as amended by section 1, chapter 250, Laws of 1975 1st ex. sess. and RCW 60.44.010 are each amended to read as follows:

Every operator, whether private or public, of an ambulance service or of a hospital, and every duly licensed nurse, practitioner, physician, and surgeon rendering service, or transportation and care, for any person who has received a traumatic injury and which is rendered by reason thereof shall have a lien upon any claim, right of action, and/or money to which such person is entitled against any tort-feasor and/or insurer of such tort-feasor for the value of such service, together with costs and such reasonable attorney's fees as the court may allow, incurred in enforcing such lien: PROVIDED, HOWEVER, That nothing in this chapter shall apply to any claim, right of action, or money accruing under the ((workmen's)) workers' compensation act of the state of Washington, and: PROVIDED, FURTHER, That all the said liens for service rendered to any one person as a result of any one accident or event shall not exceed twenty-five percent of the amount of an award, verdict, report, decision, decree, judgment, or settlement.

Sec. 37. Section 1, chapter 68, Laws of 1973 and RCW 72.05.152 are each amended to read as follows:

No inmate of a juvenile forest camp who is affected by this chapter or receives benefits pursuant to RCW 72.05.152 and 72.05.154 shall be considered as an employee or to be employed by the state or the department of social and health services or the department of natural resources, nor shall any such inmate, except those provided for in RCW 72.05.154, come within

any of the provisions of the ((workmen's)) workers' compensation act, or be entitled to any benefits thereunder, whether on behalf of himself or any other person. All moneys paid to inmates shall be considered a gratuity.

Sec. 38. Section 72.60.100, chapter 28, Laws of 1959 as last amended by section 101, chapter 136, Laws of 1931 and RCW 72.60.100 are each amended to read as follows:

Nothing in this chapter is intended to restore, in whole or in part, the civil rights of any inmate. No inmate compensated for work in institutional industries shall be considered as an employee or to be employed by the state or the department, nor shall any such inmate, except those provided for in RCW 72.60.102 and 72.64.065, come within any of the provisions of the ((workmen's)) workers' compensation act, or be entitled to any benefits thereunder whether on behalf of himself or of any other person.

Sec. 39. Section 6, chapter 269, Laws of 1961 as last amended by section 319, chapter 141, Laws of 1979 and RCW 74.04.430 are each amended to read as follows:

All community work and training programs, before an applicant or recipient of public assistance shall be assigned shall have met the approval of the state department of social and health services: PROVIDED, That the state, or federal government, county, city or municipal corporation utilizing assistance applicants or recipients for work and labor shall insure that such employment is covered by ((workmen's)) workers' compensation administered by the department of labor and industries, or a similar plan approved by the department of social and health services, and all fees and charges for such coverage shall be paid by such state, or federal government, county, city or municipal corporation except that portion which is paid for medical aid and is properly chargeable to such applicant or recipient of assistance.

Sec. 40. Section 1, chapter 374, Laws of 1985 and RCW 84.52.0531 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be as follows:

(1) For excess levies in 1985 for collection in 1986 and thereafter, the sum of:

(a) That amount equal to ten percent of each school district's prior year basic education allocation; plus

(b) That amount equal to ten percent of each school district's prior year state allocation, exclusive of federal funds, for the following programs:

(i) Pupil transportation;

(ii) Handicapped education costs;

(iii) Gifted; and

(iv) Compensatory education, including but not limited to remediation assistance, bilingual education, and urban, rural, racial disadvantaged programs; plus

(c) In the case of nonhigh school districts only, an amount equal to the total estimated amount due by the nonhigh school district to high school districts pursuant to chapter 28A.44 RCW, as now or hereafter amended, for the school year during which collection of the levy is to commence, less the increase in the nonhigh school district's basic education allocation as computed pursuant to subsection (4) of this section due to the inclusion of pupils participating in a program provided for in chapter 28A.44 RCW in such computation.

(2) Excess levies authorized under this section or under RCW 84.52-.052 shall not be used directly or indirectly to increase the average salary or fringe benefits for certificated or classified personnel in any school district: **PROVIDED**, That any school district may expend excess levy funds to provide increases in salary and fringe benefits for classified or certificated personnel whose salary and fringe benefits are provided wholly from local school district excess levies in a percentage not to exceed the respective average percentage increases in the salary and fringe benefit levels for classified and certificated employees of the district funded with state appropriated funds: **PROVIDED FURTHER**, That those contracts which have been negotiated prior to July 1, 1977 by those school districts for such school year shall not be abrogated by this section. "Fringe benefits" for purposes of this subsection shall include:

(a) Employer retirement contributions, if applicable;

(b) Health and insurance payments including life, accident, disability, unemployment compensation, and (~~workmen's~~) workers' compensation; and

(c) Employer social security contributions.

(3) Any school district whose average base compensation for certificated or classified personnel respectively is below state-wide average base compensation level for certificated or classified personnel during the preceding school year, may collect and expend property taxes authorized by this section, or under RCW 84.52.052, for the purpose of increasing such district's average compensation for certificated or classified personnel as allowed in the latest applicable state operating budget. "Compensation", for purposes of this subsection, shall mean salary plus fringe benefits for classified and certificated personnel of a school district as allowed in the latest applicable state operating budget.

(4) For the purpose of this section, the basic education allocation shall be determined pursuant to RCW 28A.41.130, 28A.41.140, and 28A.41.145, as now or hereafter amended; **PROVIDED**, That when determining the basic education allocation under subsection (1) of this section, effective

September 1, 1979, nonresident full time equivalent pupils who are participating in a program provided for in chapter 28A.44 RCW or in any other program pursuant to an interdistrict agreement shall be included in the enrollment of the resident district and excluded from the enrollment of the serving district.

Certificated personnel shall include those persons employed by a school district in a teaching, instructional, administrative or supervisory capacity and who hold positions as certificated personnel as defined under RCW 28A.01.130, as now or hereafter amended, and every school district superintendent, and any person hired in any manner to fill a position designated as, or which is in fact, that of deputy superintendent or assistant superintendent. Classified personnel shall include those persons employed by a school district other than certificated personnel as defined in this section in a capacity for which certification is not required.

(5) Any district is authorized to exceed the levy limitations imposed by subsection (1) for taxes to be collected during calendar years 1985 through 1993 as follows:

(a) For excess levies to be collected in calendar years 1986, 1987, and 1988, a base year levy percentage shall be established. The base year levy percentage shall be equal to the greater of: (i) The district's actual levy percentage for calendar year 1985, (ii) the average levy percentage for all school district levies in the state in calendar year 1985, or (iii) the average levy percentage for all school district levies in the educational service district of the district in calendar year 1985.

(b) The base year levy percentage established in (a) of this subsection shall be reduced in even increments beginning in calendar year 1989. The incremental reduction shall equal one-fifth of the percentage points the base year levy percentage exceeds the amount authorized in subsection (1) of this section.

(c) For excess levies to be collected in calendar year 1993, the maximum dollar amount which may be levied by or for any school district shall not exceed the amount authorized in subsection (1) of this section. The provisions of this subsection shall not apply to excess levies to be collected after calendar year 1993.

(6) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

NEW SECTION. Sec. 41. 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.

Passed the House March 18, 1987.

Passed the Senate April 14, 1987.

Approved by the Governor April 23, 1987

Filed in Office of Secretary of State April 23, 1987.

CHAPTER 186

[Senate Bill No. 5002]

COMMISSION ON JUDICIAL CONDUCT—MEMBERSHIP ENLARGED—DUTIES REVISED

AN ACT Relating to the commission on judicial conduct; amending RCW 2.64.010, 2.64.020, 2.64.110, and 34.08.020; reenacting and amending RCW 43.10.067; adding new sections to chapter 2.64 RCW; creating a new section; repealing RCW 2.64.090 and 2.64.900; and declaring an emergency.

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

Sec. 1. Section 2, chapter 268, Laws of 1981 and RCW 2.64.010 are each amended to read as follows:

For purposes of this chapter, "commission" means the (~~judicial qualifications~~) commission on judicial conduct provided for in Article IV, section 31 of the state Constitution, which is authorized to recommend to the supreme court, after notice and hearing, the censure, suspension or removal of a judge or justice for violating a rule of judicial conduct, or the retirement of a judge or justice for disability which is permanent, or likely to become permanent, and which seriously interferes with the performance of judicial duties. For purposes of this chapter, the term "judge or justice" includes justices of the supreme court, judges of the court of appeals, judges of the superior courts, judges of any court organized under Titles 3(~~(;)~~) or 35(~~(; or 35A)~~) RCW, (~~and~~) judges pro tempore, court commissioners, and magistrates. This chapter shall apply to any judge or justice, regardless of whether the judge or justice serves full time or part time, and regardless of whether the judge or justice is admitted to practice law in this state.

Sec. 2. Section 3, chapter 268, Laws of 1981 and RCW 2.64.020 are each amended to read as follows:

The commission shall consist of (~~seven~~) nine members. One member shall be a judge selected by and from the court of appeals judges; one member shall be a judge selected by and from the superior court judges; one member shall be a judge selected by and from the district court judges; two members shall be selected by the state bar association and be admitted to the practice of law in this state; and (~~two~~) four members shall be nonlawyers appointed by the governor and confirmed by the senate. The term of each member of the commission shall be four years.