

cost of the vehicle multiplied by the fraction of the useful lifetime or miles the vehicle failed to operate.

(4) The superintendent shall annually develop a depreciation schedule to recognize the cost of depreciation to districts contracting with private carriers for student transportation. Payments on this schedule shall be a straight line depreciation based on the original cost of the appropriate category of vehicle.

Passed the Senate April 26, 1987.

Passed the House April 16, 1987.

Approved by the Governor May 19, 1987, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 19, 1987.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 1, Senate Bill No. 6053, entitled:

"AN ACT Relating to educational service districts."

Section 1 of this bill would allow Educational Service Districts to borrow money to purchase real or personal property for their operations.

Educational Service Districts are not local entities and are not accountable to local constituencies. They are agencies with no guaranteed source of income or revenue with which to secure borrowed funds. The primary source of revenue for Educational Service Districts comes from local school district participation. School districts do have accountability to local constituencies. They also have the authority to borrow funds, and could do so cooperatively in support of Educational Service Districts, should such a need arise.

With the exception of section 1, Senate Bill No. 6053 is approved."

CHAPTER 509

[Engrossed Senate Bill No. 5571]

GRAIN INDEMNITY FUND PROGRAM

AN ACT Relating to the grain indemnity fund for grain warehouse and dealer licenses; amending RCW 22.09.060, 22.09.090, 22.09.100, 22.09.570, and 22.09.610; adding new sections to chapter 22.09 RCW; and declaring an emergency.

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

Sec. 1. Section 6, chapter 124, Laws of 1963 as last amended by section 24, chapter 305, Laws of 1983 and RCW 22.09.060 are each amended to read as follows:

Except as provided in section 7(2) of this 1987 act, no warehouse or grain dealer license may be issued to an applicant before a bond ((or)), certificate of deposit, or other security is given to the department as provided in RCW 22.09.090, or in section 3 of this 1987 act. No warehouse license may be issued to an applicant before a certificate of insurance as provided in RCW 22.09.110 has been filed with the department.

Sec. 2. Section 9, chapter 124, Laws of 1963 as last amended by section 27, chapter 305, Laws of 1983 and RCW 22.09.090 are each amended to read as follows:

(1) (~~Before any person is granted~~) An applicant for a warehouse or grain dealer license pursuant to the provisions of this chapter (~~(the person)~~) shall give a bond to the state of Washington executed by the applicant as the principal and by a corporate surety licensed to do business in this state as surety.

(2) The bond required under this section for the issuance of a warehouse license shall be in the sum of not less than fifty thousand dollars nor more than seven hundred fifty thousand dollars. The department shall, after holding a public hearing, determine the amount that will be required for the warehouse bond which shall be computed at a rate of not less than fifteen cents nor more than thirty cents per bushel multiplied by the number of bushels of licensed commodity storage capacity of the warehouses of the applicant furnishing the bond. The applicant for a warehouse license may give a single bond meeting the requirements of this chapter, and all warehouses operated by the warehouseman are deemed to be one warehouse for the purpose of the amount of the bond required under this subsection. Any change in the capacity of a warehouse or addition of any new warehouse involving a change in bond liability under this chapter shall be immediately reported to the department.

(3) The bond required under this section for the issuance of a grain dealer license shall be in the sum of not less than fifty thousand dollars nor more than seven hundred fifty thousand dollars. The department shall, after holding a public hearing, determine the amount that will be required for the dealer bond which shall be computed at a rate not less than six percent nor more than twelve percent of the sales of agricultural commodities purchased by the dealer from producers during the dealer's last completed fiscal year or in the case of a grain dealer who has been engaged in business as a grain dealer less than one year, the estimated aggregate dollar amount to be paid by the dealer to producers for agricultural commodities to be purchased by the dealer during the dealer's first fiscal year.

(4) An applicant making application for both a warehouse license and a grain dealer license may satisfy the bonding requirements set forth in subsections (2) and (3) of this section by giving to the state of Washington a single bond for the issuance of both licenses, which bond shall be in the sum of not less than fifty thousand dollars nor more than seven hundred fifty thousand dollars. The department shall, after holding a public hearing, determine the amount of the bond which shall be computed at a rate of not less than fifteen cents nor more than thirty cents per bushel multiplied by the number of bushels of licensed commodity storage capacity of the warehouses of the applicant furnishing the bond, or at the rate of not less than

six percent nor more than twelve percent of the gross sales of agricultural commodities of the applicant whichever is greater.

(5) The bonds required under this ~~((section))~~ chapter shall be approved by the department and shall be conditioned upon the faithful performance by the licensee of the duties imposed upon him by this chapter. If a person has applied for warehouse licenses to operate two or more warehouses in this state, the assets applicable to all warehouses, but not the deposits except in case of a station, are subject to the liabilities of each. The total and aggregate liability of the surety for all claims upon the bond ~~((are))~~ is limited to the face amount ~~((specified in))~~ of the bond.

(6) Any person required to submit a bond to the department under this chapter has the option to give the department a certificate of deposit or other security acceptable to the department payable to the director as trustee, in lieu of a bond or a portion thereof. The principal amount of the certificate or other security shall be the same as that required for a surety bond under this chapter or may be in an amount which, when added to the ~~((applicant's))~~ bond, will satisfy the licensee's requirements for a surety bond under this chapter, and the interest thereon shall be made payable to the purchaser of the certificate or other security. The certificate of deposit or other security shall remain on deposit until it is released, canceled, or discharged as provided for by rule of the department. The provisions of this chapter that apply to a bond required under this chapter apply to each certificate of deposit or other security given in lieu of such a bond.

(7) The department may, when it has reason to believe that a grain dealer does not have the ability to pay producers for grain purchased, or when it determines that the grain dealer does not have a sufficient net worth to outstanding financial obligations ratio, or when it believes there may be claims made against the bond in excess of the face amount of the bond, require a grain dealer to post an additional bond in a dollar amount deemed appropriate by the department or may require an additional certificate of deposit or other security. The additional bonding or other security may exceed the maximum amount of the bond otherwise required under this ~~((section))~~ chapter. Failure to post the additional bond ~~((or))~~, certificate of deposit, or other security constitutes grounds for suspension or revocation of a license issued under this chapter.

(8) Notwithstanding any other provisions of this chapter, the license of a warehouseman or grain dealer shall automatically be suspended in accordance with RCW 22.09.100 for failure at any time to have or to maintain a bond ~~((or))~~, certificate of deposit, ~~((or both,))~~ or other security or combination thereof in the amount and type required by this chapter. The department shall remove the suspension or issue a license as the case may be, when the required bond ~~((or))~~, certificate of deposit, or other security has been obtained.

NEW SECTION. Sec. 3. (1) Two or more applicants for a warehouse or grain dealer license may provide a single bond to the state of Washington, executed by a corporate surety licensed to do business in this state and designating each of the applicants as a principal on said bond.

(2) The department shall promulgate rules establishing the amount of the bond required under this section. In no event shall that amount be less than ten percent of the aggregate amount of each of the bonds that would be required of the applicants under RCW 22.09.090 or less than the amount that would be required under RCW 22.09.090 for the applicant having the highest bond requirement under that section.

Sec. 4. Section 10, chapter 124, Laws of 1963 as amended by section 28, chapter 305, Laws of 1983 and RCW 22.09.100 are each amended to read as follows:

(1) Every bond filed with and approved by the department shall without the necessity of periodic renewal remain in force and effect until such time as the warehouseman(~~(s)~~) or grain dealer license of each principal on the bond is revoked ((for cause)) or otherwise canceled.

(2) The surety on a bond, as provided in this chapter, shall be released and discharged from all liability to the state ~~((accruing on the bond after))₂ as to a principal whose license is revoked or canceled, which liability accrues after the expiration of thirty days from the effective date ((a warehouseman's license is revoked for cause or otherwise terminated or after the expiration of ninety days from the date upon which the surety lodged with the department a written request to be released and discharged, but this provision shall not))~~ of the revocation or cancellation of the license. The surety on a bond under this chapter shall be released and discharged from all liability to the state accruing on the bond after the expiration of ninety days from the date upon which the surety lodges with the department a written request to be released and discharged. Nothing in this section shall operate to relieve, release, or discharge the surety from any liability ((at-ready accrued or that has accrued)) which accrues before the expiration of the respective thirty or ninety-day period. In the event of a cancellation by the surety, the surety shall simultaneously send the notification of cancellation in writing to any other governmental agency requesting it. Upon receiving any such request, the department shall promptly notify the principal or principals who furnished the bond, and unless the principal or principals file((s)) a new bond on or before the expiration of the respective thirty or ninety-day period, the department shall forthwith cancel the ((principal's)) license of the principal or principals whose bond has been canceled.

Sec. 5. Section 29, chapter 7, Laws of 1975 1st ex. sess. as amended by section 56, chapter 305, Laws of 1983 and RCW 22.09.570 are each amended to read as follows:

The director may bring action upon the bond of a warehouseman or grain dealer against both principal against whom a claim has been made

and the surety in any court of competent jurisdiction to recover the damages caused by any failure to comply with the provisions of this chapter or the rules adopted hereunder. Recovery for damages against a warehouseman or grain dealer on a bond furnished under section 3 of this 1987 act shall be limited to the bond amount that would be required for that warehouseman or grain dealer under RCW 22.09.090.

Sec. 6. Section 33, chapter 7, Laws of 1975 1st ex. sess. as amended by section 60, chapter 305, Laws of 1983 and RCW 22.09.610 are each amended to read as follows:

Upon the refusal of the surety company to pay the demand, the director may thereupon bring an action on the warehouseman's or grain dealer's bond in behalf of the depositor creditors. Upon any action being commenced on the bond, the director may require the filing of a new bond, and immediately upon the recovery in any action on the bond, ~~((the warehouseman or grain dealer shall file))~~ a new bond shall be filed. The failure to file the new bond or otherwise satisfy the security requirements of this chapter within ten days in either case constitutes grounds for the suspension or revocation of the ~~((warehouseman's or grain dealer's))~~ license of any principal on the bond.

NEW SECTION. Sec. 7. (1) The provisions of this section and sections 9 through 20 of this act constitute the grain indemnity fund program. Sections 9 through 20 of this act shall take effect on a date specified by the director but within ninety days after receipt by the director of a petition seeking implementation of the grain indemnity fund program provided for in this chapter and a determination by the director, following a public hearing on said petition, that a grain indemnity fund program is in the interest of the agricultural industry of this state. The petition shall be signed by licensees of at least thirty-three percent of the grain warehouses and thirty-three percent of the grain dealers. At least sixty days in advance, the director shall notify each licensed warehouse and grain dealer of the effective date of the grain indemnity fund program provisions.

(2) The grain indemnity fund program, if activated by the director, shall be in lieu of the bonding and security provisions of RCW 22.09.090 and section 3 of this act.

NEW SECTION. Sec. 8. (1) There is hereby established a fund to be known as the grain indemnity fund. The grain indemnity fund shall consist of assessments remitted by licensees pursuant to the provisions of sections 9 through 11 of this act and any interest or earnings on the fund balance.

(2) All assessments shall be paid to the department and shall be deposited in the grain indemnity fund. The state treasurer shall be the custodian of the grain indemnity fund. Disbursements shall be on authorization of the director. No appropriation is required for disbursements from this fund.

(3) The grain indemnity fund shall be used exclusively for purposes of paying claimants pursuant to this chapter, and paying necessary expenses of administering the grain indemnity fund, provided however, that one-half of the interest accumulated by the fund may be paid to the department to defray costs of administering the warehouse audit program. The state of Washington shall not be liable for any claims presented against the fund.

NEW SECTION. Sec. 9. (1) Every licensed warehouse and grain dealer and every applicant for any such license shall pay assessments to the department for deposit in the grain indemnity fund according to the provisions of sections 7 through 20 of this act and rules promulgated by the department to implement this chapter.

(2) The rate of the assessments shall be established by rule, provided however, that no single assessment against a licensed warehouse or grain dealer or applicant for any such license shall exceed five percent of the bond amount that would otherwise have been required of such grain dealer, warehouseman, or license applicant under RCW 22.09.090.

NEW SECTION. Sec. 10. (1) The department shall establish the initial assessment within sixty days of the activation of the grain indemnity fund program pursuant to section 7 of this act. Immediately upon promulgation of the rule, the department shall issue notice to each licensed warehouse and grain dealer of the assessment owed. The initial assessment and assessments issued thereafter shall be paid within thirty days of the date posted on the assessment notice.

(2) The surety bond or other security posted by a licensed warehouse or grain dealer in effect immediately preceding the effective date of the grain indemnity fund program, shall remain in full force and effect and shall not be released until thirty days after the initial assessment is paid. A certificate of deposit or other security in effect immediately preceding the effective date of the grain indemnity fund program shall remain on deposit until the initial assessment is paid and until such certificate of deposit or other security is released by the department following a prompt determination that no outstanding claims are pending against the security.

(3) Each new applicant for a warehouse or grain dealer license shall pay the assessment imposed pursuant to section 9 of this act at the time of application. No license to operate as a grain dealer or grain warehouse or both shall be issued until such assessment is paid.

Notwithstanding the provisions of section 9(2) of this act, new applicants shall pay annual assessments into the grain indemnity fund for an equivalent number of years as those participating at the inception of the grain indemnity fund program and who continue to participate in the grain indemnity fund program.

NEW SECTION. Sec. 11. The assessments imposed pursuant to section 9 of this act shall be imposed annually, under rules promulgated by the

department, until such time as the grain indemnity fund balance, less any outstanding claims, reaches three million dollars. For any year in which the grain indemnity fund balance, less any outstanding claims, exceeds three million dollars on the annual assessment date, no assessment shall be imposed by the department, except as provided in section 10(3) or 12 of this act.

NEW SECTION. Sec. 12. The department may, when it has reason to believe that a licensee does not have the ability to pay producers for grain purchased, or when it determines that the licensee does not have a sufficient net worth to outstanding financial obligations ratio, require from the licensee the payment of an additional assessment or, at the department's option, the posting of a bond or other additional security in an amount to be prescribed by rule. The additional assessment or other security may exceed the maximum amount set forth in section 9 of this act. Failure of the licensee to timely pay the additional assessment or post the additional bond or other security constitutes grounds for suspension or revocation of a license issued under this chapter.

NEW SECTION. Sec. 13. (1) There is hereby created a grain indemnity fund advisory committee consisting of six members to be appointed by the director. The director shall make appointments to the committee no later than seven days following the date this section becomes effective pursuant to section 7 of this act. Of the initial appointments, three shall be for two-year terms and three shall be for three-year terms. Thereafter, appointments shall be for three-year terms, each term ending on the same day of the same month as did the term preceding it. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of the predecessor's term.

(2) The committee shall be composed of two producers primarily engaged in the production of agricultural commodities, two licensed grain dealers, and two licensed grain warehousemen.

(3) The committee shall meet at such places and times as it shall determine and as often as necessary to discharge the duties imposed upon it. Each committee member shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel and subsistence expense under RCW 43.03.050 and 43.03.060. The expenses of the committee and its operation shall be paid from the grain indemnity fund.

(4) The committee shall have the power and duty to advise the director concerning assessments, administration of the grain indemnity fund, and payment of claims from the fund.

NEW SECTION. Sec. 14. In the event a grain dealer or warehouse fails, as defined in RCW 22.09.011(21), or otherwise fails to comply with

the provisions of this chapter or rules promulgated hereunder, the department shall process the claims of depositors producing written evidence of ownership disclosing a storage obligation or written evidence of a sale of commodities for damages caused by the failure, in the following manner:

(1) The department shall give notice and provide a reasonable time, not to exceed thirty days, to depositors possessing written evidence of ownership disclosing a storage obligation or written evidence of sale of commodities to file their written verified claims with the department.

(2) The department may investigate each claim and determine whether the claimant's commodities are under a storage obligation or whether a sale of commodities has occurred. The department shall notify each claimant, the grain warehouseman or grain dealer, and the committee of the department's determination as to the validity and amount of each claimant's claim. A claimant, warehouseman, or grain dealer may request a hearing on the department's determination within twenty days of receipt of written notification and a hearing shall be held by the department pursuant to chapter 34.04 RCW. Upon determining the amount and validity of the claim, the director shall pay the claim from the grain indemnity fund.

(3) The department may inspect and audit a failed warehouseman, as defined by RCW 22.09.011(21) to determine whether the warehouseman has in his possession, sufficient quantities of commodities to cover his storage obligations. In the event of a shortage, the department shall determine each depositor's pro rata share of available commodities and the deficiency shall be considered as a claim of the depositor. Each type of commodity shall be treated separately for the purpose of determining shortages.

NEW SECTION. Sec. 15. If a depositor or creditor, after notification, refuses or neglects to file in the office of the director his verified claim against a warehouseman or grain dealer as requested by the director within thirty days from the date of the request, the director shall thereupon be relieved of responsibility for taking action with respect to such claim later asserted and no such claim shall be paid from the grain indemnity fund.

NEW SECTION. Sec. 16. Subject to the provisions of sections 17 and 18 of this act and to a maximum payment of seven hundred fifty thousand dollars on all claims against a single licensee, approved claims against a licensed warehouseman or licensed grain dealer shall be paid from the grain indemnity fund in the following amounts:

(1) Approved claims against a licensed warehouseman shall be paid in full;

(2) Approved claims against a licensed grain dealer for payments due within thirty days of transfer of title shall be paid in full for the first twenty-five thousand dollars of the claim. The amount of such a claim in excess of twenty-five thousand dollars shall be paid to the extent of eighty percent;

(3) Approved claims against a licensed grain dealer for payments due between thirty and ninety days of transfer of title shall be paid to the extent of eighty percent;

(4) Approved claims against a licensed grain dealer for payments due after ninety days from transfer of title shall be paid to the extent of seventy-five percent;

(5) In the event that approved claims against a single licensee exceed seven hundred fifty thousand dollars, recovery on those claims shall be prorated.

NEW SECTION. Sec. 17. In addition to the payment limitations imposed by section 16 of this act, payment of any claim approved before the grain indemnity fund first reaches a balance of one million two hundred fifty thousand dollars, shall be limited to the following amounts:

(1) For claims against a licensed grain warehouse, payment shall not exceed the lesser of seven hundred fifty thousand dollars or an amount equal to the licensee's total bushels of licensed storage space multiplied by the rate of eighteen cents.

(2) For claims against a licensed grain dealer, payment shall not exceed the lesser of seven hundred fifty thousand dollars or an amount equal to six percent of the gross purchases of the licensee during the licensee's immediately preceding fiscal year.

(3) The unpaid balance of any claim subject to this section shall be paid when the grain indemnity fund first reaches a balance of one million two hundred fifty thousand dollars, provided that the total paid on the claim shall not exceed the limits specified in section 16 of this act.

NEW SECTION. Sec. 18. The requirement that the state of Washington pay claims under this chapter only exists so long as the grain indemnity fund contains sufficient money to pay the claims. Under no circumstances whatsoever may any funds (other than assessment amounts and other money obtained under this chapter) be used to pay claims. In the event that the amount in the grain indemnity fund is insufficient to pay all approved claims in the amount provided for under section 16 or 17 of this act, the claims shall be paid in the order in which they were filed with the department, until such time as sufficient moneys are available in the grain indemnity fund to pay all of the claims.

NEW SECTION. Sec. 19. Amounts paid from the grain indemnity fund in satisfaction of any approved claim shall constitute a debt and obligation of the grain dealer or warehouseman against whom the claim was made. On behalf of the grain indemnity fund, the director may bring suit, file a claim, or intervene in any legal proceeding to recover from the grain dealer or warehouseman the amount of the payment made from the grain indemnity fund, together with costs and attorneys' fees incurred. In instances where the superior court is the appropriate forum for a recovery action,

the director may elect to institute the action in the superior court of Thurston county.

NEW SECTION. Sec. 20. The department may deny, suspend, or revoke the license of any grain dealer or warehouseman who fails to timely pay assessments to the grain indemnity fund or against whom a claim has been made, approved, and paid from the grain indemnity fund. Proceedings for the denial, suspension, or revocation shall be subject to the provisions of chapter 34.04 RCW.

NEW SECTION. Sec. 21. Sections 3 and 7 through 20 of this act are each added to chapter 22.09 RCW.

NEW SECTION. Sec. 22. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 23. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate April 8, 1987.

Passed the House April 6, 1987.

Approved by the Governor May 19, 1987.

Filed in Office of Secretary of State May 19, 1987.

CHAPTER 510

[Senate Bill No. 5129]

FIRST AVENUE SOUTH BRIDGE

AN ACT Relating to the First Avenue South bridge; and adding a new section to chapter 47.56 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 47.56 RCW to read as follows:

(1) The transportation commission is authorized to conduct a study, to be paid from category C funds, to determine the economic and operational feasibility and consistency with federal laws of constructing, entirely or in part with toll-financed revenue bonds, a new parallel bridge and approaches on First Avenue South in Seattle, together with reconstruction of approaches to the existing bridge and connections to existing city street systems as necessary.

(2) If the commission concludes that construction, entirely or in part with toll-financed revenue bonds, of the facilities described in subsection (1)