

(4) That the services ordered under RCW 13.34.130 have been offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been offered or provided; and

(5) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future; and

(6) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home;

(7) In lieu of the allegations in subsections (1) through (6) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

Passed the House March 9, 1988.

Passed the Senate March 5, 1988.

Approved by the Governor March 22, 1988.

Filed in Office of Secretary of State March 22, 1988.

## CHAPTER 202

[Senate Bill No. 5016]

### APPELLATE PROCEDURE

AN ACT Relating to modifications of terminology resulting from the Rules of Appellate Procedure; amending RCW 2.24.050, 4.32.250, 4.92.030, 7.16.350, 7.20.140, 8.04.070, 8.04.130, 8.04.150, 8.08.080, 8.12.200, 8.12.530, 8.16.130, 8.20.100, 8.20.120, 9.95.060, 10.77.230, 10.95.150, 11.52.016, 11.96.160, 11.110.110, 17.04.230, 17.16.110, 19.77.100, 20.01.200, 24.32.360, 28A.58.500, 28B.16.160, 29.79.170, 29.79.210, 29.82.160, 31.08.260, 33.04.060, 33.08.070, 33.40.120, 34.04.140, 35.44.260, 35.44.270, 35.55.080, 35.56.090, 36.93.160, 36.94.290, 41.64.140, 43.21B.190, 43.52.430, 47.32.060, 48.31.190, 49.60.260, 50.32.160, 51.52.110, 52.22.101, 54.16.160, 54.16.165, 57.16.090, 58.28.490, 59.12.200, 65.12.175, 72.33.240, 74.08.080, 79.01.500, 80.04.190, 80.04.260, 80.50.140, 81.04.190, 81.04.260, 81.53.130, 81.53.170, 82.32.180, 84.28.080, 84.28.110, 84.64.120, 84.64.400, 85.05.079, 85.05.470, 85.06.630, 85.06.660, 85.06.750, 85.08.440, 85.15.130, 85.16.190, 85.16.210, 85.18.140, 85.24.130, 85.24.140, 85.32.200, 87.03.410, 87.03.760, 87.03.765, 87.22.090, 87.56.225, 88.32.090, 90.03.200, 90.03.210, 90.24.070, 91.08.250, and 91.08.580; and repealing RCW 2.04.160, 2.04.170, 4.88.260, and 10.77.130.

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

Sec. 1. Section 3, chapter 124, Laws of 1909 as amended by section 10, chapter 81, Laws of 1971 and RCW 2.24.050 are each amended to read as follows:

All of the acts and proceedings of court commissioners hereunder shall be subject to revision by the superior court. Any party in interest may have such revision upon demand made by written motion, filed with the clerk of the superior court, within ten days after the entry of any order or judgment of the court commissioner. Such revision shall be upon the records of the case, and the findings of fact and conclusions of law entered by the court

commissioner, and unless a demand for revision is made within ten days from the entry of the order or judgment of the court commissioner, ~~((his))~~ the orders and judgments shall be and become the orders and judgments of the superior court, and ~~((from same an appeal may be taken to the supreme court or the court of appeals in all cases where an appeal will lie from))~~ appellate review thereof may be sought in the same fashion as review of like orders and judgments entered by the judge.

Sec. 2. Section 24, chapter 127, Laws of 1893 and RCW 4.32.250 are each amended to read as follows:

A notice or other paper is valid and effectual though the title of the action in which it is made is omitted, or it is defective either in respect to the court or parties, if it intelligently refers to such action or proceedings; and in furtherance of justice upon proper terms, any other defect or error in any notice or other paper or proceeding may be amended by the court, and any mischance, omission or defect relieved within one year thereafter; and the court may enlarge or extend the time, for good cause shown, within which by statute any act is to be done, proceeding had or taken, notice or paper filed or served, or may, on such terms as are just, permit the same to be done or supplied after the time therefor has expired~~((, except that the time for bringing a writ of error or appeal shall in no case be enlarged, or a party permitted to bring such writ of error or appeal after the time therefor has expired))~~.

Sec. 3. Section 3, chapter 95, Laws of 1895 as last amended by section 3, chapter 126, Laws of 1986 and RCW 4.92.030 are each amended to read as follows:

The attorney general or an assistant attorney general shall appear and act as counsel for the state. The action shall proceed in all respects as other actions. ~~((Appeals may be taken to the supreme court or court of appeals of the state))~~ Appellate review may be sought as in other actions or proceedings, but in case ~~((an appeal shall be taken on behalf of))~~ review is sought by the state, no bond shall be required of the appellant.

Sec. 4. Section 35, chapter 65, Laws of 1895 as amended by section 30, chapter 81, Laws of 1971 and RCW 7.16.350 are each amended to read as follows:

From a final judgment in the superior court, in any such proceeding, ~~((an appeal shall lie to))~~ appellate review by the supreme court or the court of appeals may be sought as in other actions.

Sec. 5. Section 680, page 171, Laws of 1869 as last amended by section 70, chapter 258, Laws of 1984 and RCW 7.20.140 are each amended to read as follows:

Either party to a judgment in a proceeding for a contempt, may ~~((appeal therefrom))~~ seek appellate review of the judgment in like manner and with like effect as from judgment in an action, but such ~~((appeal))~~ review

shall not have the effect to stay the proceedings in any other action, suit or proceeding, or upon any judgment, decree or order therein, concerning which, or wherein such contempt was committed.

Sec. 6. Section 2, chapter 213, Laws of 1955 as amended by section 33, chapter 81, Laws of 1971 and RCW 8.04.070 are each amended to read as follows:

At the time and place appointed for hearing the petition, or to which the hearing may have been adjourned, if the court has satisfactory proof that all parties interested in the lands, real estate, premises or other property described in the petition have been duly served with the notice, and is further satisfied by competent proof that the contemplated use for which the lands, real estate, premises, or other property are sought to be appropriated is really necessary for the public use of the state, it shall make and enter an order, to be recorded in the minutes of the court, and which order shall be final unless appellate review thereof (~~((to the supreme court or the court of appeals of the state))~~) is (~~((taken))~~) sought within five days after entry thereof, adjudicating that the contemplated use for which the lands, real estate, premises or other property are sought to be appropriated is really a public use of the state.

Sec. 7. Section 7, chapter 74, Laws of 1891 as last amended by section 35, chapter 81, Laws of 1971 and RCW 8.04.130 are each amended to read as follows:

Upon the entry of judgment upon the verdict of the jury or the decision of the court awarding damages, the state may make payment of the damages and the costs of the proceedings by depositing them with the clerk of the court, to be paid out under the direction of the court or judge thereof; and upon making such payment into court of the damages assessed and allowed for any land, real estate, premises, or other property mentioned in the petition, and of the costs, the state shall be released and discharged from any and all further liability therefor, unless upon appeal the owner or party interested recovers a greater amount of damages; and in that case the state shall be liable only for the amount in excess of the sum paid into court and the costs of appeal.

In the event (~~((of an appeal to the supreme court or the court of appeals of the state))~~) appellate review is sought by any party to the proceedings, the moneys paid into the superior court by the state pursuant to this section shall remain in the custody of the court until the final determination of the proceedings by the supreme court or the court of appeals.

Sec. 8. Section 9, chapter 74, Laws of 1891 as amended by section 36, chapter 81, Laws of 1971 and RCW 8.04.150 are each amended to read as follows:

Either party may (~~((appeal from))~~) seek appellate review of the judgment for damages entered in the superior court(~~((, to the supreme court or~~

~~the court of appeals of the state,))~~ within thirty days after the entry of judgment as aforesaid, and such ~~((appeal))~~ review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the ~~((appeal))~~ review. PROVIDED HOWEVER, That upon such ~~((appeal))~~ review no bond shall be required: AND PROVIDED FURTHER, That if the owner of land, the real estate or premises accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively ~~((an appeal to the supreme court or the court of appeals))~~ appellate review, and final judgment by default may be rendered in the superior court as in other cases: PROVIDED FURTHER, That no ~~((appeal))~~ review shall operate so as to prevent the said state of Washington from taking possession of such property pending ~~((such appeal))~~ review after the amount of said award shall have been paid into court.

Sec. 9. Section 8, chapter 79, Laws of 1949 as amended by section 38, chapter 81, Laws of 1971 and RCW 8.08.080 are each amended to read as follows:

Either party may ~~((appeal from))~~ seek appellate review of the judgment for compensation of the damages awarded in the superior court ~~((to the supreme court or the court of appeals))~~ within thirty days after the entry of judgment as aforesaid, and such ~~((appeal))~~ review shall bring before the supreme court or the court of appeals the propriety and justice of the amount of damage in respect to the parties to the ~~((appeal))~~ review: PROVIDED, That upon such ~~((appeal))~~ review no bonds shall be required: AND PROVIDED FURTHER, That if the owner of land, real estate, or premises accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively ~~((an appeal to the supreme court or the court of appeals))~~ appellate review, and final judgment by default may be rendered in the superior court as in other cases.

Sec. 10. Section 16, chapter 84, Laws of 1893 as last amended by section 39, chapter 81, Laws of 1971 and RCW 8.12.200 are each amended to read as follows:

Any final judgment or judgments rendered by said court upon any finding or findings of any jury or juries, or upon any finding or findings of the court in case a jury be waived, shall be lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases, provided that in case any defendant recovers no damages, no costs shall be taxed. Such judgment or judgments shall be final and conclusive as to the damages caused by such improvement unless ~~((appealed from))~~ appellate review is sought, and ~~((no appeal from))~~ review of the same shall delay proceedings under said ordinance, if such city shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and

costs, and such city, after making such payment into court, shall be liable to such owner or owners or parties interested for the payment of any further compensation which may at any time be finally awarded to such parties (~~(so appealing in)~~) seeking review of said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor, and abide any rule or order of the court in relation to the matter in controversy. In case of (~~(an appeal to)~~) review by the supreme court or the court of appeals of the state by any party to the proceedings the money so paid into the superior court by such city, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively (~~(an appeal to the supreme court or the court of appeals)~~) appellate review and final judgment may be rendered in the superior court as in other cases.

Sec. 11. Section 49, chapter 153, Laws of 1907 as last amended by section 40, chapter 81, Laws of 1971 and RCW 8.12.530 are each amended to read as follows:

At any time within six months from the date of rendition of the last judgment awarding compensation for any such improvement in the superior court, or if (~~(any appeal be taken)~~) appellate review is sought, then within two months after the final determination of the (~~(appeal)~~) proceeding in the supreme court or the court of appeals, any such city may discontinue the proceedings by ordinance passed for that purpose before making payment or proceeding with the improvement by paying or depositing in court all taxable costs incurred by any parties to the proceedings up to the time of such discontinuance. If any such improvement be discontinued, no new proceedings shall be undertaken therefor until the expiration of one year from the date of such discontinuance.

Sec. 12. Section 13, page 375, Laws of 1909 as amended by section 41, chapter 81, Laws of 1971 and RCW 8.16.130 are each amended to read as follows:

Either party may (~~(appeal from)~~) seek appellate review of the judgment for compensation awarded for the property taken, entered in the superior court, to the supreme court or the court of appeals of the state within sixty days after the entry of the judgment, and such (~~(appeal)~~) review shall bring before the supreme court or the court of appeals the justness of the compensation awarded for the property taken, and any error occurring on the hearing of such matter, prejudicial to the party appealing: PROVIDED, HOWEVER, That if the owner or owners of the land taken accepts the sum awarded by the jury or court, he or they shall be deemed thereby to have waived (~~(their right of appeal to the supreme court or the court of appeals)~~) appellate review.

Sec. 13. Section 7, page 299, Laws of 1890 as amended by section 42, chapter 81, Laws of 1971 and RCW 8.20.100 are each amended to read as follows:

Upon the entry of judgment upon the verdict of the jury or the decision of the court or judge thereof, awarding damages as hereinbefore prescribed, the petitioner, or any officer of, or other person duly appointed by said corporation, may make payment of the damages assessed to the parties entitled to the same, and of the costs of the proceedings, by depositing the same with the clerk of said superior court, to be paid out under the direction of the court or judge thereof; and upon making such payment into the court of the damages assessed and allowed, and of the costs, to any land, real estate, premises or other property mentioned in said petition, such corporation shall be released and discharged from any and all further liability therefor, unless upon ~~((appeal))~~ appellate review the owner or other person or party interested shall recover a greater amount of damages; and in that case only for the amount in excess of the sum paid into said court, and the costs of ~~((appeal))~~ appellate review: PROVIDED, That in case of ~~((an appeal to))~~ review by the supreme court or the court of appeals of the state by any party to the proceedings, the money so paid into the superior court by such corporation as aforesaid, shall remain in the custody of said court until the final determination of the proceedings by the said supreme court or the court of appeals.

Sec. 14. Section 9, page 300, Laws of 1890 as amended by section 43, chapter 81, Laws of 1971 and RCW 8.20.120 are each amended to read as follows:

Either party may ~~((appeal from))~~ seek appellate review of the judgment for damages entered in the superior court ~~((to the supreme court or the court of appeals of the state;))~~ within thirty days after the entry of judgment as aforesaid and such ~~((appeal))~~ review shall bring before the supreme court or the court of appeals the propriety and justness of the amount of damages in respect to the parties to the ~~((appeal))~~ review: PROVIDED, HOWEVER, That no bond shall be required of any person interested in the property sought to be appropriated by such corporation, but in case the corporation appropriating such land, real estate, premises or other property is appellant, it shall give a bond like that prescribed in RCW 8.20.130, to be executed, filed and approved in the same manner: AND PROVIDED FURTHER, That if the owner of the land, real estate, premises or other property accepts the sum awarded by the jury, the court or the judge thereof, he shall be deemed thereby to have waived conclusively ~~((an appeal to the supreme court or the court of appeals))~~ appellate review, and final judgment by default may be rendered in the superior court as in other cases.

Sec. 15. Section 7, chapter 133, Laws of 1955 as last amended by section 36, chapter 136, Laws of 1981 and RCW 9.95.060 are each amended to read as follows:

When a convicted person (~~((appeals from))~~) seeks appellate review of his or her conviction and is at liberty on bond pending the determination of the ~~((appeal))~~ proceeding by the supreme court or the court of appeals, credit on his or her sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified to the department of corrections, the Washington state board of prison terms and paroles, and the prosecuting attorney of the county in which such convicted person was convicted and sentenced, by the sheriff of such county. If such convicted person does not ~~((appeal from his))~~ seek review of the conviction, but is at liberty for a period of time subsequent to the signing of the judgment and sentence, or becomes a fugitive, credit on his sentence will begin from the date such convicted person is returned to custody. The date of return to custody shall be certified as provided in this section. In all other cases, credit on a sentence will begin from the date the judgment and sentence is signed by the court.

Sec. 16. Section 23, chapter 117, Laws of 1973 1st ex. sess. as amended by section 18, chapter 198, Laws of 1974 ex. sess. and RCW 10.77.230 are each amended to read as follows:

Either party may ~~((appeal to the court of appeals))~~ seek appellate review of the judgment of any hearing held pursuant to the provisions of this chapter.

Sec. 17. Section 15, chapter 138, Laws of 1981 and RCW 10.95.150 are each amended to read as follows:

In all cases in which a sentence of death has been imposed, the ~~((appellate))~~ appellate review, if any, and sentence review to or by the supreme court of Washington shall be decided and an opinion on the merits shall be filed within one year of receipt by the clerk of the supreme court of Washington of the verbatim report of proceedings and clerk's papers filed under RCW 10.95.110. If this time requirement is not met, the chief justice of the supreme court of Washington shall state on the record the extraordinary and compelling circumstances causing the delay and the facts supporting such circumstances. A failure to comply with the time requirements of this subsection shall in no way preclude the ultimate execution of a sentence of death.

Sec. 18. Section 11.52.016, chapter 145, Laws of 1965 as amended by section 1, chapter 80, Laws of 1972 ex. sess. and RCW 11.52.016 are each amended to read as follows:

The order of judgment of the court making the award or awards provided for in RCW 11.52.010 through 11.52.024 shall be conclusive and final, except on ~~((appeal))~~ appellate review and except for fraud. The awards

in RCW 11.52.010 through 11.52.024 provided shall be in lieu of all homestead provisions of the law and of exemptions. The said property, when set aside as herein provided, shall be exempt from all claims for the payment of any debt of the deceased or of the surviving spouse existing at the time of death, whether such debt be individual or community. Under RCW 11.52.010 through 11.52.024, the court shall not award more property than could be awarded under the law in effect at the time of the granting of the award.

Sec. 19. Section 17, chapter 31, Laws of 1985 and RCW 11.96.160 are each amended to read as follows:

Any interested party may (~~appeal to the supreme court or the court of appeals from~~) seek appellate review of any final order, judgment, or decree of the court, and such (~~appeals~~) review shall be in the manner and way provided by law for appeals in civil actions.

Sec. 20. Section 124, chapter 30, Laws of 1985 and RCW 11.110.110 are each amended to read as follows:

When the attorney general requires the attendance of any person, as provided in RCW 11.110.100, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be delivered to or sent by registered mail to the person at least fourteen days before the date fixed for attendance. Such order shall have the same force and effect as a subpoena, and, upon application of the attorney general, obedience to the order may be enforced by any superior court judge in the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. The court, after hearing, for good cause, and upon application of any person aggrieved by the order, shall have the right to alter, amend, revise, suspend, or postpone all or any part of its provisions. In any case where the order is not enforced by the court according to its terms, the reasons for the court's actions shall be clearly stated in the record, and shall be subject to review by the supreme court or the court of appeals (~~by certiorari or other appropriate proceeding~~).

Sec. 21. Section 14, chapter 125, Laws of 1929 as amended by section 56, chapter 81, Laws of 1971 and RCW 17.04.230 are each amended to read as follows:

Any interested party may appeal from the decision and order of the board of directors of such district to the superior court of the county in which such district is located, by serving written notice of appeal on the chairman of the board of directors and by filing in the office of the clerk of the superior court a copy of said notice of appeal with proof of service attached, together with a good and sufficient cost bond in the sum of two hundred dollars, said cost bond to run to such district and in all respects to comply with the laws relating to cost bonds required of nonresident plaintiffs in the superior court. Said notice must be served and filed within ten days from the date of the decision and order of such board of directors, and



said bond must be filed within five days after the filing of such notice of appeal. Whenever notice of appeal and the cost bond as herein provided shall have been filed with the clerk of the superior court, the clerk shall notify the board of directors of such district thereof, and such board shall forthwith certify to said court all notices and records in said matters, together with proof of service, and a true copy of the order and decision pertaining thereto made by such board. If no appeal be perfected within ten days from the decision and order of such board, the same shall be deemed confirmed and the board shall certify the amount of such charges to the county treasurer who shall enter the same on the tax rolls against the land. When an appeal is perfected the matter shall be heard in the superior court de novo and the court's decision shall be conclusive on all persons served under this chapter: PROVIDED, That ~~((an appeal may be taken to the supreme court or the court of appeals from))~~ appellate review of the order or decision of the superior court in the manner provided by existing laws, and upon the conclusion of such ~~((appeal))~~ review, the amount of charges and costs adjudged to be paid shall be certified by the clerk of the superior court to the county treasurer and said treasurer shall proceed to enter the same on his rolls against the lands affected.

Sec. 22. Section 12, chapter 140, Laws of 1921 as amended by section 57, chapter 81, Laws of 1971 and RCW 17.16.110 are each amended to read as follows:

Any person feeling himself aggrieved at the decision and order of the board of county commissioners approving the amount of such expenses and establishing the same as a tax against the land involved may appeal therefrom to the superior court of the county, by serving a written notice of appeal on the board and by filing a copy of same with proof of service attached, together with a good and sufficient cost bond to be approved by the county clerk in the sum of two hundred dollars, said cost bond to run to the county and in all other respects to comply with the laws relating to cost bonds required of nonresident plaintiffs in the superior court. Said notice of appeal must be served and filed within ten days from the date of the decision and order of the board approving the amount of said expense and establishing the same as a tax against the land involved, and said appeal must be brought on for hearing upon a certified copy of the records in the matter without further pleadings, at the next term of court thereafter. ~~((An appeal from))~~ Appellate review of the judgment of the superior court in the matter may be ~~((taken to the supreme court or the court of appeals of the state))~~ sought as in other cases ~~((on appeal))~~. Upon the final conclusion of any ~~((appeal))~~ review so taken, the county clerk shall certify to the county treasurer the result of such ~~((appeal))~~ review.

Sec. 23. Section 10, chapter 211, Laws of 1955 as last amended by section 185, chapter 35, Laws of 1982 and RCW 19.77.100 are each amended to read as follows:

Any person who believes he will be damaged by a registration of a trademark by the secretary of state may request cancellation of such registration by filing with the secretary of state in duplicate a verified petition setting forth the facts in support of such request, accompanied by a fee of fifty dollars payable to the revolving fund of the secretary of state. To each copy of said petition for cancellation there shall be attached a copy of each of the trademarks or trade names, or the personal name, portrait, or signature, of the petitioner, or other exhibits of like character relied on in the petition. Thereafter the secretary of state shall mail to the registrant or his agent for service of record with the secretary of state a copy of said petition, addressed to the last known address of the registrant or such agent according to the files of the secretary of state, accompanied by a notice that said registrant may, within twenty days if the registrant is a resident of the state of Washington, or within sixty days if the registrant is a nonresident of the state of Washington, file in duplicate a verified answer to said petition. Thereafter the secretary of state shall forward a copy of said answer to said petitioner, accompanied by a notice that said petitioner may, within a specified time, not less than twenty days, file in duplicate a verified statement as to any further facts which are pertinent to issues raised by said answer, and the secretary of state shall in like manner forward a copy thereof to said registrant or such agent. The secretary of state shall then fix a hearing date not less than thirty days from the last day that the petitioner may file a statement of further facts. Written notice of such hearing shall be served on the parties by the secretary of state not less than fifteen days before the hearing in the same manner as the petition and answer were forwarded. Additional relevant testimony or other evidence may be introduced by the parties, and the secretary of state may subpoena such witnesses as he deems necessary. The parties shall have the right to be represented by counsel. On conclusion of the hearing the secretary of state shall grant or deny the petitioner's request for cancellation of the registration as the facts shall warrant and shall send a copy of his decision to the petitioner and to the registrant or such agent. If the secretary of state finds that the trademark should not have been registered, or is in violation of the common law rights of the petitioner, or if the secretary of state receives no answer from the registrant within the time limits specified hereinabove, he shall cancel said registration from the register, unless a petition for review of such decision is filed as provided hereinafter.

Either the petitioner or the registrant may, within sixty days after mailing of the copy of the decision by the secretary of state, file in the superior court of the state of Washington for Thurston county, and mail to the secretary of state and the other party or such agent at his last known address according to the files of the secretary of state, a petition for review of the decision of the secretary of state. The court shall review such decision on the basis of the record before the secretary of state for the purpose of

determining the reasonableness and lawfulness of such decision and, subject to ~~((the right of appeal to))~~ appellate review by the supreme court or the court of appeals of the state, the decree of the superior court shall be binding upon the secretary of state with respect to the granting or denial of the petitioner's request for cancellation. In any such petition for review the secretary of state shall be a necessary party, and the petitioner for cancellation and the registrant shall be proper parties.

Sec. 24. Section 20, chapter 139, Laws of 1959 as amended by section 66, chapter 81, Laws of 1971 and RCW 20.01.200 are each amended to read as follows:

~~((An appeal shall lie to the supreme court or the court of appeals from))~~ Appellate review of the judgment of the superior court may be sought as provided in other civil cases.

Sec. 25. Section 28, chapter 115, Laws of 1921 as amended by section 68, chapter 81, Laws of 1971 and RCW 24.32.360 are each amended to read as follows:

Every order, decision or other official act of the director of agriculture shall be subject to review, and any party aggrieved by such order, decision or act of the director of agriculture may appeal therefrom to the superior court of the county of Thurston by serving upon the director of agriculture a notice of such appeal, specifying the order, decision of act appealed from, and filing the same with the clerk of the superior court of the county of Thurston within sixty days after the date of such order, decision or official act. Whereupon the director of agriculture shall, within ten days after filing of such notice of appeal, make and certify a transcript of all the records and papers on file in his office affecting or relating to the order, decision or act appealed from, and upon the payment of the fee therefor by the appellant, the director of agriculture shall file the same in the office of the clerk of said superior court. Upon the hearing of such appeal the burden of proof shall be upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the director of agriculture from which appeal is taken. Any party ~~((to such appeal to the superior court who is))~~ aggrieved by the judgment of ~~((said court rendered upon such appeal may prosecute an appeal to the supreme court or the court of appeals of the state of Washington. The general laws relating to bills of exception, statements of fact and appeals to the supreme court or the court of appeals, shall apply to all appeals taken to the supreme court or the court of appeals under this chapter))~~ the superior court may seek appellate review of the judgment as in other civil cases; PROVIDED, That no supersedeas of the judgment of the superior court shall be allowed, except at the discretion of said superior court. If supersedeas is allowed, it shall be upon such bond and with such conditions as the superior court may require by its order.

Sec. 26. Section 28A.58.500, chapter 223, Laws of 1969 ex. sess. as amended by section 71, chapter 81, Laws of 1971 and RCW 28A.58.500 are each amended to read as follows:

Either party to the proceedings in the superior court may ~~((appeal))~~ seek appellate review of the decision ~~((to the supreme court or the court of appeals of this state))~~ as any other civil action ~~((is appealed))~~.

Sec. 27. Section 16, chapter 36, Laws of 1969 ex. sess. as amended by section 72, chapter 81, Laws of 1971 and RCW 28B.16.160 are each amended to read as follows:

(1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. ~~((Appeal shall be available to the supreme court or the court of appeals from))~~ Appellate review of the order of the superior court may be sought as in other civil cases.

Sec. 28. Section 29.79.170, chapter 9, Laws of 1965 and RCW 29.79.170 are each amended to read as follows:

The decision of the superior court refusing to grant a writ of mandate, may be reviewed by the supreme court ~~((on a writ of certiorari sued out))~~ within five days after the decision of the superior court. The review shall be considered an emergency matter of public concern, and shall be heard and determined with all convenient speed, and if the supreme court decides that the petitions are legal in form and apparently contain the requisite number of signatures of legal voters, and were filed within the time prescribed in the Constitution, it shall issue its mandate directing the secretary of state to file the petition in his office as of the date of submission.

Sec. 29. Section 29.79.210, chapter 9, Laws of 1965 and RCW 29.79.210 are each amended to read as follows:

Any citizen dissatisfied with the determination of the secretary of state that an initiative or referendum petition contains or does not contain the requisite number of signatures of legal voters may, within five days after such determination, apply to the superior court of Thurston county for a citation requiring the secretary of state to submit the petition to said court for examination, and for a writ of mandate compelling the certification of the measure and petition, or for an injunction to prevent the certification thereof to the legislature, as the case may be. Such application and all proceedings had thereunder shall take precedence over other cases and shall be speedily heard and determined.

The decision of the superior court granting or refusing to grant the writ of mandate or injunction may be reviewed by the supreme court (~~(on a writ of certiorari sued out)~~) within five days after the decision of the superior court, and if the supreme court decides that a writ of mandate or injunction, as the case may be, should issue, it shall issue the writ directed to the secretary of state; otherwise, it shall dismiss the proceedings. The clerk of the supreme court shall forthwith notify the secretary of state of the decision of the supreme court.

Sec. 30. Section 29.82.160, chapter 9, Laws of 1965 as amended by section 10, chapter 170, Laws of 1984 and RCW 29.82.160 are each amended to read as follows:

The superior court of the county in which the officer subject to recall resides has original jurisdiction to compel the performance of any act required of any public officer or to prevent the performance by any such officer of any act in relation to the recall not in compliance with law.

The supreme court has like original jurisdiction in relation to state officers and revisory jurisdiction over the decisions of the superior courts. Any proceeding to compel or prevent the performance of any such act shall be begun within ten days from the time the cause of complaint arises, and shall be considered an emergency matter of public concern and take precedence over other cases, and be speedily heard and determined. (~~Any proceeding to~~) Appellate review of a decision of any superior court shall be begun and perfected within fifteen days after its decision in a recall election case and shall be considered an emergency matter of public concern by the supreme court, and heard and determined within thirty days after the decision of the superior court.

Sec. 31. Section 23, chapter 208, Laws of 1941 as amended by section 81, chapter 81, Laws of 1971 and RCW 31.08.260 are each amended to read as follows:

Whenever the supervisor shall deny an application for a license or shall revoke or suspend a license issued pursuant to this chapter, or shall issue any specific order or demand, then such applicant or licensee thereby affected may, within thirty days from the date of service of notice as provided for in this chapter, appeal to the superior court of the state of Washington for Thurston county. The appeal shall be perfected by serving a copy of the notice of appeal upon the supervisor and by filing it, together with proof of service, with the clerk of the superior court of Thurston county. Whereupon the supervisor shall, within fifteen days after filing of such notice of appeal, make and certify a transcript of the evidence and of all the records and papers on file in his office relating to the order appealed from, and the supervisor shall forthwith file the same in the office of the clerk of said superior court. The reasonable costs of preparing such transcript shall be assessed by the court as part of the costs. A trial shall be had in said superior court de novo. The applicant or licensee, as the case may be, shall be deemed the

plaintiff and the state of Washington the defendant. Each party shall be entitled to subpoena witnesses and produce evidence to sustain or reverse the findings and order or demand of the supervisor. During the pendency of any appeal from the order of revocation or suspension of a license, the order of revocation theretofore entered by the supervisor shall be stayed and any other order or demand appealed from may be stayed in the discretion of the court. Either party may (~~(appeal from)~~) seek appellate review of the judgment of said superior court (~~(to the supreme court or the court of appeals of the state of Washington)~~) as in other civil actions.

Sec. 32. Section 115, chapter 235, Laws of 1945 as amended by section 84, chapter 81, Laws of 1971 and RCW 33.04.060 are each amended to read as follows:

An association may petition the superior court of the state of Washington for Thurston county for the review of any decision, ruling, requirement or other action or determination of the supervisor, by filing its complaint, duly verified, with the clerk of the court and serving a copy thereof upon the supervisor. Upon the filing of the complaint, the clerk of the court shall docket the same as a cause pending therein.

The supervisor may answer the complaint and the petitioner reply thereto, and the cause shall be heard before the court as in other civil actions. Both the petitioner and the supervisor may (~~(appeal from)~~) seek appellate review of the decision of the court to the supreme court or the court of appeals of the state of Washington.

Sec. 33. Section 8, chapter 235, Laws of 1945 as last amended by section 85, chapter 81, Laws of 1971 and RCW 33.08.070 are each amended to read as follows:

The supervisor, not later than six months after receipt of the proposed articles and bylaws shall endorse upon each copy thereof the word "approved" or "refused" and the date thereof. In case of refusal, he shall forthwith return one copy of the articles and bylaws to the incorporators, and the refusal shall be final unless the incorporators, or a majority of them, within thirty days after the refusal, appeal to the superior court of Thurston county. The appeal may be accomplished by the incorporators preparing a notice of appeal, serving a copy of it upon the supervisor, and filing the notice with the clerk of the court, whereupon the clerk, under the direction of the judge, shall give notice to the appellants and to the supervisor of a date for the hearing of the appeal. The appeal shall be tried de novo by the court. At the hearing a record shall be kept of the evidence adduced, and the decision of the court shall be final unless (~~(an appeal therefrom is taken to the supreme court or the court of appeals)~~) appellate review is sought as in other cases.

Sec. 34. Section 113, chapter 235, Laws of 1945 as last amended by section 72, chapter 3, Laws of 1982 and RCW 33.40.120 are each amended to read as follows:

The court, upon notice and hearing, may remove the liquidator for cause. ~~((From such))~~ Appellate review of the order of removal ~~((the liquidator may appeal to the supreme court or the court of appeals by giving notice of appeal and posting bond for costs as in other appeals))~~ may be sought as in other civil cases.

During the pendency of any appeal, the director of general administration shall act as liquidator of the association, without giving any additional bond for the performance of the duties as such liquidator.

If such order of removal shall be affirmed, the director of general administration shall name another liquidator for the association, which nominee, upon qualifying as required for receivers generally, shall succeed to the position of liquidator of the association.

Sec. 35. Section 14, chapter 234, Laws of 1959 as amended by section 87, chapter 81, Laws of 1971 and RCW 34.04.140 are each amended to read as follows:

An aggrieved party may secure ~~((a))~~ appellate review of any final judgment of the superior court under this chapter by ~~((appeal to))~~ the supreme court or the court of appeals. Such ~~((appeal))~~ review shall be ~~((taken))~~ secured in the manner provided by law for ~~((appeals from the))~~ review of superior court decisions in other civil cases.

Sec. 36. Section 35.44.260, chapter 7, Laws of 1965 as amended by section 91, chapter 81, Laws of 1971 and RCW 35.44.260 are each amended to read as follows:

~~((An appeal shall lie to the supreme court or the court of appeals from))~~ Appellate review of the judgment of the superior court may be obtained as in other cases if ~~((taken))~~ sought within fifteen days after the date of the entry of the judgment in the superior court. ~~((The record and the opening brief of the appellant must be filed in the supreme court or the court of appeals within sixty days after the filing of the notice of appeal: PROVIDED, That the time for filing the record and the serving and filing of briefs may be extended by order of the superior court or by stipulation of the parties concerned:))~~

Sec. 37. Section 35.44.270, chapter 7, Laws of 1965 as amended by section 92, chapter 81, Laws of 1971 and RCW 35.44.270 are each amended to read as follows:

A certified copy of the decision of the superior court pertaining to assessments for local improvements shall be filed with the officer having custody of the assessment roll and he shall modify and correct the assessment roll in accordance with the decision. In ~~((case of appeal to the supreme court or the court of appeals))~~ the event appellate review of the decision is

sought, a certified copy of ~~((its))~~ the court's order shall be filed with the officer having custody of the assessment roll and ~~((he))~~ the officer shall thereupon modify and correct the assessment roll in accordance with the order.

Sec. 38. Section 35.55.080, chapter 7, Laws of 1965 as amended by section 94, chapter 81, Laws of 1971 and RCW 35.55.080 are each amended to read as follows:

Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred dollars and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. ~~((Appeal shall lie to the supreme court or the court of appeals))~~ Appellate review of the superior court's decision may be sought as in other causes.

Sec. 39. Section 35.56.090, chapter 7, Laws of 1965 as amended by section 95, chapter 81, Laws of 1971 and RCW 35.56.090 are each amended to read as follows:

Any person who has made objections to the assessment as equalized, shall have the right to appeal from the equalization as made by the city council or commission to the superior court of the county. The appeal shall be made by filing a written notice of appeal with the city clerk within ten days after the equalization of the assessments by the council or commission. The notice of appeal shall describe the property and the objections of such appellant to such assessment.

The appellant shall also file with the clerk of the superior court within ten days from the time of taking the appeal a copy of the notice of appeal together with a copy of the assessment roll and proceedings thereon, certified by the city clerk and a bond to the city conditioned to pay all costs that may be awarded against appellant in such sum not less than two hundred



dollars, and with such security as shall be approved by the clerk of the court.

The case shall be docketed by the clerk of the court in the name of the person taking the appeal as plaintiff, and the city as defendant. The cause shall then be at issue and shall be tried immediately by the court as in the case of equitable causes; no further pleadings shall be necessary. The judgment of the court shall be either to confirm, modify or annul the assessment insofar as the same affects the property of the appellant. ~~((An appeal shall lie to the supreme court or the court of appeals))~~ Appellate review of the superior court's decision may be sought as in other causes.

Sec. 40. Section 16, chapter 189, Laws of 1967 as last amended by section 8, chapter 477, Laws of 1987 and RCW 36.93.160 are each amended to read as follows:

(1) When the jurisdiction of the boundary review board has been invoked, the board shall set the date, time and place for a public hearing on the proposal. The board shall give at least thirty days' advance written notice of the date, time and place of the hearing to the governing body of each governmental unit having jurisdiction within the boundaries of the territory proposed to be annexed, formed, incorporated, disincorporated, dissolved or consolidated, or within the boundaries of a special district whose assets and facilities are proposed to be assumed by a city or town, and to the governing body of each city within three miles of the exterior boundaries of such area and to the proponent of such change. Notice shall also be given by publication in any newspaper of general circulation in the area of the proposed boundary change at least three times, the last publication of which shall be not less than five days prior to the date set for the public hearing. Notice shall also be posted in ten public places in the area affected for five days when the area is ten acres or more. When the area affected is less than ten acres, five notices shall be posted in five public places for five days. Notice as provided in this subsection shall include any territory which the board has determined to consider adding in accordance with RCW 36.93.150(2).

(2) A verbatim record shall be made of all testimony presented at the hearing and upon request and payment of the reasonable costs thereof, a copy of the transcript of such testimony shall be provided to any person or governmental unit.

(3) The chairman upon majority vote of the board or a panel may direct the chief clerk of the boundary review board to issue subpoenas to any public officer to testify, and to compel the production by him of any records, books, documents, public records or public papers.

(4) Within forty days after the conclusion of the final hearing on the proposal, the board shall file its written decision, setting forth the reasons therefor, with the board of county commissioners and the clerk of each governmental unit directly affected. The written decision shall indicate

whether the proposed change is approved, rejected or modified and, if modified, the terms of such modification. The written decision need not include specific data on every factor required to be considered by the board, but shall indicate that all standards were given consideration. Dissenting members of the board shall have the right to have their written dissents included as part of the decision.

(5) Unanimous decisions of the hearing panel or a decision of a majority of the members of the board shall constitute the decision of the board and shall not be appealable to the whole board. Any other decision shall be appealable to the entire board within ten days. Appeals shall be on the record, which shall be furnished by the appellant, but the board may, in its sole discretion, permit the introduction of additional evidence and argument. Decisions shall be final and conclusive unless within ten days from the date of said action a governmental unit affected by the decision or any person owning real property or residing in the area affected by the decision files in the superior court a notice of appeal.

The filing of such notice of appeal within such time limit shall stay the effective date of the decision of the board until such time as the appeal shall have been adjudicated or withdrawn. On appeal the superior court shall not take any evidence other than that contained in the record of the hearing before the board.

(6) The superior court may affirm the decision of the board or remand the case for further proceedings; or it may reverse the decision if any substantial rights may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of constitutional provisions, or
- (b) In excess of the statutory authority or jurisdiction of the board, or
- (c) Made upon unlawful procedure, or
- (d) Affected by other error of law, or
- (e) Unsupported by material and substantial evidence in view of the entire record as submitted, or
- (f) Arbitrary or capricious.

An aggrieved party may (~~secure a~~) seek appellate review of any final judgment of the superior court (~~by appeal to the supreme court or the court of appeals. Such appeal shall be taken~~) in the manner provided by law (~~for appeals from the superior court~~) as in other civil cases.

Sec. 41. Section 29, chapter 72, Laws of 1967 as amended by section 98, chapter 81, Laws of 1971 and RCW 36.94.290 are each amended to read as follows:

The decision of the board of county commissioners upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of the board of county commissioners and with the clerk of the superior

court within ten days after the resolution confirming such assessment roll shall have become published, and such notice shall describe the property and set forth the objections of such appellant to such assessment. Within the ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court, a transcript consisting of the assessment roll and his objections thereto, together with the resolution confirming such assessment roll and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with sureties thereon as provided by law for appeals in civil cases, shall be filed conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, as aforesaid, the appellant shall give written notice to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time, not less than three days from the service thereof, when the appellant will call up the said cause for hearing. The superior court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury, and such cause shall have preference over all civil causes pending in said court, except proceedings under an act relating to eminent domain in such county and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have the custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision. ~~((An appeal shall lie to the supreme court or the court of appeals from))~~ Appellate review of the judgment of the superior court(;) may be sought as in other cases(;). However, ((such appeal)) review must be ((taken)) sought within fifteen days after the date of the entry of the judgment of such superior court(, and the record and opening brief of the appellant in said cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice as provided in this section. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation

~~of the parties concerned~~). The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 42. Section 15, chapter 311, Laws of 1981 and RCW 41.64.140 are each amended to read as follows:

(1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. ~~((Appeal shall be available to the employee to the supreme court or the court of appeals from))~~ Appellate review of the order of the superior court may be sought as in other civil cases.

Sec. 43. Section 49, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B.190 are each amended to read as follows:

Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, or within thirty days after an appeal has been denied after an informal hearing, such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court. In all appeals involving a decision or an order of the hearings board after an informal hearing, the petition shall be filed in the superior court for the county of the petitioner's residence or principal place of business, or in the absence of a residence or principal place of business, for Thurston county. Such appeal may be perfected by filing with the clerk of the superior court a notice of appeal, and by serving a copy thereof by mail, or personally on the director, the air pollution control boards or authorities, established pursuant to chapter 70.94 RCW or on the board as the case may be. The hearings board shall serve upon the appealing party, the director, the air pollution control board or authorities established pursuant to chapter 70.94 RCW, or the board, as the case may be, and on any other party appearing at the hearings board's proceeding, and file with the clerk of the court before trial, a certified copy of the hearings board's decision and order. ~~((Every appeal from))~~ Appellate review of a decision of the superior court ~~((shall go directly to the supreme court, notwithstanding RCW 2.06.030))~~ may be sought as in other civil cases. No bond shall be required on appeals to the superior court or on

~~((appeals to))~~ review by the supreme court unless specifically required by the judge of the superior court.

Sec. 44. Section 43.52.430, chapter 8, Laws of 1965 as last amended by section 10, chapter 184, Laws of 1977 ex. sess. and RCW 43.52.430 are each amended to read as follows:

Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. ~~((Appeal may be had to the supreme court or the court of appeals as in the case of civil appeals:))~~ Appellate review of the superior court's decision may be sought as in other civil cases.

Sec. 45. Section 47.32.060, chapter 13, Laws of 1961 as amended by section 180, chapter 7, Laws of 1984 and RCW 47.32.060 are each amended to read as follows:

At the time and place appointed for hearing upon the complaint, which hearing shall be by summary proceedings, if the court or judge thereof finds that due notice has been given by posting and publication and that the order of the department was duly made, and is further satisfied and finds that the state highway or portion thereof described is legally a state highway having the width of right of way specified in the order and that the structure, buildings, improvements, or other means of occupancy of the state highway or portion thereof as stated in the certificate of the department do in fact encroach, or that any portion thereof encroach, upon the state highway right of way, the court or judge thereof shall thereupon make and enter an order establishing that each of the structures, buildings, improvements, and other means of occupancy specified in the order is unlawfully maintained within the right of way and is subject to confiscation and sale and that they be forthwith confiscated, removed from the right of way, and sold, and providing that six days after the entry of the order, a writ shall issue from the court directed to the sheriff of the county, commanding the sheriff to seize and remove from the right of way of the state highway each such structure, building, improvement, or other means of occupancy specified in the order forthwith on receipt of a writ based on the order and to take and hold the property in his custody for a period of ten days, unless redelivered earlier as provided for by law, and if not then so redelivered to sell the property at public or private sale and to pay the proceeds thereof into the registry of the court within sixty days after the issuance of the writ, and further in such

action, including costs of posting original notices of the department, the costs of posting and publishing notices of hearing as part thereof and any cost of removal, be paid by the clerk to the state treasurer and credited to the motor vehicle fund. The order shall be filed with the clerk of the court and recorded in the minutes of the court, and is final unless appellate review thereof is ~~((taken to the supreme court of the state))~~ sought within five days after filing of the order.

Sec. 46. Section .31.19, chapter 79, Laws of 1947 as last amended by section 13, chapter 241, Laws of 1969 ex. sess. and RCW 48.31.190 are each amended to read as follows:

(1) Proceedings under this chapter involving a domestic insurer shall be commenced in the superior court for the county in which is located the insurer's home office. Proceedings under this chapter involving other insurers shall be commenced in the superior court for Thurston county.

(2) The commissioner shall commence any such proceeding, the attorney general representing him, by an application to the court or to any judge thereof, for an order directing the insurer to show cause why the commissioner should not have the relief prayed for.

(3) Upon a showing of an emergency or threat of imminent loss to policyholders of the insurer the court may issue an ex parte order authorizing the commissioner immediately to take over the premises and assets of the insurer, the commissioner then to preserve the status quo, pending a hearing on the order to show cause, which shall be heard as soon as the court calendar permits in preference to other civil cases.

(4) In response to any order to show cause issued under this chapter the insurer shall have the burden of going forward with and producing evidence to show why the relief prayed for by the commissioner is not required.

(5) On the return of such order to show cause, and after a full hearing, the court shall either deny the relief sought in the application or grant the relief sought in the application together with such other relief as the nature of the case and the interest of policyholders, creditors, stockholders, members, subscribers, or the public may require.

(6) No ~~((appeal taken from))~~ appellate review of a superior court order, entered after a hearing, granting the commissioner's petition to rehabilitate an insurer or to carry out an insolvency proceeding under this chapter, shall stay the action of the commissioner in the discharge of his responsibilities under this chapter, pending a decision by the appellate court in the matter.

(7) In any proceeding under this chapter the commissioner and his deputies shall be responsible on their official bonds for the faithful performance of their duties. If the court deems it desirable for the protection of the assets, it may at any time require an additional bond from the commissioner or his deputies.

Sec. 47. Section 21, chapter 37, Laws of 1957 as last amended by section 24, chapter 185, Laws of 1985 and RCW 49.60.260 are each amended to read as follows:

(1) The commission shall petition the court within the county wherein any unfair practice occurred or wherein any person charged with an unfair practice resides or transacts business for the enforcement of any final order which is not complied with and is issued by the commission or an administrative law judge under the provisions of this chapter and for appropriate temporary relief or a restraining order, and shall certify and file in court the final order sought to be enforced. Within five days after filing such petition in court, the commission shall cause a notice of the petition to be sent by registered mail to all parties or their representatives.

(2) From the time the petition is filed, the court shall have jurisdiction of the proceedings and of the questions determined thereon, and shall have the power to grant such temporary relief or restraining order as it deems just and suitable.

(3) If the petition shows that there is a final order issued by the commission or administrative law judge under RCW 49.60.240 or 49.60.250 and that the order has not been complied with in whole or in part, the court shall issue an order directing the person who is alleged to have not complied with the administrative order to appear in court at a time designated in the order, not less than ten days from the date thereof, and show cause why the administrative order should not be enforced according to the terms. The commission shall immediately serve the person with a copy of the court order and the petition.

(4) The administrative order shall be enforced by the court if the person does not appear, or if the person appears and the court finds that:

(a) The order is regular on its face;

(b) The order has not been complied with; and

(c) The person's answer discloses no valid reason why the order should not be enforced, or that the reason given in the person's answer could have been raised by review under RCW 34.04.130, and the person has given no valid excuse for failing to use that remedy.

(5) The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to ((a)) appellate review by the supreme court or the court of appeals, on appeal, by either party, irrespective of the nature of the decree or judgment. ((Such appeal)) The review shall be taken and prosecuted in the same manner and form and with the same effect as is provided in other cases ((of appeal to the supreme court or the court of appeals, and the record so certified shall contain all that was before the lower court)).

Sec. 48. Section 132, chapter 35, Laws of 1945 as amended by section 121, chapter 81, Laws of 1971 and RCW 50.32.160 are each amended to read as follows:

It shall be unlawful for any attorney engaged in any appeal to the courts on behalf of an individual involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits to charge or receive any fee therein in excess of a reasonable fee to be fixed by the superior court in respect to the services performed in connection with the appeal taken thereto and to be fixed by the supreme court or the court of appeals in the event of ~~((an appeal thereto))~~ appellate review, and if the decision of the commissioner shall be reversed or modified, such fee and the costs shall be payable out of the unemployment compensation administration fund. In the allowance of fees the court shall give consideration to the provisions of this title in respect to fees pertaining to proceedings involving an individual's application for initial determination, claim for waiting period credit, or claim for benefits. In other respects the practice in civil cases shall apply.

Sec. 49. Section 1, chapter 40, Laws of 1973 as last amended by section 6, chapter 109, Laws of 1982 and RCW 51.52.110 are each amended to read as follows:

Within thirty days after a decision of the board to deny the petition or petitions for review upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the final decision and order of the board upon such appeal has been communicated to such worker, beneficiary, employer or other person, or within thirty days after the appeal is denied as herein provided, such worker, beneficiary, employer or other person aggrieved by the decision and order of the board may appeal to the superior court. If such worker, beneficiary, employer, or other person fails to file with the superior court its appeal as provided in this section within said thirty days, the decision of the board to deny the petition or petitions for review or the final decision and order of the board shall become final.

In cases involving injured workers, an appeal to the superior court shall be to the superior court of the county of residence of the worker or beneficiary, as shown by the department's records, or to the superior court of the county wherein the injury occurred or where neither the county of residence nor the county wherein the injury occurred are in the state of Washington then the appeal may be directed to the superior court for Thurston county. In all other cases the appeal shall be to the superior court of Thurston county. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director and on the board. If the case is one involving a self-insurer, a copy of the notice of appeal shall also be served by mail, or personally, on such self-insurer. The department shall, in all cases not involving a self-insurer, within twenty days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. If the case is one involving a self-insurer, such self-insurer shall, within



twenty days after receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed to be at issue. In such cases the department may appear and take part in any proceedings. The board shall serve upon the appealing party, the director, the self-insurer if the case involves a self-insurer, and any other party appearing at the board's proceeding, and file with the clerk of the court before trial, a certified copy of the board's official record which shall include the notice of appeal and other pleadings, testimony and exhibits, and the board's decision and order, which shall become the record in such case. No bond shall be required on appeals to the superior court or on ~~((appeals to))~~ review by the supreme court or the court of appeals, except that an appeal by the employer from a decision and order of the board under RCW 51.48.070, shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the court, shall be filed, conditioned to perform the judgment of the court. Except in the case last named an appeal shall not be a stay: PROVIDED, HOWEVER, That whenever the board has made any decision and order reversing an order of the supervisor of industrial insurance on questions of law or mandatory administrative actions of the director, the department shall have the right of appeal to the superior court.

Sec. 50. Section 9, chapter 255, Laws of 1947 as amended by section 75, chapter 230, Laws of 1984 and RCW 52.22.101 are each amended to read as follows:

~~((An appeal from))~~ Appellate review of an order granting or refusing a new trial, or from the judgment, in the special proceedings must be taken by the party aggrieved within thirty days after the entry of the order or the judgment.

Sec. 51. Section 17, chapter 390, Laws of 1955 as last amended by section 123, chapter 81, Laws of 1971 and RCW 54.16.160 are each amended to read as follows:

Before approval of the roll, a notice shall be published once each week for two successive weeks in a newspaper of general circulation in the county, stating that the roll is on file and open to inspection in the office of the secretary, and fixing a time not less than fifteen nor more than thirty days from the date of the first publication of the notice, within which protests must be filed with the secretary against any assessments shown thereon, and fixing a time when a hearing shall be held by the commission on the protests. After the hearing the commission may alter any and all assessments shown on the roll and may, by resolution, approve it, but if an assessment is raised, a new notice, similar to the first, shall be given, and a hearing had thereon, after which final approval of the roll may be made. Any person aggrieved by the assessments shall perfect an appeal to the superior court of the county within ten days after the approval, in the manner provided for appeals from assessments levied by cities of the first class. In the event such

an appeal shall be taken, the judgment of the court shall confirm the assessment insofar as it affects the property of the appellant unless the court shall find from the evidence that such assessment is founded upon a fundamentally wrong basis and/or the decision of the commission thereon was arbitrary or capricious; in which event the judgment of the court shall correct, change, modify, or annul the assessment insofar as it affects the property of the appellant. In the same manner as provided with reference to cities of the first class (~~(an appeal shall lie to the supreme court or the court of appeals from)~~) appellate review of the judgment of the superior court may be sought, as in other cases, (~~(if taken)~~) within fifteen days after the date of the entry of the judgment in the superior court. Engineering, office, and other expenses necessary or incident to the improvement shall be borne by the public utility district: PROVIDED, That when a municipal corporation included in the public utility district already owns or operates a utility of a character like that for which the assessments are levied hereunder, all such engineering and other expenses shall be borne by the local assessment district.

Sec. 52. Section 1, chapter 142, Laws of 1959 as amended by section 124, chapter 81, Laws of 1971 and RCW 54.16.165 are each amended to read as follows:

Whenever any land against which there has been levied any special assessment by any public utility district shall have been sold in part or subdivided, the board of commissioners of such public utility district shall have the power to order a segregation of the assessment.

Any person owning any part of the land involved in a special assessment and desiring to have such special assessment against the tracts of land segregated to apply to smaller parts thereof shall apply in writing to the board of commissioners of the public utility district which levied the assessment. If the commissioners determine that a segregation should be made they shall do so as nearly as possible on the same basis as the original assessment was levied and the total of the segregated parts of the assessment shall equal the assessment before segregation.

The commission shall then send notice thereof by mail to the several owners interested in the tract, as shown on the general tax rolls. If no protest is filed within twenty days from date of mailing said notice, the commission shall then by resolution approve said segregation. If a protest is filed, the commission shall have a hearing thereon, after mailing to the several owners at least ten days notice of the time and place thereof. After the hearing, the commission may by resolution approve said segregation, with or without change. Within ten days after the approval, any person aggrieved by the segregation may perfect an appeal to the superior court of the county wherein the property is situated and (~~(therefrom to the supreme court or the court of appeals)~~) thereafter seek appellate review, all as provided for appeals from assessments levied by cities of the first class. The resolution

approving said segregation shall describe the original tract, the amount and date of the original assessment, and shall define the boundaries of the divided parts and the amount of the assessment chargeable to each part, and shall order the county treasurer to make segregation on the original assessment roll as directed in the resolution. A certified copy of the resolution shall be delivered to the county treasurer who shall proceed to make the segregation ordered. The board of commissioners may require as a condition to the order of segregation that the person seeking it pay the public utility district the reasonable engineering and clerical costs incident to making the segregation. Unless otherwise provided in said resolution, the county treasurer shall apportion amounts paid on the original assessment in the same proportion as the segregated assessments bear to the original assessment. Upon segregation being made by the county treasurer, as aforesaid, the lien of the special assessment shall apply to the segregated parcels only to the extent of the segregated part of such assessment.

Sec. 53. Section 13, chapter 114, Laws of 1929 as last amended by section 18, chapter 17, Laws of 1982 1st ex. sess. and RCW 57.16.090 are each amended to read as follows:

The decision of the water district commission upon any objections made within the time and in the manner herein prescribed, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the secretary of said water district commission and with the clerk of the superior court in the county in which the real property is situated within ten days after publication of a notice that the resolution confirming such assessment roll has been adopted, and such notice of appeal shall describe the property and set forth the objections of such appellant to such assessment; and within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of the court, a transcript consisting of the assessment roll and the appellant's objections thereto, together with the resolution confirming such assessment roll and the record of the water district commission with reference to the assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by the secretary of the water district commission certified by the secretary to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with at least two sureties, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful to pay all costs to which the water district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such

additional bond or bonds as the necessity of the case may require. Within three days after such transcript is filed in the superior court, the appellant shall give written notice to the secretary of such water district, that such transcript is filed. The notice shall state a time, not less than three days from the service thereof, when the appellant will call up the cause for hearing; and the superior court shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without a jury; and such cause shall have preference over all civil causes pending in the court, except proceedings under an act relating to eminent domain and actions of forcible entry and detainer. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, who shall modify and correct such assessment roll in accordance with such decision. ~~((An appeal shall lie to the supreme court or the court of appeals from))~~ Appellate review of the judgment of the superior court~~((;))~~ may be sought as in other civil cases~~((: PROVIDED, HOWEVER, That such appeal must be taken))~~. However, the review must be sought within fifteen days after the date of the entry of the judgment of such superior court~~((; and the record and opening brief of the appellant in the cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice. Provided in this title. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation of the parties concerned. The supreme court or the court of appeals on such appeal may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant))~~. A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 54. Section 49, chapter 231, Laws of 1909 as amended by section 127, chapter 81, Laws of 1971 and RCW 58.28.490 are each amended to read as follows:

~~((Appeals and writs of review may be prosecuted to the supreme court or the court of appeals from a superior court from))~~ Appellate review of the judgment or orders of the superior court in all cases arising under this chapter or said acts of congress may be sought as in other civil cases ~~((and the general statutes as to the commencement of actions, bringing the same to trial, making an entry of judgment, the taking and perfecting appeals, and the making up of the records on appeal and relating to writs of review in the superior court, court of appeals, and supreme court, and all other procedure in the superior court, court of appeals, and supreme court shall be applicable to actions under this chapter and under said acts of congress))~~.

Sec. 55. Section 22, chapter 96, Laws of 1891 as amended by section 128, chapter 81, Laws of 1971 and RCW 59.12.200 are each amended to read as follows:

~~((If either))~~ A party ((feels)) aggrieved by the judgment ((he)) may ((appeal to the supreme court or the court of appeals,)) seek appellate review of the judgment as in other civil actions: PROVIDED, That if the defendant appealing desires a stay of proceedings pending ~~((such appeal, he))~~ review, the defendant shall execute and file a bond, with two or more sufficient sureties to be approved by the judge, conditioned to abide the order of the court ~~((on such appeal)),~~ and to pay all rents and other damages justly accruing to the plaintiff during the pendency of the ~~((appeal))~~ proceeding.

Sec. 56. Section 27, chapter 250, Laws of 1907 as amended by section 132, chapter 81, Laws of 1971 and RCW 65.12.175 are each amended to read as follows:

If the court, after hearing, finds that the applicant has title, whether as stated in his application or otherwise, proper for registration, a decree of confirmation of title and registration shall be entered. Every decree of registration shall bind the land, and quiet the title thereto, except as herein otherwise provided, and shall be forever binding and conclusive upon all persons, whether mentioned by name in the application, or included in "all other persons or parties unknown claiming any right, title, estate, lien or interest in, to, or upon the real estate described in the application herein", and such decree shall not be opened by reason of the absence, infancy or other disability of any person affected thereby, nor by any proceeding at law, or in equity, for reversing judgments or decrees, except as herein especially provided. ~~((An appeal may be taken to the supreme court or the court of appeals of the state of Washington, within the same time, upon like notice, terms and conditions as are now provided for the taking of appeals from the superior court to the supreme court or the court of appeals of the state of Washington))~~ Appellate review of the court's decision may be sought as in other civil actions.

*\*Sec. 57. Section 72.33.240, chapter 28, Laws of 1959 as last amended by section 61, chapter 80, Laws of 1977 ex. sess. and RCW 72.33.240 are each amended to read as follows:*

*Any parent, guardian, limited guardian, or other court appointed personal representative feeling aggrieved by an adverse decision pertaining to admission, placement, or discharge of his ward may apply to the secretary in writing within thirty days of notification of the decision for a review and reconsideration of the decision. An administrative hearing shall be held within ten days from the date of receipt of the written request for review. In the event of an unfavorable ruling by the secretary, such parent, guardian, limited guardian, or other court appointed personal representative may institute proceedings in the superior court of the state of Washington in the county of residence of such parent or guardian, otherwise in Thurston county, and have*

*such decision reviewed and its correctness, reasonableness, and lawfulness decided in an appeal heard as in initial proceeding on an original application. Said parent, guardian, limited guardian, or other court appointed personal representative (~~shall have the right to appeal from~~) may seek appellate review of the decision of the superior court (~~to the supreme court or the court of appeals of the state of Washington,~~) as in other civil cases.*

\*Sec. 57 was vetoed, see message at end of chapter.

Sec. 58. Section 74.08.080, chapter 26, Laws of 1959 as last amended by section 136, chapter 81, Laws of 1971 and RCW 74.08.080 are each amended to read as follows:

In the event an appellant feels himself aggrieved by the decision rendered in the hearing provided for in RCW 74.08.070, he shall have the right to petition the superior court for judicial review in accordance with the provisions of chapter 34.04 RCW, as now or hereafter amended. Either party may (~~appeal from~~) seek appellate review of the decision of the superior court (~~to the supreme court or the court of appeals of the state~~): PROVIDED, That no filing fee shall be collected of the appellant and no bond shall be required on any (~~appeal~~) review under this chapter. In the event that the superior court, the court of appeals, or the supreme court renders a decision in favor of the appellant, said appellant shall be entitled to reasonable attorney's fees and costs. If a decision of the court is made in favor of the appellant, assistance shall be paid from date of the denial of the application or forty-five days following the date of application, whichever is sooner; or in the case of a recipient, from the effective date of the initial departmental county office decision.

Sec. 59. Section 125, chapter 255, Laws of 1927 as amended by section 139, chapter 81, Laws of 1971 and RCW 79.01.500 are each amended to read as follows:

Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling himself aggrieved by any order or decision of the board of state land commissioners, or the commissioner of public lands, concerning the same, may appeal therefrom to the superior court of the county in which such lands or materials are situated, by serving upon all parties who have appeared in the proceedings in which the order or decision was made, or their attorneys, a written notice of appeal, and filing such notice, with proof, or admission, of service, with the board, or the commissioner, within thirty days from the date of the order or decision appealed from, and at the time of filing the notice, or within five days thereafter, filing a bond to the state, in the penal sum of two hundred dollars, with sufficient sureties, to be approved by the secretary of the board, or the commissioner, conditioned that the appellant shall pay all costs that may be awarded against him on appeal, or the dismissal thereof. Within thirty days after the filing of notice of appeal, the secretary of the board, or

the commissioner, shall certify, under official seal, a transcript of all entries in the records of the board, or the commissioner, together with all processes, pleadings and other papers relating to and on file in the case, except evidence used in such proceedings, and file such transcript and papers, at the expense of the applicant, with the clerk of the court to which the appeal is taken. The hearing and trial of said appeal in the superior court shall be de novo before the court, without a jury, upon the pleadings and papers so certified, but the court may order the pleadings to be amended, or new and further pleadings to be filed. Costs on appeal shall be awarded to the prevailing party as in actions commenced in the superior court, but no costs shall be awarded against the state, the board, or the commissioner. Should judgment be rendered against the appellant, the costs shall be taxed against him and his sureties on the appeal bond, except when the state is the only adverse party, and shall be included in the judgment, upon which execution may issue as in other cases. Any party feeling himself aggrieved by the judgment of the superior court may ~~((appeal therefrom to the supreme court or the court of appeals of the state, in the manner, and within the time, for appealing from judgments in actions at law))~~ seek appellate review as in other civil cases. Unless ~~((appeal be taken from))~~ appellate review of the judgment of the superior court is sought, the clerk of said court shall, on demand, certify, under his hand and the seal of the court, a true copy of the judgment, to the board, or the commissioner, which judgment shall thereupon have the same force and effect as if rendered by the board, or the commissioner. In all cases of appeals from orders or decisions of the commissioner of public lands involving the prior right to purchase tidelands of the first class, if the appeal be not prosecuted, heard and determined, within two years from the date of the appeal, the attorney general shall, after thirty days' notice to the appellant of his intention so to do, move the court for a dismissal of the appeal, but nothing herein shall be construed to prevent the dismissal of such appeal at any time in the manner provided by law.

Sec. 60. Section 80.04.190, chapter 14, Laws of 1961 as amended by section 4, chapter 107, Laws of 1971 ex. sess. and RCW 80.04.190 are each amended to read as follows:

The commission, any public service company or any complainant may, after the entry of judgment in the superior court in any action of review, ~~((prosecute an appeal to the supreme court or the court of appeals of the state of Washington))~~ seek appellate review as in other cases.

Sec. 61. Section 80.04.260, chapter 14, Laws of 1961 as amended by section 140, chapter 81, Laws of 1971 and RCW 80.04.260 are each amended to read as follows:

Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or

about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for the appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. (~~An appeal may be taken to the supreme court or the court of appeals from such~~) Appellate review of the final judgment may be sought in the same manner and with the same effect as (~~appeals from~~) review of judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of (~~appeal~~) review, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court or the court of appeals under the provisions of this section.

Sec. 62. Section 14, chapter 45, Laws of 1970 ex. sess. as last amended by section 3, chapter 64, Laws of 1981 and RCW 80.50.140 are each amended to read as follows:

(1) A final decision pursuant to RCW 80.50.100 on an application for certification shall be subject to judicial review pursuant to provisions of chapter 34.04 RCW and this section. Petitions for review of such a decision shall be filed in the Thurston county superior court. All petitions for review of a decision under RCW 80.50.100 shall be consolidated into a single proceeding before the Thurston county superior court. The Thurston county superior court shall certify the petition for review to the supreme court upon the following conditions:

(a) Review can be made on the administrative record;



(b) Fundamental and urgent interests affecting the public interest and development of energy facilities are involved which require a prompt determination;

(c) (~~(An appeal to)~~) Review by the supreme court would likely be ~~((made))~~ sought regardless of the determination of the Thurston county superior court; and

(d) The record is complete for review.

The Thurston county superior court shall assign a petition for review of a decision under RCW 80.50.100 for hearing at the earliest possible date and shall expedite such petition in every way possible. If the court finds that review cannot be limited to the administrative record as set forth in subparagraph (a) of this subsection because there are alleged irregularities in the procedure before the council not found in the record, but finds that the standards set forth in subparagraphs (b), (c), and (d) of this subsection are met, the court shall proceed to take testimony and determine such factual issues raised by the alleged irregularities and certify the petition and its determination of such factual issues to the supreme court. Upon certification, the supreme court shall assign the petition for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible.

(2) Objections raised by any party in interest concerning procedural error by the council shall be filed with the council within sixty days of the commission of such error, or within thirty days of the first public hearing or meeting of the council at which the general subject matter to which the error is related is discussed, whichever comes later, or such objection shall be deemed waived for purposes of judicial review as provided in this section.

(3) The rules and regulations adopted by the council shall be subject to judicial review pursuant to the provisions of chapter 34.04 RCW.

Sec. 63. Section 81.04.190, chapter 14, Laws of 1961 as amended by section 5, chapter 107, Laws of 1971 ex. sess. and RCW 81.04.190 are each amended to read as follows:

The commission, any public service company or any complainant may, after the entry of judgment in the superior court in any action of review, (~~((prosecute an appeal to the supreme court or the court of appeals of the state of Washington))~~) seek appellate review as in other cases.

Sec. 64. Section 81.04.260, chapter 14, Laws of 1961 as amended by section 143, chapter 81, Laws of 1971 and RCW 81.04.260 are each amended to read as follows:

Whenever the commission shall be of opinion that any public service company is failing or omitting, or about to fail or omit, to do anything required of it by law, or by order, direction or requirement of the commission, or is doing anything, or about to do anything, or permitting anything, or about to permit anything to be done contrary to or in violation of law or of any order, direction or requirement of the commission authorized by this title, it shall direct the attorney general to commence an action or proceeding

in the superior court of the state of Washington for Thurston county, or in the superior court of any county in which such company may do business, in the name of the state of Washington on the relation of the commission, for the purpose of having such violations or threatened violations stopped and prevented, either by mandamus or injunction. The attorney general shall thereupon begin such action or proceeding by petition to such superior court, alleging the violation complained of, and praying for appropriate relief by way of mandamus or injunction. It shall thereupon be the duty of the court to specify a time, not exceeding twenty days after the service of the copy of the petition, within which the public service company complained of must answer the petition. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct, without other or formal pleadings, and without respect to any technical requirement. Such persons or corporations as the court may deem necessary or proper to be joined as parties, in order to make its judgment, order or writ effective, may be joined as parties. The final judgment in any such action or proceeding shall either dismiss the action or proceeding or direct that the writ of mandamus or injunction, or both, issue as prayed for in the petition, or in such other modified form as the court may determine will afford appropriate relief. ~~((An appeal may be taken to the supreme court or the court of appeals from such))~~ Appellate review of the final judgment may be sought in the same manner and with the same effect as ~~((appeals from))~~ review of judgments of the superior court in actions to review orders of the commission. All provisions of this chapter relating to the time of ~~((appeal))~~ review, the manner of perfecting the same, the filing of briefs, hearings and supersedeas, shall apply to appeals to the supreme court or the court of appeals under the provisions of this section.

Sec. 65. Section 81.53.130, chapter 14, Laws of 1961 as amended by section 144, chapter 81, Laws of 1971 and RCW 81.53.130 are each amended to read as follows:

In the construction of new railroads across existing highways, the railroads shall do or cause to be done all the work of constructing the crossings and road changes that may be required, and shall acquire and furnish whatever property or easements may be necessary, and shall pay, as provided in RCW 81.53.100 through 81.53.120, the entire expense of such work including all compensation or damages for property or property rights taken, damaged or injuriously affected. In all other cases the construction work may be apportioned by the commission between the parties who may be required to contribute to the cost thereof as the parties may agree, or as the commission may consider advisable. All work within the limits of railroad rights of way shall in every case be done by the railroad company owning or operating the same. The cost of acquiring additional lands, rights or easements to provide for the change of existing crossings shall, unless the

parties otherwise agree, in the first instance be paid by the municipality or county within which the crossing is located; or in the case of a state road or parkway, shall be paid in the manner provided by law for paying the cost of acquiring land, rights or easements for the construction of state roads or parkways. The expense accruing on account of property taken or damaged shall be divided and paid in the manner provided for dividing and paying other costs of construction. Upon the completion of the work and its approval by the commission, an accounting shall be had, and if it shall appear that any party has expended more than its proportion of the total cost, a settlement shall be forthwith made. If the parties shall be unable to agree upon a settlement, the commission shall arbitrate, adjust and settle the account after notice to the parties. In the event of failure and refusal of any party to pay its proportion of the expense, the sum with interest from the date of the settlement may be recovered in a civil action by the party entitled thereto. In cases where the commission has settled the account, the finding of the commission as to the amount due shall be conclusive in any civil action brought to recover the same if such finding has not been reviewed or appealed from as herein provided, and the time for review or appeal has expired. If any party shall seek review ~~((or appeal from))~~ of any finding or order of the commission apportioning the cost between the parties liable therefor, the superior court, the court of appeals, or the supreme court, as the case may be, shall cause judgment to be entered in such review proceedings for such sum or sums as may be found lawfully or justly due by one party to another.

Sec. 66. Section 81.53.170, chapter 14, Laws of 1961 as amended by section 145, chapter 81, Laws of 1971 and RCW 81.53.170 are each amended to read as follows:

Upon the petition of any party to a proceeding before the commission, any finding or findings, or order or orders of the commission, made under color of authority of this chapter, except as otherwise provided, may be reviewed in the superior court of the county wherein the crossing is situated, and the reasonableness and lawfulness of such finding or findings, order or orders inquired into and determined, as provided in this title for the review of the commission's orders generally. ~~((An appeal may be taken to the supreme court or the court of appeals from))~~ Appellate review of the judgment of the superior court may be sought in like manner as provided in said utilities and transportation commission law for ~~((appeals to))~~ review by the supreme court or the court of appeals.

Sec. 67. Section 82.32.180, chapter 15, Laws of 1961 as last amended by section 148, chapter 81, Laws of 1971 and RCW 82.32.180 are each amended to read as follows:

Any person, except one who has failed to keep and preserve books, records, and invoices as required in this chapter and chapter 82.24 RCW, having paid any tax as required and feeling aggrieved by the amount of the

tax may appeal to the superior court of Thurston county, within the time limitation for a refund provided in chapter 82.32 RCW. In the appeal the taxpayer shall set forth the amount of the tax imposed upon him which he concedes to be the correct tax and the reason why the tax should be reduced or abated. The appeal shall be perfected by serving a copy of the notice of appeal upon the department within the time herein specified and by filing the original thereof with proof of service with the clerk of the superior court of Thurston county. Within ten days after filing notice of appeal, the taxpayer shall file with the clerk of the superior court a good and sufficient surety bond payable to the state in the sum of two hundred dollars, conditioned to diligently prosecute the appeal and pay the state all costs that may be awarded if the appeal of the taxpayer is not sustained.

The trial in the superior court on appeal shall be de novo and without the necessity of any pleadings other than the notice of appeal. The burden shall rest upon the taxpayer to prove that the tax as paid by him is incorrect, either in whole or in part, and to establish the correct amount of the tax. In such proceeding the taxpayer shall be deemed the plaintiff, and the state, the defendant; and both parties shall be entitled to subpoena the attendance of witnesses as in other civil actions and to produce evidence that is competent, relevant, and material to determine the correct amount of the tax that should be paid by the taxpayer. Either party (~~shall be allowed to appeal to the supreme court or the court of appeals~~) may seek appellate review in the same manner as other civil actions are appealed to those courts.

It shall not be necessary for the taxpayer to protest against the payment of any tax or to make any demand to have the same refunded or to petition the director for a hearing in order to appeal to the superior court, but no court action or proceeding of any kind shall be maintained by the taxpayer to recover any tax paid, or any part thereof, except as herein provided.

The provisions of this section shall not apply to any tax payment which has been the subject of an appeal to the board of tax appeals with respect to which appeal a formal hearing has been elected.

Sec. 68. Section 84.28.080, chapter 15, Laws of 1961 as last amended by section 152, chapter 81, Laws of 1971 and RCW 84.28.080 are each amended to read as follows:

Whenever the department or the department of revenue shall enter an order or decision with respect to classification or declassification of forest lands under this chapter, the owner of such lands, the department, the county assessor of the county in which such lands are located, or the taxpayers in a case arising under RCW 84.28.060, may, within thirty days following the entry of such order or decision, appeal to the superior court of the county within which such lands are situated for a review of the order or decision of the department or of the department of revenue. The appeal

shall be perfected in the same manner as is provided by law for appeals from decisions of the department of revenue. Upon such appeal, the superior court shall sit without a jury, shall receive evidence de novo and shall determine the correct classification of the lands involved in accordance with the requirements of this chapter. The decision of the superior court shall be subject to ~~((appeal and))~~ appellate review ~~((in the supreme court or the court of appeals))~~ in the same manner ~~((and by the same procedure))~~ as appeals are taken and perfected in civil actions at law. Upon ~~((appeal from))~~ review of any order or decisions of the department or the department of revenue and pending the dismissal or final determination of such ~~((appeal))~~ review, the lands involved shall be assessed and taxed in the same manner as they were assessed and taxed prior to the effective date of such order or decision.

Sec. 69. Section 84.28.110, chapter 15, Laws of 1961 as last amended by section 153, chapter 81, Laws of 1971 and RCW 84.28.110 are each amended to read as follows:

Whenever the whole or any part of the forest crop shall be cut upon any lands classified and assessed as reforestation lands under the provisions of this chapter, the owner of such lands shall, on or before the fifteenth day of February of each year, report under oath to the assessor of the county in which such lands are located, the amount of such timber or other forest crop cut during the preceding twelve months, in units of measure in conformity with the usage for which the cutting was made, together with a description, by government legal subdivisions, of the lands upon which the same were cut. If no such report of cutting is made, or if the assessor shall believe the report to be inaccurate, incorrect or mistaken, the assessor may by such methods as shall be deemed advisable, determine the amount of timber or other forest product cut during such period. As soon as the report is filed, if the assessor is satisfied with the accuracy of the report, or if dissatisfied, as soon as the assessor shall have determined the amount of timber or forest crop cut as herein provided, the assessor shall determine the full current stumpage rates for the timber or forest crop cut and shall thereupon compute, and there shall become due and payable from the owner, a yield tax equal to twelve and one-half percent of the market value of the timber or forest crop so cut, based upon the full current stumpage rates so fixed by the assessor: **PROVIDED**, Whenever within the period of twelve years following the classification of any lands as reforestation lands, any forest material shall be cut on such lands, the owner thereof shall be required to pay a yield tax of one percent for each year that has expired from the date of such classification until such cutting: **PROVIDED, FURTHER**, That no yield tax need be paid on any forest material cut for domestic use of the owner of such lands, or on materials necessarily used in harvesting the forest crop.

Whenever the owner is dissatisfied with the determination of the amount cut as made by the assessor, or with the full current stumpage rates as fixed by the assessor, and shall pay the tax based thereon under protest, such owner may maintain an action in the superior court of the county in which the lands are located for recovery of the amount of the tax paid in excess of what the owner alleges the tax would be if based upon a cutting or stumpage rate which the owner alleges to be correct. In any such action the county involved and the county assessor of the county, shall be joined as parties defendant, but in case a recovery is allowed, judgment shall be entered against the county only, to be charged against the funds to which the collected tax was paid. In such action the court shall determine, in accordance with the issues, the true and correct amount of timber and forest crop which has been cut, and if an issue in the case, the true and correct full current stumpage rates, and shall enter judgment accordingly, either dismissing the action, or allowing recovery based upon its determination of the amount of timber or forest crop cut and if in issue, the full current stumpage rate. The judgment of the superior court shall be subject to ~~((appeal to the supreme court or the court of appeals))~~ appellate review in the same manner and by the same procedure as appeals are taken and perfected in civil actions at law.

Sec. 70. Section 84.64.120, chapter 15, Laws of 1961 as amended by section 154, chapter 81, Laws of 1971 and RCW 84.64.120 are each amended to read as follows:

~~((Appeals from))~~ Appellate review of the judgment of the superior court may be ~~((taken to the supreme court or the court of appeals at any time))~~ sought as in other civil cases. However, review must be sought within thirty days after the ~~((rendition of said))~~ entry of the judgment ~~((by giving notice thereof orally in open court at the time of the rendition of the judgment, or by giving written notice thereof at any time thereafter, and within thirty days from the date of the rendition of such judgment;))~~ and the party taking such appeal shall execute, serve and file a bond payable to the state of Washington, with two or more sureties, to be approved by the court, in an amount to be fixed by the court, conditioned that the appellant shall prosecute his said appeal with effect, and will pay the amount of any taxes, interest and costs which may be finally adjudged against the real property involved in the appeal by any court having jurisdiction of the cause, which bond shall be so served and filed at the time of the service of said notice of appeal, and the respondent may, within five days after the service of such bond, object to the sureties thereon, or to the form and substance of such bond, in the court in which the action is pending, and if, upon hearing of such objections to said bond, it is determined by the court that the sureties thereon are insufficient for any reason, or that the bond is defective for any other reason, the court shall direct a new bond to be executed with sureties thereon, to be justified as provided by law, but no appeal shall be allowed

from any judgment for the sale of land or lot for taxes, and no bond given on appeal as herein provided shall operate as a supersedeas, unless the party taking such appeal shall before the time of giving notice of such appeal, and within thirty days herein allowed within which to appeal, deposit with the county treasurer of the county in which the land or lots are situated, an amount of money equal to the amount of the judgment and costs rendered in such cause by the trial court. If, in case of an appeal, the judgment of the lower court shall be affirmed, in whole or in part, the supreme court or the court of appeals shall enter judgment for the amount of taxes, interest and costs, with damages not to exceed twenty percent, and shall order that the amount deposited with the treasurer as aforesaid, or so much thereof as may be necessary, be credited upon the judgment so rendered, and execution shall issue for the balance of said judgment, damages and costs. The clerk of the supreme court or the clerk of the division of the court of appeals in which the appeal is pending shall transmit to the county treasurer of the county in which the land or lots are situated a certified copy of the order of affirmance, and it shall be the duty of such county treasurer upon receiving the same to apply so much of the amount deposited with him, as aforesaid, as shall be necessary to satisfy the amount of the judgment of the supreme court, and to account for the same as collected taxes. If the judgment of the superior court shall be reversed and the cause remanded for a rehearing, and if, upon a rehearing, judgment shall be rendered for the sale of the land or lots for taxes, or any part thereof, and such judgment be not appealed from, as herein provided, the clerk of such superior court shall certify to the county treasurer the amount of such judgment, and thereupon it shall be the duty of the county treasurer to certify to the county clerk the amount deposited with him, as aforesaid, and the county clerk shall credit such judgment with the amount of such deposit, or so much thereof as will satisfy the judgment, and the county treasurer shall be chargeable and accountable for the amount so credited as collected taxes. Nothing herein shall be construed as requiring an additional deposit in case of more than one appeal being prosecuted in said proceeding. If, upon a final hearing, judgment shall be refused for the sale of the land or lots for the taxes, penalties, interest and costs, or any part thereof, in said proceedings, the county treasurer shall pay over to the party who shall have made such deposit, or his legally authorized agent or representative, the amount of the deposit, or so much thereof as shall remain after the satisfaction of the judgment against the land or lots in respect to which such deposit shall have been made.

Sec. 71. Section 84.64.400, chapter 15, Laws of 1961 as amended by section 155, chapter 81, Laws of 1971 and RCW 84.64.400 are each amended to read as follows:

Any person aggrieved by the judgment rendered in such action (~~shall have the right to appeal from~~) may seek appellate review of the part of said judgment objectionable to him (~~to the supreme court or the court of~~

~~appeals of the state substantially))~~ in the manner and within the time prescribed for appeals in RCW 84.64.120.

Sec. 72. Section 10, chapter 153, Laws of 1915 as amended by section 156, chapter 81, Laws of 1971 and RCW 85.05.079 are each amended to read as follows:

Either the dike commissioners or any landowner who has appealed to the superior court in accordance with the provisions of this act (~~shall have a right to appeal to the supreme court or the court of appeals~~) may seek appellate review within the time and in the manner prescribed by existing law.

Sec. 73. Section 6, chapter 342, Laws of 1955 as amended by section 158, chapter 81, Laws of 1971 and RCW 85.05.470 are each amended to read as follows:

Any protestant who filed a protest prior to the final order of the board, may appeal from such final order, but to do so must within ten days from the date said order was entered, bring direct action in the superior court in the county wherein such district or portion thereof is situated, against such board of commissioners in their official capacity, which action shall be prosecuted under the procedure of civil actions, with (~~right of appeal to the supreme court or the court of appeals~~) appellate review as provided in civil actions. In any such action so brought, the order of the board shall be conclusive of the regularity and propriety of the proceedings, and all other matters, except it shall be open to attack upon the ground of fraud, unfair dealing, arbitrary or unreasonable action of the board.

Sec. 74. Section 9, chapter 67, Laws of 1903 and RCW 85.06.630 are each amended to read as follows:

From any final order entered by the said superior court as above provided for, any party to said proceeding feeling himself aggrieved thereby may (~~take an appeal to the supreme court of the state of Washington~~) seek appellate review, as provided by the general appeal law of this state.

Sec. 75. Section 3, chapter 170, Laws of 1935 as amended by section 160, chapter 81, Laws of 1971 and RCW 85.06.660 are each amended to read as follows:

Whenever the board of commissioners of any district desire to exercise any of the foregoing powers under this act, it shall pass a resolution declaring its intention to do so, which shall describe in general terms the proposed improvement to be undertaken. The resolution shall set a date upon which the board shall meet to determine whether such work shall be done. Thereafter a copy of such declaratory resolution and a notice of hearing shall be posted by the secretary or member of the board, in three public places in such district at least ten days before the date of hearing. The notice shall state the time and place of hearing and that plans therefor are on file with the secretary of the board subject to inspection by any party interested.



Any property owner affected by such proposed improvement, or any property owner within such district, may appear at said hearing and object to said proposed improvement by filing a written protest against the proposed action of the board. The protest shall clearly state the basis thereof. At such hearing, which shall be public, the board shall give full consideration to the proposed project and all protests filed, and on said date or any adjourned date, take final action thereon. If protests be filed before said hearing by owners of more than forty percent of the property in said district, the board shall not have power to make the proposed improvement nor again initiate the same for one year. If the board determines to proceed with such project in its original or modified form, it shall thereupon adopt a resolution so declaring and adopt general plans therefor, which resolution may authorize the acquisition by condemnation, or otherwise, of the necessary rights and properties to complete the same. Any protestant who filed a written protest prior to said hearing may appeal from the order of the board, but to do so must, within ten days from the date of entering of such order, bring direct action in the superior court of the state of Washington in the county wherein such district is situated, against such board of directors in their official capacity, which action shall be prosecuted under the procedure for civil actions, with the right of ~~((appeal to the supreme court or the court of appeals))~~ appellate review, as provided in other civil actions. In any action so brought, the order of the board shall be conclusive of the regularity and propriety of the proceedings and all other matters except it shall be open to attack upon the ground of fraud, unfair dealing, arbitrary, or unreasonable action of the board.

Sec. 76. Section 5, chapter 187, Laws of 1921 as amended by section 161, chapter 81, Laws of 1971 and RCW 85.06.750 are each amended to read as follows:

Upon the return of the verdict of the jury as provided in the preceding section, if it shall appear to the court that the total benefits found by the jury to have accrued to the lands of the district is equal to or exceeds the actual cost of the improvement including the increased cost of completing the same, the court shall enter its judgment in accordance therewith, as supplemental to and in lieu of the original decree fixing the benefits to the respective tracts of land, and thereafter the assessment and levy for the original cost of the construction of the improvement, including the indebtedness incurred for completing the improvement together with interest at the legal rate on the warrants issued therefor, and all assessments and levies if any, for the future maintenance of the drainage system described in the judgment shall be based upon the respective benefits determined and assessed against the respective tracts of land as specified in the judgment. Every person or corporation feeling himself or itself aggrieved by any such judgment may ~~((appeal therefrom to the supreme court or the court of appeals))~~ seek appellate review within thirty days after the entry thereof, and

such ~~((appeal))~~ review shall bring before the ~~((supreme court or the court of appeals))~~ appellate court the propriety and justness of the verdict of the jury in respect to the parties to the ~~((appeal))~~ proceeding.

Sec. 77. Section 1, chapter 157, Laws of 1921 as amended by section 162, chapter 81, Laws of 1971 and RCW 85.08.440 are each amended to read as follows:

The decision of the board of county commissioners upon any objections made within the time and in the manner prescribed in RCW 85.08.400 through 85.08.430, may be reviewed by the superior court upon an appeal thereto taken in the following manner. Such appeal shall be made by filing written notice of appeal with the clerk of such board and with the clerk of the superior court of the county in which such drainage or diking improvement district is situated, or in case of joint drainage or diking improvement districts with the clerk of the court of the county in which the greater length of such drainage or diking improvement system lies, within ten days after the order confirming such assessment roll shall have become effective, and such notice shall describe the property and set forth the objections of such appellant to such assessment; and, within ten days from the filing of such notice of appeal with the clerk of the superior court, the appellant shall file with the clerk of said court a transcript consisting of the assessment roll and his objections thereto, together with the order confirming such assessment roll, and the record of the board of county commissioners with reference to said assessment, which transcript, upon payment of the necessary fees therefor, shall be furnished by such clerk of the board of county commissioners, and by him certified to contain full, true and correct copies of all matters and proceedings required to be included in such transcript. Such fees shall be the same as the fees payable to the county clerk for the preparation and certification of transcripts on appeal to the supreme court or the court of appeals in civil actions. At the time of the filing of the notice of appeal with the clerk of the superior court, the appellant shall execute and file with the clerk of the superior court a sufficient bond in the penal sum of two hundred dollars, with good and sufficient surety, to be approved by the judge of said court, conditioned to prosecute such appeal without delay, and if unsuccessful, to pay all costs to which the county or the drainage or diking improvement district is put by reason of such appeal. The court may order the appellant upon application therefor, to execute and file such additional bond or bonds as the necessity of the case may require; within three days after such transcript is filed in the superior court as aforesaid, the appellant shall give written notice to the prosecuting attorney of the county, and to the clerk of the board of county commissioners that such transcript is filed. Said notice shall state a time (not less than three days from the service thereof) when the appellant will call up the said cause for hearing; and the superior court of said county shall, at said time or at such further time as may be fixed by order of the court, hear and determine such appeal without

a jury. The judgment of the court shall confirm, correct, modify or annul the assessment insofar as the same affects the property of the appellant. A certified copy of the decision of the court shall be filed with the officer who shall have custody of the assessment roll, and he shall modify and correct such assessment roll in accordance with such decision. (~~An appeal shall lie to the supreme court or the court of appeals from~~) Appellate review of the judgment of the superior court may be sought as in other civil cases(~~: PROVIDED, HOWEVER, That such appeal must be taken~~). However, the review must be sought within fifteen days after the date of the entry of the judgment of such superior court(~~(; and the record and opening brief of the appellant in said cause shall be filed in the supreme court or the court of appeals within sixty days after the appeal shall have been taken by notice as provided in this chapter. The time for filing such record and serving and filing of briefs in this section prescribed may be extended by order of the superior court, or by stipulation of the parties concerned. And the supreme court or the court of appeals, on such appeal, may correct, change, modify, confirm or annul the assessment insofar as the same affects the property of the appellant~~)). A certified copy of the order of the supreme court or the court of appeals upon such appeal shall be filed with the officer having custody of such assessment roll, who shall thereupon modify and correct such assessment roll in accordance with such decision.

Sec. 78. Section 14, chapter 184, Laws of 1967 as amended by section 163, chapter 81, Laws of 1971 and RCW 85.15.130 are each amended to read as follows:

(~~An appeal shall lie to the supreme court or the court of appeals from the superior court~~) Appellate review may be sought as in other civil cases: PROVIDED, That (~~(such appeal must be taken)~~) review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals may change, conform, correct, or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county treasurer having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such judgment as and if required.

Sec. 79. Section 14, chapter 26, Laws of 1949 as amended by section 164, chapter 81, Laws of 1971 and RCW 85.16.190 are each amended to read as follows:

The decision of the board upon any objections to the determination of benefits and/or apportionment of costs and/or the levy of the assessments therefor, made within the time and in the manner prescribed in RCW 85.16.130, may be reviewed by (~~(appeal to)~~) the superior court of the county in which the district is situated and thereafter (~~(to)~~) by the supreme court or the court of appeals within the time and in the manner and upon the conditions, so far as applicable, provided in RCW 85.08.440, with respect to

appeals from and appellate review of the board's apportionment of the cost of construction of the district's system of improvements. The provisions of RCW 85.08.450, shall be controlling as to the regularity, validity, and conclusiveness of all the proceedings hereunder.

Sec. 80. Section 16, chapter 26, Laws of 1949 as amended by section 165, chapter 81, Laws of 1971 and RCW 85.16.210 are each amended to read as follows:

At such hearing, which may be adjourned from time to time as may be necessary to give all persons interested or affected a reasonable opportunity to be heard, and after consideration of all evidence offered and all factors, situations and conditions bearing upon or determinative of the benefits accruing and to accrue to such pieces or parcels of property, the board shall correct, revise, raise, lower, or otherwise change or confirm the benefits as theretofore determined, in respect of such pieces or parcels of property, as to it shall seem fair, just and equitable under the circumstances, and thereafter such proceedings shall be had with respect to the confirmation or determination of the benefits and making and filing of a roll thereof, as are in RCW 85.16.130, 85.16.150 and 85.16.160 provided. Any property owner affected by any change thus made in the determination of benefits accruing to his property who shall have appeared at the hearing by the board and made written objections thereto as provided in RCW 85.16.130, may appeal from the action of the board to the superior court and ~~((thence to))~~ seek appellate review by the supreme court or the court of appeals, within the time, in the manner and upon the conditions, so far as applicable, provided in RCW 85.08.440, with respect to appeals from the order of the board confirming the apportionment of the original cost of construction.

Sec. 81. Section 15, chapter 45, Laws of 1951 as amended by section 166, chapter 81, Laws of 1971 and RCW 85.18.140 are each amended to read as follows:

~~((An appeal shall lie to the supreme court or the court of appeals from the superior court))~~ Appellate review may be sought as in other civil cases: **PROVIDED, HOWEVER, That** ~~((such appeal must be taken))~~ review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals, on such appeal, may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision if required.

Sec. 82. Section 6, chapter 225, Laws of 1909 as amended by section 167, chapter 81, Laws of 1971 and RCW 85.24.130 are each amended to read as follows:

Any person interested in any real estate affected by said assessment may, within the time fixed, appear and file objections. As to all parcels, lots or blocks as to which no objections are filed, within the time as aforesaid, the assessment thereon shall be confirmed and shall be final. On the hearing, each person may offer proof, and proof may also be offered on behalf of the assessment, and the board shall affirm, modify, change and determine the assessment, in such sum as to the board appears just and right. The commissioners may increase the assessment during such hearing upon any particular tract by mailing notice to the owner at his last known address, to be and appear within a time not less than ten days after the date of the notice, to show cause why his assessment should not be increased. When the assessment is finally equalized and fixed by the board, the secretary thereof shall certify the same to the county treasurer of each county in which the lands are situated, for collection; or if appeal has been taken from any part thereof, then so much thereof as has not been appealed from shall be certified. In case any owner of property appeals to the superior court in relation to the assessment or other matter when the amount of the assessment is determined by the court finally, either upon determination of the superior court, or ~~((appeal to))~~ review by the supreme court or the court of appeals, then the assessment as finally fixed and determined by the court shall be certified by the clerk of the proper court to the county treasurer of the county in which the lands are situated and shall be spread upon and become a part of the assessment roll hereinbefore referred to.

Sec. 83. Section 7, chapter 225, Laws of 1909 as amended by section 168, chapter 81, Laws of 1971 and RCW 85.24.140 are each amended to read as follows:

Any person who feels aggrieved by the final assessment made against any lot, block or parcel of land owned by him, may appeal therefrom to the superior court of the county in which the land is situated. Such appeal shall be taken within the time and substantially in the manner prescribed by the laws of this state for appeals from justices' courts. All notice of appeal shall be filed with the said board, and shall be served upon the prosecuting attorney of the county in which the action is brought. The secretary of the board shall, at appellant's expense, certify to the superior court so much of the record as appellant may request, and the cause shall be tried in the superior court de novo.

Any person ~~((desiring to appeal from))~~ aggrieved by any final order or judgment made by the superior court concerning any assessment authorized by this chapter, may ~~((appeal therefrom to the supreme court or the court of appeals, in accordance with the laws of this state relative to appeals, except that all such appeals shall be taken within thirty days after the entry of such judgment))~~ seek appellate review of the order or judgment as in other civil cases.

Sec. 84. Section 21, chapter 131, Laws of 1961 as amended by section 169, chapter 81, Laws of 1971 and RCW 85.32.200 are each amended to read as follows:

~~((An appeal shall lie to the supreme court or the court of appeals from the superior court))~~ Appellate review may be sought as in other civil cases: PROVIDED, That such ~~((appeal must be taken))~~ review must be sought within fifteen days after the date of entry of the judgment of the superior court. The supreme court or the court of appeals on such ~~((appeal))~~ review may change, confirm, correct or modify the values of the property in question as shown upon the roll. A certified copy of any judgment of the supreme court or the court of appeals shall be filed with the county auditor having custody of such roll, who shall thereupon change, modify, or correct such roll in accordance with such decision, if required.

**\*Sec. 85. Section 8, chapter 194, Laws of 1933 as amended by section 170, chapter 81, Laws of 1971 and RCW 87.03.410 are each amended to read as follows:**

***Any person aggrieved by the judgment rendered in such action ~~((shall have the right to appeal from))~~ may seek appellate review of the part of said judgment objectionable to him ~~((to the supreme court or the court of appeals of the state in the manner and within the time prescribed for appeals))~~ as in civil actions generally.***

\*Sec. 85 was vetoed, see message at end of chapter.

Sec. 86. Section 3, chapter 138, Laws of 1925 ex. sess. as amended by section 171, chapter 81, Laws of 1971 and RCW 87.03.760 are each amended to read as follows:

At the conclusion, or final adjournment, of the hearing provided for in RCW 87.03.755, the board of directors of the district shall have the power, by unanimous resolution to adopt the proposed plan, or such modification thereof as may be determined by the board, and reduce the boundaries of the district to such area as, in the judgment of the board, can be furnished with sufficient water for successful irrigation by the irrigation system of the district, and to exclude from the district all lands lying outside of such reduced boundaries, and provide for the repayment to the owners of any such excluded lands, respectively, of any sums paid for assessments levied by the district, and to cancel all unpaid assessments levied by the district against the lands excluded and release such lands from further liability therefor. Any person interested and feeling himself aggrieved by the adoption of such final resolution reducing the boundaries of the district and excluding lands therefrom, shall have a right of appeal from the action of the board to the superior court of the county in which the district is situated, which appeal may be taken in the manner provided by law for appeals from justices' courts, and if upon the hearing of such appeal it shall be determined by the court that the irrigation system of the district will not furnish sufficient water for the successful irrigation of the lands included within the reduced

boundaries of the district, or that any lands have been excluded from the district unnecessarily, arbitrarily, capriciously or fraudulently or without substantial reason for such exclusion, the court shall enter a decree canceling and setting aside the proceedings of the board of directors, otherwise the court shall enter a decree confirming the action of the board. Any party to the proceedings on appeal in the superior court, feeling himself aggrieved by the decree of the superior court confirming the action of the board of directors of the district reducing the boundaries of the district and excluding lands therefrom, (~~shall have the right of appeal therefrom to the supreme court or the court of appeals of the state of Washington~~) may seek appellate review within thirty days after the entry of the decree of the superior court in the manner provided by law. If, at the expiration of thirty days from the entry of the final resolution of the board of directors of the district reducing the boundaries of the district and excluding lands therefrom, no appeal has been taken to the superior court of the county in which the district is situated, or if, after hearing upon appeal the superior court shall confirm the action of the district, and at the expiration of thirty days from the entry of such decree, no (~~appeal has been taken to the supreme court or the court of appeals~~) appellate review is sought, the boundaries of the district shall thereafter be in accordance with the resolution of the board reducing the boundaries, and all lands excluded from the district by such resolution shall be relieved from all further liability for any indebtedness of the district or any unpaid assessments theretofore levied against such lands, and the owners of excluded lands, upon which assessments have been paid, shall be entitled to warrants of the district for all sums paid by reason of such assessments, payable from a special fund created for that purpose, for which levies shall be made upon the lands remaining in the district, as the board of directors may provide.

Sec. 87. Section 4, chapter 138, Laws of 1925 ex. sess. as amended by section 172, chapter 81, Laws of 1971 and RCW 87.03.765 are each amended to read as follows:

Whenever it shall appear, to the satisfaction of the director of ecology, that the irrigation system of any irrigation district, to which the department of ecology of the state of Washington under a contract with the district for the purchase of its bonds, has advanced funds for the purpose of constructing an irrigation system for the district, has been found incapable of furnishing sufficient water for the successful irrigation of all of the lands of such district, and that the board of directors of such district has reduced the boundaries thereof and excluded from the district, as provided in RCW 87.03.750 through 87.03.760, sufficient lands to render such irrigation system adequate for the successful irrigation of the lands of the district, and that more than thirty days have elapsed since the adoption of the resolution by the board of directors reducing the boundaries of the district and excluding lands therefrom, and no appeal has been taken from the action of the board,

or that the action of the board has been confirmed by the superior court of the county in which the district is situated and no appeal has been taken to the supreme court or the court of appeals, or that upon ~~((appeal-to))~~ review by the supreme court or the court of appeals the action of the board of directors of the district has been confirmed, the director of ecology shall be and he is hereby authorized to cancel and reduce the obligation of the district to the department of ecology, for the repayment of moneys advanced for the construction of an irrigation system for the district, to such amount as, in his judgment, the district will be able to pay from revenues derived from assessments upon the remaining lands of the district, and to accept, in payment of the balance of the obligation of the district, the authorized bonds of the district, in numerical order beginning with the lowest number, on the basis of the percentage of the face value thereof fixed in contracts between the district and the department of ecology, in an amount equal to said balance of the obligation of the district, in full and complete satisfaction of all claims of the department of ecology against the district.

Sec. 88. Section 11, chapter 120, Laws of 1929 as amended by section 173, chapter 81, Laws of 1971 and RCW 87.22.090 are each amended to read as follows:

~~((Appeal may be taken to the supreme court or the court of appeals from))~~ Appellate review of the judgment entered in said proceedings may be sought in the same manner as in other cases in equity. ~~((Notice of appeal need be served only on the persons who have appeared in said proceedings and on the president of the board of directors if the district is respondent, or on their respective attorneys of record in the proceedings.))~~

Sec. 89. Section 29, chapter 124, Laws of 1925 ex. sess. as amended by section 174, chapter 81, Laws of 1971 and RCW 87.56.225 are each amended to read as follows:

Any interested person feeling aggrieved at the judgment of the superior court dismissing the proceedings or determining the indebtedness of the district and the status and priority thereof and determining the plan of liquidation, may ~~((appeal from))~~ seek appellate review of such judgment ~~((to the supreme court or the court of appeals))~~ in the same manner as in other cases in equity, except that notice of appeal must be both served and filed within sixty days from the entry thereof.

Sec. 90. Section 7, chapter 236, Laws of 1907 as amended by section 175, chapter 81, Laws of 1971 and RCW 88.32.090 are each amended to read as follows:

Any person who feels aggrieved by the final assessment made against any lot, block or parcel of land owned by him may appeal therefrom to the superior court of such county. Such appeal shall be taken within the time, and substantially in the manner prescribed by the laws of this state for appeals from justice's courts. All notices of appeal shall be filed with the board



of county commissioners, and served upon the prosecuting attorney of the county. The clerk of the board of county commissioners shall at appellant's expense certify to the superior court so much of the record, as appellant may request, and the cause shall be tried in the superior court de novo.

Any person (~~(desiring to appeal from)~~) aggrieved by any final order or judgment, made by the superior court concerning any assessment authorized by RCW 88.32.010 through 88.32.220, may (~~(appeal therefrom to the supreme court or the court of appeals,)~~) seek appellate review of the order or judgment in accordance with the laws of this state relative to such (~~(appeals)~~) review, except that (~~(all such appeals shall be taken)~~) review shall be sought within thirty days after the entry of such judgment.

Sec. 91. Section 23, chapter 117, Laws of 1917 as last amended by section 79, chapter 109, Laws of 1987 and RCW 90.03.200 are each amended to read as follows:

Upon the filing of the evidence and the report of the department, any interested party may, on or before five days prior to the date of said hearing, file exceptions to such report in writing and such exception shall set forth the grounds therefor and a copy thereof shall be served personally or by registered mail upon all parties who have appeared in the proceeding. If no exceptions be filed, the court shall enter a decree determining the rights of the parties according to the evidence and the report of the department, whether such parties have appeared therein or not. If exceptions are filed the action shall proceed as in case of reference of a suit in equity and the court may in its discretion take further evidence or, if necessary, remand the case for such further evidence to be taken by the department's designee, and may require further report by him. Costs, not including taxable attorneys fees, may be allowed or not; if allowed, may be apportioned among the parties in the discretion of the court. (~~(Appeal may be taken to the supreme court or the court of appeals from such)~~) Appellate review of the decree shall be in the same manner as in other cases in equity, except that (~~(notice of appeal must be both served and filed)~~) review must be sought within sixty days from the entry thereof.

Sec. 92. Section 1, chapter 103, Laws of 1921 as amended by section 80, chapter 109, Laws of 1987 and RCW 90.03.210 are each amended to read as follows:

During the pendency of such adjudication proceedings prior to judgment or upon (~~(appeal to the supreme court of the state or other)~~) review by an appellate court, the stream or other water involved shall be regulated or partially regulated according to the schedule of rights specified in the department's report upon an order of the court authorizing such regulation: PROVIDED, Any interested party may file a bond and obtain an order staying the regulation of said stream as to him, in which case the court shall make such order regarding the regulation of the stream or other water as he may deem just. The bond shall be filed within five days following the service

of notice of appeal in an amount to be fixed by the court and with sureties satisfactory to the court, conditioned to perform the judgment of the court.

Sec. 93. Section 8, chapter 107, Laws of 1939 as amended by section 177, chapter 81, Laws of 1971 and RCW 90.24.070 are each amended to read as follows:

Any person aggrieved by the order of judgment of the superior court may (~~appeal to the supreme court or the court of appeals~~) seek appellate review in the same manner as in other civil actions.

Sec. 94. Section 23, chapter 23, Laws of 1911 as amended by section 180, chapter 81, Laws of 1971 and RCW 91.08.250 are each amended to read as follows:

Any final judgment rendered by said court upon the findings of the court or a jury, shall be the lawful and sufficient condemnation of the land or property to be taken, or of the right to damage the same in the manner proposed, upon the payment of the amount of such findings and all costs which shall be taxed as in other civil cases: PROVIDED, That in case any defendant recovers no award, no costs shall be taxed. Such judgment shall be final and conclusive as to the damages caused by such improvement, unless (~~appealed from~~) appellate review is sought, and no (~~appeal from the same~~) review shall delay proceedings under the order of said board if it shall pay into court for the owners and parties interested, as directed by the court, the amount of the judgment and costs; but such board after making such payment into court shall be liable to such owner or owners, or parties interested, for the payment of any further compensation which may at any time be finally awarded to such parties (~~so appealing~~) seeking review in said proceeding, and his or her costs, and shall pay the same on the rendition of judgment therefor and abide any rule or order of the court in relation to the matter in controversy. In case of (~~an appeal to~~) review by the supreme court or the court of appeals of the state (~~by any party to the proceedings~~), the money so paid into the superior court by the board, as aforesaid, shall remain in the custody of said superior court until the final determination of the proceedings. If the owner of the land, real estate, premises, or other property, accepts the sum awarded by the jury or the court, he shall be deemed thereby to have waived conclusively (~~an appeal to the supreme court or the court of appeals~~) appellate review and final judgment may be rendered in the superior court as in other cases.

Sec. 95. Section 58, chapter 23, Laws of 1911 as amended by section 181, chapter 81, Laws of 1971 and RCW 91.08.580 are each amended to read as follows:

(~~Every defendant feeling~~) Any person aggrieved by any condemnation judgment for compensation or damages, or by any judgment confirming an assessment upon land for benefits under this chapter, may (~~appeal to~~

~~the supreme court or the court of appeals of the state from such)) seek appellate review of the judgment((s within thirty days after the entry thereof. An appeal from a condemnation judgment may bring before the supreme court or the court of appeals either the legality of the proceeding as a taking for a public use, or the justness of the amount of compensation or damages awarded to the appellant, but an appeal from a judgment confirming an assessment of benefits shall bring before the supreme court or the court of appeals only the justness of the assessment against the property of the appellant. Two or more defendants may join in an appeal. The bill of exceptions or statement of facts upon such appeals shall contain only such portions of the evidence in the case as relates to the property of the appellants. Otherwise than as provided in this section such appeals shall be taken as provided by law in appeals from final judgments in actions at law)) as in other civil cases.~~

NEW SECTION. Sec. 96. The following acts or parts of acts are each repealed:

- (1) Section 4, chapter 24, Laws of 1909 and RCW 2.04.160;
- (2) Section 5, chapter 24, Laws of 1909 and RCW 2.04.170;
- (3) Section 29, chapter 61, Laws of 1893, section 1, chapter 86, Laws of 1941, section 3, chapter 107, Laws of 1971 ex. sess., section 4, chapter 331, Laws of 1981 and RCW 4.88.260; and
- (4) Section 13, chapter 117, Laws of 1973 1st ex. sess. and RCW 10.77.130.

NEW SECTION. Sec. 97. 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 Senate March 7, 1988.

Passed the House February 29, 1988.

Approved by the Governor March 22, 1988, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 22, 1988.

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

"I am returning herewith, without my approval as to sections 57 and 85, Senate Bill No. 5016, entitled:

"AN ACT Relating to modifications of terminology resulting from the Rules of Appellate Procedure."

Sections 57 and 85 make technical corrections to existing laws which are repealed by other legislation which I have signed. I am vetoing section 57 because it would amend a section of existing law (RCW 72.33.240) that is repealed by Engrossed Substitute House Bill No. 1618, section 1007(24). I am vetoing section 85 because it would amend a section of existing law (RCW 87.03.410) that is repealed by Substitute House Bill No. 1297, section 15(20).

With the exception of sections 57 and 85, the remainder of Senate Bill No. 5016 is approved."