

NEW SECTION. Sec. 33. 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 January 25, 1989.

Passed the House March 29, 1989.

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CHAPTER 12

[Senate Bill No. 5046]

REVISED CODE OF WASHINGTON—GENDER-SPECIFIC LANGUAGE— ELIMINATION

AN ACT Relating to eliminating gender-specific language; and amending RCW 7.68-.010, 7.68.070, 19.29.010, 28B.20.450, 28B.20.454, 39.12.010, 39.12.020, 39.12.021, 39.12.030, 39.12.060, 39.12.042, 39.28.020, 41.26.270, 43.22.210, 49.24.270, 49.52.030, 51.36.060, 59.18-.150, 70.89.050, 78.40.181, 78.40.262, 78.40.345, 78.40.405, 78.40.672, 78.40.693, 78.40.741, 78.40.783, and 78.40.786.

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

Sec. 1. Section 1, chapter 122, Laws of 1973 1st ex. sess. as amended by section 1, chapter 302, Laws of 1977 ex. sess. and RCW 7.68.010 are each amended to read as follows:

It is the intent of the legislature of the state of Washington to provide a method of compensating and assisting innocent victims of criminal acts who suffer bodily injury or death as a consequence thereof. To that end, it is the intention of the legislature to make certain of the benefits and services which are now or hereafter available to injured (~~(workmen)~~) workers under Title 51 RCW also available to innocent victims of crime as defined and provided for in this chapter.

Sec. 2. Section 7, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 281, Laws of 1987 and RCW 7.68.070 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51-.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or his or her family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, and the rights, duties, responsibilities, limitations, and procedures applicable to a (~~(workman)~~) worker as contained in

RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

- (a) The result of consent, provocation, or incitement by the victim;
- (b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or
- (c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a ((workman)) worker and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: PROVIDED, That benefits for burial expenses shall not exceed the maximum cost used by the department of social and health services for the funeral and burial of a deceased indigent person under chapter 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived him or her or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable

under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: **PROVIDED**, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of ~~((workmen))~~ workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 as now or hereafter amended are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than fifteen thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed twenty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to ten thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

Sec. 3. Section 1, chapter 130, Laws of 1913 as last amended by section 1, chapter 79, Laws of 1987 and RCW 19.29.010 are each amended to read as follows:

It shall be unlawful from and after the passage of this chapter for any officer, agent, or employee of the state of Washington, or of any county, city or other political subdivision thereof, or for any other person, firm or corporation, or its officers, agents or employees, to run, place, erect, maintain, or use any electrical apparatus or construction, except as provided in the rules of this chapter.

Rule 1. No wire or cable, except the neutral, carrying a current of less than seven hundred fifty volts of electricity within the corporate limits of any city or town shall be run, placed, erected, maintained or used on any insulator the center of which is less than thirteen inches from the center line of any pole. And no such wire, except the neutral, shall be run past any pole to which it is not attached at a distance of less than thirteen inches from the center line thereof. This rule shall not apply to any wire or cable where the same is run from under ground and placed vertically on the pole; nor to any wire or cable where the same is attached to the top of the pole; nor to a pole top fixture as between it and the same pole; nor to any wire or cable between the points where the same is made to leave any pole or fixture thereon for the purpose of entering any building or other structure and the point of attachment to such building or structure; nor to any jumper wire or cable carrying a current or connected with a transformer or other appliance on the same pole; nor to bridle or jumper wires on any pole which are attached to or connected with signal wires on the same pole; nor to any aerial cable as between such cable and any pole upon which it originates or terminates; nor to exclusive telephone or telegraph toll lines; nor to aerial cables containing telephone, telegraph, or signal wires, or wires continuing from same, where the cable is attached to poles on which no wires or cables other than the wires continuing from said cable are maintained, provided, that electric light or power wires or cables are in no case maintained on the same side of the street or highway on which said aerial cable is placed.

Rule 2. No wire or cable used to carry a current of over seven hundred fifty volts of electricity within the incorporate limits of any city or town shall be run, placed, erected, maintained or used on any insulator the center of which is nearer than twenty-four inches to the center line of any pole. And no such wire or cable shall be run past any pole to which it is not attached at a distance of less than twenty-four inches from the center line thereof: PROVIDED, That this shall not apply to any wire or cable where the same is run from under ground and placed vertically on the pole; nor to any wire or cable where the same is attached to the top of the pole; nor to a pole top fixture, as between it and the same pole; nor to any wire or cable between the points where the same is made to leave any pole or fixture thereon for the purpose of entering any building or other structure, and the

point of attachment to said building or structure; nor to any jumper wire or cable carrying a current or connected with transformers or other appliances on the same pole: PROVIDED FURTHER, That where said wire or cable is run vertically, it shall be rigidly supported* and where possible run on the ends of the cross-arms.

Rule 3. No wire or cable carrying a current of more than seven hundred fifty volts, and less than seventy-five hundred volts of electricity, shall be run, placed, erected, maintained or used within three feet of any wire or cable carrying a current of seven hundred fifty volts or less of electricity; and no wire or cable carrying a current of more than seventy-five hundred volts of electricity shall be run, placed, erected, maintained, or used within seven feet of any wire or cable carrying less than seventy-five hundred volts: PROVIDED, That the foregoing provisions of this paragraph shall not apply to any wire or cable within buildings or other structures; nor where the same are run from under ground and placed vertically upon the pole; nor to any service wire or cable where the same is made to leave any pole or fixture thereon for the purpose of entering any building or other structure, and the point of attachment to said building or structure; nor to any jumper wire or cable carrying a current or connected with a transformer or other appliance on the same pole: PROVIDED, That where run vertically, wires or cables shall be rigidly supported, and where possible run on the ends of the cross-arms: PROVIDED FURTHER, That as between any two wires or cables mentioned in Rules 1, 2 and 3 of this section, only the wires or cables last in point of time so run, placed, erected or maintained, shall be held to be in violation of the provisions thereof.

Rule 4. No wire or cable used for telephone, telegraph, district messenger, or call bell circuit, fire or burglar alarm, or any other similar system, shall be run, placed, erected, maintained or used on any pole at a distance of less than three feet from any wire or cable carrying a current of over three hundred volts of electricity; and in all cases (except those mentioned in exceptions to Rules 1, 2 and 3) where such wires or cables are run, above or below, or cross over or under electric light or power wires, or a trolley wire, a suitable method of construction, or insulation or protection to prevent contact shall be maintained as between such wire or cable and such electric light, power or trolley wire; and said methods of construction, insulation or protection shall be installed by, or at the expense of the person owning the wire last placed in point of time: PROVIDED, That telephone, telegraph or signal wires or cables operated for private use and not furnishing service to the public, may be placed less than three feet from any line carrying a voltage of less than seven hundred and fifty volts.

Rule 5. Transformers, either single or in bank, that exceed a total capacity of over ten K.W. shall be supported by a double cross-arm, or some fixture equally as strong. No transformer shall be placed, erected, maintained or used on any cross-arm or other appliance on a pole upon which is

placed a series electric arc lamp or arc light: PROVIDED, This shall not apply to a span wire supporting a lamp only. All aerial and underground transformers used for low potential distribution shall be subjected to an insulation test in accordance with the standardized rules of the American Institute of Electrical Engineers. In addition to this each transformer shall be tested at rated line voltage prior to each installation and shall have attached to it a tag showing the date on which the test was made, and the name of the person making the test.

Rule 6. No wire or cable, other than ground wires, used to conduct or carry electricity, shall be placed, run, erected, maintained or used vertically on any pole without causing such wire or cable to be at all times sufficiently insulated the full length thereof to insure the protection of anyone coming in contact with said wire or cable.

Rule 7. The neutral point or wire of all transformer secondaries strung or erected for use in low potential distributing systems shall be grounded in all cases where the normal maximum difference of potential between the ground and any point in the secondary circuit will not exceed one hundred and fifty volts. When no neutral point or wire is accessible one side of the secondary circuit shall be grounded in the case of single phase transformers, and any one common point in the case of interconnected polyphase bank or banks of transformers. Where the maximum difference of potential between the ground and any point in the secondary circuit will, when grounded, exceed one hundred fifty volts, grounding shall be permitted. Such grounding shall be done in the manner provided in Rule 30.

Rule 8. In all cases where a wire or cable larger than No. 14 B.W.G. originates or terminates on insulators attached to any pin or other appliance, said wire or cable shall be attached to at least two insulators: PROVIDED HOWEVER, That this section shall not apply to service wires to buildings; nor to wires run vertically on a pole; nor to wires originating or terminating on strain insulators or circuit breakers; nor to telephone, telegraph or signal wires outside the limits of any incorporated city or town.

Rule 9. Fixtures placed or erected for the support of wires on the roofs of buildings shall be of sufficient strength to withstand all strains to which they may be subjected, due to the breaking of all wires on one side thereof, and except where insulated wires or cables are held close to fire walls by straps or rings, shall be of such height and so placed that all of the wires supported by such fixtures shall be at least seven feet above any point of roofs less than one-quarter pitch over which they pass or may be attached, and no roof fixtures or wire shall be so placed that they will interfere with the free passage of persons upon, over, to or from the roofs.

Rule 10. No guy wire or cable shall be placed, run, erected, maintained or used within the incorporate limits of any city or town on any pole or appliance to which is attached any wire or cable used to conduct electricity without causing said guy wire or cable to be efficiently insulated with circuit

breakers at all times at a distance of not less than eight feet nor more than ten feet measured along the line of said guy wire or cable from each end thereof: PROVIDED, No circuit breaker shall be required at the lower end of the guy wire or cable where the same is attached to a ground anchor, nor shall any circuit breaker be required where said guy wire or cable runs direct from a grounded messenger wire to a grounded anchor rod.

Rule 11. In all span wires used for the purpose of supporting trolley wires or series arc lamps there shall be at least two circuit breakers, one of which shall at all times be maintained no less than four feet nor more than six feet distant from the trolley wire or series arc lamp, and in cases where the same is supported by a building or metallic pole, the other circuit breaker shall be maintained at the building or at the pole: PROVIDED, That in span wires which support two or more trolley wires no circuit breaker shall be required in the span wire between any two of the trolley wires: PROVIDED FURTHER, That in span wires supporting trolley wires attached to wooden poles only the circuit breaker adjacent to the trolley wire shall be required.

Rule 12. At all points where in case of a breakdown of trolley span wires, the trolley wire would be liable to drop within seven feet of the ground, there shall be double span wires and hangers placed at such points.

Rule 13. All energized wires or appliances installed inside of any building or vault, for the distribution of electrical energy, shall be sufficiently insulated, or so guarded, located, or arranged as to protect any person from injury.

Rule 14. The secondary circuit of current transformers, the casings of all potential regulators and arc light transformers, all metal frames of all switch boards, metal oil tanks used on oil switches except where the tank is part of the conducting system, all motor and generator frames, the entire frame of the crane and the tracks of all traveling cranes and hoisting devices, shall be thoroughly grounded, as provided in Rule 30.

Rule 15. All generators and motors having a potential of more than three hundred volts shall be provided with a suitable insulated platform or mat so arranged as to permit the attendant to stand upon such platform or mat when working upon the live parts of such generators or motors.

Rule 16. Suitable insulated platforms or mats shall be provided for the use of all ~~((men))~~ persons while working on any live part of switchboards on which any wire or appliance carries a potential in excess of three hundred volts.

Rule 17. Every generator, motor, transformer, switch or other similar piece of apparatus and device used in the generation, transmission or distribution of electrical energy in stations or substations, shall be either provided with a name plate giving the capacity in volts and amperes, or have this information stamped thereon in such a manner as to be clearly legible.

Rule 18. When lines of seven hundred fifty volts or over are cut out at the station or substation to allow employees to work upon them, they shall be short-circuited and grounded at the station, and shall in addition, if the line wires are bare, be short-circuited, and where possible grounded at the place where the work is being done.

Rule 19. All switches installed with overload protection devices, and all automatic overload circuit breakers must have the trip coils so adjusted as to afford complete protection against overloads and short circuits, and the same must be so arranged that no pole can be opened manually without opening all the poles, and the trip coils shall be instantly operative upon closing.

Rule 20. All feeders for electric railways must, before leaving the plant or substation, be protected by an approved circuit breaker which will cut off the circuit in case of an accidental ground or short circuit.

Rule 21. There shall be provided in all distributing stations a ground detecting device.

Rule 22. There shall be provided in all stations, plants, and buildings herein specified warning cards printed on red cardboard not less than two and one-quarter by four and one-half inches in size, which shall be attached to all switches opened for the purpose of linemen or other employees working on the wires. The person opening any line switch shall enter upon said card the name of the person ordering the switch opened, the time opened, the time line was reported clear and by whom, and shall sign his own name.

Rule 23. No manhole containing any wire carrying a current of over three hundred volts shall be less than six feet from floor to inside of roof; if circular in shape it shall not be less than six feet in diameter; if square it shall be six feet from wall to wall: **PROVIDED HOWEVER**, That this paragraph shall not apply to any manhole in which it shall not be required that any person enter to perform work: **PROVIDED FURTHER**, That the foregoing provisions of this paragraph shall not apply where satisfactory proof shall be submitted to the proper authorities that it is impracticable or physically impossible to comply with this law within the space or location designated by the proper authorities.

Rule 24. All manholes containing any wires or appliances carrying electrical current shall be kept in a sanitary condition, free from stagnant water or seepage or other drainage which is offensive or dangerous to health, either by sewer connection or otherwise, while any person is working in the same.

Rule 25. No manhole shall have an opening to the outer air of less than twenty-six inches in diameter, and the cover of same shall be provided with vent hole or holes equivalent to three square inches in area.

Rule 26. No manhole shall have an opening which is, at the surface of the ground, within a distance of three feet at any point from any rail of any

railway or street car track: PROVIDED, That this shall not apply where satisfactory proof shall be submitted to the proper authorities that it is impracticable or physically impossible to comply with the provisions of this paragraph: PROVIDED, That in complying with the provisions of this rule only the construction last in point of time performed, placed or erected shall be held to be in violation thereof.

Rule 27. Whenever persons are working in any manhole whose opening to the outer air is less than three feet from the rail of any railway or street car track, a watchman or attendant shall be stationed on the surface at the entrance of such manhole at all times while work is being performed therein.

Rule 28. All persons employed in manholes shall be furnished with insulated platforms so as to protect the ((workmen)) workers while at work in the manholes: PROVIDED, That this paragraph shall not apply to manholes containing only telephone, telegraph or signal wires or cables.

Rule 29. No work shall be permitted to be done on any live wire, cable or appliance carrying more than seven hundred fifty volts of electricity by less than two competent and experienced persons, who, at all times while performing such work shall be in the same room, chamber, manhole or other place in which, or on the same pole on which, such work is being done: PROVIDED, That in districts where only one competent and experienced person is regularly employed, and a second competent and experienced person cannot be obtained without delay at prevailing rate of pay in said district, such work shall be permitted to be done by one competent and experienced person and a helper who need not be on the same pole on which said work is being done.

No work shall be permitted to be done in any manhole or subway on any live wire, cable or appliance carrying more than three hundred volts of electricity by less than two competent and experienced persons, who at all times while performing such work shall be in the same manhole or subway in which such work is being done.

Rule 30. The grounding provided for in these rules shall be done in the following manner: By connecting a wire or wires not less than No. 6 B.&S. gauge to a water pipe of a metallic system outside of the meter, if there is one, or to a copper plate one-sixteenth inch thick and not less than three feet by six feet area buried in coke below the permanent moisture level, or to other device equally as efficient. The ground wire or wires of a direct current system of three or more wires shall not be smaller than the neutral wire at the central station, and not smaller than a No. 6 B.&S. gauge elsewhere: PROVIDED, That the maximum cross section area of any ground wire or wires at the central station need not exceed one million circular mils. The ground wires shall be carried in as nearly a straight line as possible, and kinks, coils and short bends shall be avoided: PROVIDED, That

the provisions of this rule shall not apply as to size to ground wires run from instrument transformers or meters.

Sec. 4. Section 28B.20.450, chapter 223, Laws of 1969 ex. sess. and RCW 28B.20.450 are each amended to read as follows:

There shall be constructed and maintained at the University of Washington an occupational and environmental research facility in the school of medicine having as its objects and purposes testing, research, training, teaching, consulting and service in the fields of industrial and occupational medicine and health, the prevention of industrial and occupational disease among ((workmen)) workers, the promotion and protection of safer working environments and dissemination of the knowledge and information acquired from such objects and purposes.

Sec. 5. Section 28B.20.454, chapter 223, Laws of 1969 ex. sess. and RCW 28B.20.454 are each amended to read as follows:

Any matter or problem relating to the industrial and occupational health of ((workmen)) workers may be submitted to the environmental research facility by any public agency or interested party. All research data and pertinent information available or compiled at such facility related to the industrial and occupational health of ((workmen)) workers shall be made available and supplied without cost to any public agency or interested party.

Sec. 6. Section 3, chapter 63, Laws of 1945 as last amended by section 1, chapter 15, Laws of 1985 and RCW 39.12.010 are each amended to read as follows:

(1) The "prevailing rate of wage", for the intents and purposes of this chapter, shall be the rate of hourly wage, usual benefits, and overtime paid in the locality, as hereinafter defined, to the majority of ((workmen)) workers, laborers, or mechanics, in the same trade or occupation. In the event that there is not a majority in the same trade or occupation paid at the same rate, then the average rate of hourly wage and overtime paid to such laborers, ((workmen)) workers, or mechanics in the same trade or occupation shall be the prevailing rate. If the wage paid by any contractor or subcontractor to laborers, ((workmen)) workers, or mechanics on any public work is based on some period of time other than an hour, the hourly wage for the purposes of this chapter shall be mathematically determined by the number of hours worked in such period of time.

(2) The "locality" for the purposes of this chapter shall be the largest city in the county wherein the physical work is being performed.

(3) The "usual benefits" for the purposes of this chapter shall include the amount of:

(a) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program; and

(b) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing benefits to ((workmen)) workers, laborers, and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the ((workmen)) workers, laborers, and mechanics affected, for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of such benefits.

(4) An "interested party" for the purposes of this chapter shall include a contractor, subcontractor, an employee of a contractor or subcontractor, an organization whose members' wages, benefits, and conditions of employment are affected by this chapter, and the director of labor and industries or the director's designee.

Sec. 7. Section 1, chapter 63, Laws of 1945 as last amended by section 1, chapter 130, Laws of 1982 and RCW 39.12.020 are each amended to read as follows:

The hourly wages to be paid to laborers, ((workmen)) workers, or mechanics, upon all public works and under all public building service maintenance contracts of the state or any county, municipality or political subdivision created by its laws, shall be not less than the prevailing rate of wage for an hour's work in the same trade or occupation in the locality within the state where such labor is performed. For a contract in excess of ten thousand dollars, a contractor required to pay the prevailing rate of wage shall post in a location readily visible to workers at the job site: PROVIDED, That on road construction, sewer line, pipeline, transmission line, street, or alley improvement projects for which no field office is needed or established, a contractor may post the prevailing rate of wage statement at the contractor's local office, gravel crushing, concrete, or asphalt batch plant as long as the contractor provides a copy of the wage statement to any employee on request:

(1) A copy of a statement of intent to pay prevailing wages approved by the industrial statistician of the department of labor and industries under RCW 39.12.040; and

(2) The address and telephone number of the industrial statistician of the department of labor and industries where a complaint or inquiry concerning prevailing wages may be made.

This chapter shall not apply to ((workmen)) workers or other persons regularly employed on monthly or per diem salary by the state, or any county, municipality, or political subdivision created by its laws.

Sec. 8. Section 1, chapter 93, Laws of 1963 and RCW 39.12.021 are each amended to read as follows:

Apprentice (~~(workmen)~~) workers employed upon public works projects for whom an apprenticeship agreement has been registered and approved with the state apprenticeship council pursuant to chapter 49.04 RCW, must be paid at least the prevailing hourly rate for an apprentice of that trade. Any (~~(workman)~~) worker for whom an apprenticeship agreement has not been registered and approved by the state apprenticeship council shall be considered to be a fully qualified (~~(journeyman)~~) journey level worker, and, therefore, shall be paid at the prevailing hourly rate for (~~(journeymen)~~) journey level workers.

Sec. 9. Section 2, chapter 63, Laws of 1945 and RCW 39.12.030 are each amended to read as follows:

The specifications for every contract for the construction, reconstruction, maintenance or repair of any public work to which the state or any county, municipality, or political subdivision created by its laws is a party, shall contain a provision stating the hourly minimum rate of wage, not less than the prevailing rate of wage, which may be paid to laborers, (~~(workmen)~~) workers, or mechanics in each trade or occupation required for such public work employed in the performance of the contract either by the contractor, subcontractor or other person doing or contracting to do the whole or any part of the work contemplated by the contract, and the contract shall contain a stipulation that such laborers, (~~(workmen)~~) workers, or mechanics shall be paid not less than such specified hourly minimum rate of wage.

Sec. 10. Section 6, chapter 63, Laws of 1945 as amended by section 4, chapter 133, Laws of 1965 ex. sess. and RCW 39.12.060 are each amended to read as follows:

Such contract shall contain a further provision that in case any dispute arises as to what are the prevailing rates of wages for work of a similar nature and such dispute cannot be adjusted by the parties in interest, including labor and management representatives, the matter shall be referred for arbitration to the director of the department of labor and industries of the state and his or her decision therein shall be final and conclusive and binding on all parties involved in the dispute.

Sec. 11. Section 2, chapter 49, Laws of 1975-'76 2nd ex. sess. and RCW 39.12.042 are each amended to read as follows:

If any agency of the state, or any county, municipality, or political subdivision created by its laws shall wilfully fail to comply with the provisions of RCW 39.12.040 as now or hereafter amended, such agency of the state, or county, municipality, or political subdivision created by its laws, shall be liable to all (~~(workmen)~~) workers, laborers, or mechanics to the full extent and for the full amount of wages due, pursuant to the prevailing wage requirements of RCW 39.12.020.

Sec. 12. Section 3, chapter 107, Laws of 1937 and RCW 39.28.020 are each amended to read as follows:

Every municipality shall have power and is hereby authorized:

(1) To accept from any federal agency grants for or in aid of the construction of any public works project;

(2) To make contracts and execute instruments containing such terms, provisions, and conditions as in the discretion of the governing body of the municipality may be necessary, proper or advisable for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to or by virtue of the Recovery Act; to make all other contracts and execute all other instruments necessary, proper or advisable in or for the furtherance of any public works project and to carry out and perform the terms and conditions of all such contracts or instruments;

(3) To subscribe to and comply with the Recovery Act and any rules and regulations made by any federal agency with regard to any grants or loans, or both, from any federal agency;

(4) To perform any acts authorized under RCW 39.28.010 through 39.28.030 through or by means of its own officers, agents and employees, or by contracts with corporations, firms or individuals;

(5) To award any contract for the construction of any public works project or part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality: PROVIDED, That in any case where publication of notice may be made in a shorter period of time under the provisions of existing statute or charter, such statute or charter shall govern;

(6) To sell bonds at private sale to any federal agency without any public advertisement;

(7) To issue interim receipts, certificates or other temporary obligations, in such form and containing such terms, conditions and provisions as the governing body of the municipality issuing the same may determine, pending the preparation or execution of definite bonds for the purpose of financing the construction of a public works project;

(8) To issue bonds bearing the signatures of officers in office on the date of signing such bonds, notwithstanding that before delivery thereof any or all the persons whose signatures appear thereon shall have ceased to be the officers of the municipality issuing the same;

(9) To include in the cost of a public works project which may be financed by the issuance of bonds: (a) Engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising, and other similar expenses; (c) any interest costs during the period of construction of such public works project and for six months thereafter on money borrowed or estimated to be borrowed;

(10) To stipulate in any contract for the construction of any public works project or part thereof the maximum hours that any laborer, (~~workman~~) worker, or mechanic should be permitted or required to work in any one calendar day or calendar week or calendar month, and the minimum wages to be paid to laborers, (~~workmen~~) workers, or mechanics in connection with any public works project: PROVIDED, That no such stipulation shall provide for hours in excess of or for wages less than may now or hereafter be required by any other law;

(11) To exercise any power conferred by RCW 39.28.010 through 39.28.030 for the purpose of obtaining grants or loans, or both, from any federal agency pursuant to or by virtue of the Recovery Act, independently or in conjunction with any other power or powers conferred by RCW 39.28.010 through 39.28.030 or heretofore or hereafter conferred by any other law;

(12) To do all acts and things necessary or convenient to carry out the powers expressly given in RCW 39.28.010 through 39.28.030.

Sec. 13. Section 14, chapter 257, Laws of 1971 ex. sess. as last amended by section 13, chapter 185, Laws of 1987 and RCW 41.26.270 are each amended to read as follows:

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

Sec. 14. Section 43.22.210, chapter 8, Laws of 1965 as amended by section 6, chapter 52, Laws of 1973 1st ex. sess. and RCW 43.22.210 are each amended to read as follows:

(1) It shall be the duty of the supervisor of the division of industrial safety and health or ~~((his))~~ the supervisor's deputy to carefully examine each coal mine in operation in this state at least every four months, and as much oftener as is necessary, to see that every precaution is taken to insure the safety of all ~~((workmen))~~ workers who may be engaged in the mine. These inspections shall include at least two visits of the inspection force to every working place in every mine in the state during each calendar year. The supervisor or ~~((his))~~ the supervisor's deputy shall make a record of each visit, noting the time and the material circumstances of the inspection, and shall keep each record on file in the office of the department; and also post at the mine a notice of ~~((his))~~ the inspection.

(2) If the management of any operating company shall refuse to permit the members of the department to enter any mine, the supervisor or ~~((his))~~ the supervisor's deputy shall file an affidavit setting forth such refusal, with the judge of the superior court of the county in which the mine is situated, and obtain an order from such judge commanding the management of the operating company to permit such examination and inspection, and to furnish the necessary facilities for the same, or in default thereof to be adjudged in contempt of court and punished accordingly.

(3) If the supervisor or ~~((his))~~ the supervisor's deputy shall, after examination of any mine, or the works and machinery connected therewith, find the same to be worked contrary to the provisions of this act [1917 c 36], or unsafe for the ~~((workmen))~~ workers employed therein, the supervisor shall notify the management, stating what changes are necessary. If the trouble is not corrected within reasonable time, the supervisor shall, through the attorney general, in the name of the state immediately apply to the superior court of the county in which the mine is located, or to a judge of said court in chambers, for a writ of injunction to enjoin the operation of all work in and about the said mine. Whereupon said court or judge shall at once proceed to hear and determine the case, and if the cause appears to be sufficient, after hearing the parties and their evidence, as in like cases, shall issue its writ to restrain the workings of said mine until all cause of danger is removed; and the cost of such proceeding shall be borne by the operating company of the mine: PROVIDED, That if the said court shall find the cause not sufficient, then the case shall be dismissed, and the costs will be borne by the state: PROVIDED, ALSO, That should the supervisor find during the inspection of a mine, or portion of a mine, such dangerous condition existing therein that in his or her opinion any delay in removing the ~~((workmen))~~ workers from such dangerous places might cause loss of life or serious personal injury to the employee, the supervisor shall have the right to temporarily withdraw all persons from such dangerous places until the foregoing provisions of this section can be carried into effect.

(4) Whenever he or she is notified of any loss of life in or about the mine, or whenever an explosion or other serious accident occurs, the supervisor shall immediately go or send his or her deputy to the scene of the accident to investigate and to render every possible assistance.

(5) The supervisor or ~~((his))~~ the supervisor's deputy shall make a record of the circumstances attending each accident investigated, which record shall be preserved in the files of the department. To enable the supervisor or ~~((his))~~ the supervisor's deputy to make such investigation and record, they shall have power to compel the attendance of witnesses and to administer oaths or affirmations to them. The costs of such investigations shall be paid by the state.

Sec. 15. Section 20, chapter 19, Laws of 1941 and RCW 49.24.270 are each amended to read as follows:

Wherever, in the prosecution of caisson work in which compressed air is employed, the working chamber is less than twelve feet in length, and when such caissons are at any time suspended or hung while work is in progress, so that the bottom of the excavation is more than nine feet below the deck of the working chamber, a shield shall be erected therein for the protection of the ~~((workmen))~~ workers.

Sec. 16. Section 1, chapter 136, Laws of 1929 and RCW 49.52.030 are each amended to read as follows:

All moneys realized by any employer from ~~((his or its))~~ the employer's employees either by collection or by deduction from the wages or pay of employees intended or to be used for the furnishing to ~~((workmen))~~ workers engaged in extrahazardous work, their families or dependents, of medical, surgical or hospital care and treatment, or for nursing, ambulance service, burial or any or all of the above enumerated services, or any service incidental to or furnished or rendered because of sickness, disease, accident or death, and all moneys owing by any employer therefor, shall be and remain a fund for the purposes for which such moneys are intended to be used, and shall not constitute or become any part of the assets of the employer making such collections or deductions: PROVIDED, HOWEVER, That RCW 49.52.030 and 49.52.040 shall not apply to moneys collected or deducted as aforesaid for, or owing by employers to the state medical aid fund. Such moneys shall be paid over promptly to the physician or surgeon or hospital association or other parties to which such moneys are due and for the purposes for which such collections or deductions were made.

Sec. 17. Section 53, chapter 289, Laws of 1971 ex. sess. as amended by section 15, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.36.060 are each amended to read as follows:

Physicians examining or attending injured ~~((workmen))~~ workers under this title shall comply with rules and regulations adopted by the director, and shall make such reports as may be requested by the department or self-

insurer upon the condition or treatment of any such ((workman)) worker, or upon any other matters concerning such ((workmen)) workers in their care. All medical information in the possession or control of any person and relevant to the particular injury in the opinion of the department pertaining to any ((workman)) worker whose injury or occupational disease is the basis of a claim under this title shall be made available at any stage of the proceedings to the employer, the claimant's representative, and the department upon request, and no person shall incur any legal liability by reason of releasing such information.

Sec. 18. Section 15, chapter 207, Laws of 1973 1st ex. sess. and RCW 59.18.150 are each amended to read as follows:

(1) The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, ((workmen)) workers, or contractors.

(2) The landlord may enter the dwelling unit without consent of the tenant in case of emergency or abandonment.

(3) The landlord shall not abuse the right of access or use it to harass the tenant. Except in the case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least two days' notice of his or her intent to enter and shall enter only at reasonable times.

(4) The landlord has no other right of access except by court order, arbitrator or by consent of the tenant.

Sec. 19. Section 5, chapter 2, Laws of 1973 1st ex. sess. and RCW 70.89.050 are each amended to read as follows:

No liability under this chapter shall be created as to ((workmen)) workers who are employees of a contractor, subcontractor, or other employer responsible for compliance with this chapter.

Sec. 20. Section 34, chapter 36, Laws of 1917 and RCW 78.40.181 are each amended to read as follows:

Where fire bosses are employed ((workmen)) workers shall not go to work in the mine until the same and the traveling way leading thereto are reported safe by the fire boss or fire bosses so inspecting. Every such report shall be recorded as provided for under the duties of fire bosses, RCW 78.40.438.

Sec. 21. Section 60, chapter 36, Laws of 1917 and RCW 78.40.262 are each amended to read as follows:

The mine inspector may order a survey to be made of the workings of any mine, in addition to the regular annual survey, the results to be extended on the maps of the same and copies thereof, whenever the safety of the ((workmen)) workers, unlawful injury to the surface, unlawful encroachment on adjoining property, or the safety of an adjoining mine requires it.

If the inspector shall believe any map required by this chapter is materially inaccurate or imperfect, he or she is authorized to make or cause to be made a correct survey and map at the expense of the operating company, the cost recoverable as for debt: PROVIDED, If such test survey shows the operator's map to be practically correct, the state shall be liable for the expense incurred, payable in such manner as other state accounts incurred by the mine inspector.

Sec. 22. Section 86, chapter 36, Laws of 1917 and RCW 78.40.345 are each amended to read as follows:

The owner or operator of any coal mine shall provide a sufficient supply of timber at any such mine where the same is required for use as props, so that the ((workmen)) workers may at all times be able to properly secure their working places, and it shall be the duty of the owner or operator to send down into the mine all such props, the same to be delivered at the entrance to the working place, or as may be agreed upon between the employees and the operator.

Sec. 23. Section 104, chapter 36, Laws of 1917 and RCW 78.40.405 are each amended to read as follows:

The mine foreman shall have charge of all inside workings and of the persons employed therein, in order that all of the provisions of this chapter as far as they relate to his or her duties concerning the safety of the mine and the persons employed therein be complied with, and the regulations prescribed for each class of ((workmen)) workers under his or her charge be carried out in the strictest manner possible.

Sec. 24. Section 187, chapter 36, Laws of 1917 and RCW 78.40.672 are each amended to read as follows:

In driving crosscuts through pillars, before firing a blast, the miner must notify in person the ((workmen)) workers in the place toward which he or she is driving, so that they may find a place of safety. He or she shall also guard the passages on either side of his or her place at every shot, so that no person may come unawares upon it.

Sec. 25. Section 194, chapter 36, Laws of 1917 and RCW 78.40.693 are each amended to read as follows:

((Workmen)) Workers and all other persons are expressly forbidden to commit any nuisance, or throw into, deposit or leave coal or dirt, stones or other rubbish in the airway or road to interfere with, pollute or hinder the air passing into and through the mine.

Sec. 26. Section 210, chapter 36, Laws of 1917 and RCW 78.40.741 are each amended to read as follows:

Duties of hoisting engineers: It shall be the duty of the engineer, who shall be a temperate competent person, to keep a careful watch over his or her engine and all machinery under his or her charge. He or she shall make

himself or herself acquainted with the signal codes provided for in this chapter, and by the special rules of the mine.

He or she shall not allow any unauthorized person to enter the engine house, nor shall he allow any person to handle or run the engine without the permission of the superintendent.

When ~~((workmen))~~ workers are being lowered or raised he or she shall take special precautions to keep the engine well under control.

Sec. 27. Section 13, chapter 306, Laws of 1927 and RCW 78.40.783 are each amended to read as follows:

At mines employing more than twenty-five ~~((men))~~ persons there shall be a subsafety committee at each level or entry, consisting of a mine foreman, assistant mine foreman, or fire boss, and one employee selected by the ~~((men))~~ persons working on such level or entry.

The members of this committee shall have had six months' experience in this mine or at mines where similar conditions exist. ~~((Workmen))~~ Workers serving on safety committee may be changed every two months.

Where ~~((workman))~~ a worker finds dangerous conditions that he or she cannot correct himself or herself, he or she shall report it to the official in charge of that section of the mine. If the condition is not corrected in a reasonable time he or she shall then call the other member of the safety committee to make an investigation. If the subsafety committee shall fail to agree they shall report to the general safety committee.

All level or entry safety committees shall attend and report at all meetings of the general safety committee.

The ~~((workmen's))~~ workers' representative on the subsafety committee shall not visit or inspect any part of the mine except when accompanied by the other member of the subsafety committee. If for any reason either member of the committee fails to act on any complaint it shall be referred to the general safety committee. At all mines employing less than twenty-five ~~((men))~~ persons the general safety committee shall have general supervision over all safety matters.

Sec. 28. Section 14, chapter 306, Laws of 1927 and RCW 78.40.786 are each amended to read as follows:

At each mine employing more than twenty-five ~~((men))~~ persons there shall be an outside committee consisting of the outside foreman, master mechanic and two employees selected by the ~~((men))~~ persons working on the outside. ~~((Workmen))~~ Workers serving on outside safety committee may be changed every two months. Where ~~((workman))~~ a worker finds dangerous or unsafe conditions that he or she cannot correct himself or herself, he or she shall report it to the outside foreman. If the condition is not corrected in a reasonable time, he or she shall report it to one of the ~~((workmen's))~~ workers' representatives on the safety committee, who shall then call the other members of the safety committee to make an investigation. If the

outside safety committee shall fail to agree they shall report it to the general safety committee. The ((workmen's)) workers' representatives shall not visit or inspect any part of the outside workings except when accompanied by the outside foreman or master mechanic. If for any reason any member of the committee fails to act upon any complaint called to his or her attention, it shall be referred to the general safety committees. It shall be understood that all safety committees shall confine themselves to safety measures and accident prevention alone, the sole purpose of their organization being to preserve the life and limb of ((workmen)) workers in and around the mines.

Passed the Senate January 25, 1989.

Passed the House April 4, 1989.

Approved by the Governor April 17, 1989.

Filed in Office of Secretary of State April 17, 1989.

CHAPTER 13

[Senate Bill No. 5079]

UNIFORM COMMERCIAL CODE—VARIABLE INTEREST RATE AS STATED RATE FOR NEGOTIABLE INSTRUMENT

AN ACT Relating to the uniform commercial code; and amending RCW 62A.3-106 and 62A.3-109.

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

Sec. 1. Section 3-106, chapter 157, Laws of 1965 ex. sess. and RCW 62A.3-106 are each amended to read as follows:

- (1) The sum payable is a sum certain even though it is to be paid
 - (a) with stated interest or by stated installments; or
 - (b) with stated different rates of interest before and after default or a specified date; or
 - (c) with a stated discount or addition if paid before or after the date fixed for payment; or
 - (d) with exchange or less exchange, whether at a fixed rate or at the current rate; or
 - (e) with costs of collection or an attorney's fee or both upon default.
- (2) A rate of interest that cannot be calculated by looking only to the instrument is a stated rate of interest in subsection (1) of this section if the rate during any period is readily ascertainable by a reference in the instrument to a published statute, regulation, rule of court, generally accepted commercial or financial index, compendium of interest rates, or announced or established rate of one or more named financial institutions.
- (3) Graduated, variable, annuity or price-level adjusted payments are stated installments in subsection (1) of this section if such payments are provided for in the instrument.