

2015

SESSION LAWS

OF THE

STATE OF WASHINGTON

2015 REGULAR SESSION
SIXTY-FOURTH LEGISLATURE
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WASHINGTON SESSION LAWS GENERAL INFORMATION

1. EDITIONS AVAILABLE.

- (a) *General Information.* The session laws are printed in a permanent softbound edition containing the accumulation of all laws adopted in the legislative session. The edition contains a subject index and tables indicating Revised Code of Washington sections affected.
- (b) *Where and how obtained - price.* The permanent session laws may be ordered from the Statute Law Committee, Pritchard Building, P.O. Box 40552, Olympia, Washington 98504-0552. The edition costs \$25.00 per set plus applicable state and local sales taxes and \$7.00 shipping and handling. All orders must be accompanied by payment.

2. PRINTING STYLE - INDICATION OF NEW OR DELETED MATTER.

The session laws are presented in the form in which they were enacted by the legislature. This style quickly and graphically portrays the current changes to existing law as follows:

- (a) In amendatory sections
 - (i) underlined matter is new matter.
 - (ii) ~~deleted matter is ((lined out and bracketed between double parentheses))~~.
- (b) Complete new sections are prefaced by the words NEW SECTION.

3. PARTIAL VETOES.

- (a) Vetoed matter is ***printed in bold italics***.
- (b) Pertinent excerpts of the governor's explanation of partial vetoes are printed at the end of the chapter concerned.

4. EDITORIAL CORRECTIONS. Words and clauses inserted in the session laws under the authority of RCW 44.20.060 are enclosed in [brackets].

5. EFFECTIVE DATE OF LAWS.

- (a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the effective date for the Laws of the 2015 regular session is July 24, 2015.
- (b) Laws that carry an emergency clause take effect immediately, or as otherwise specified, upon approval by the Governor.
- (c) Laws that prescribe an effective date take effect upon that date.

6. INDEX AND TABLES.

A cumulative index and tables of all 2015 laws may be found at the back of the final volume.

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CHAPTER 1

[Initiative 594]

Background checks for firearm sales and transfers.

AN ACT Relating to requiring criminal and public safety background checks for gun sales and transfers; amending RCW 9.41.010, 9.41.090, 9.41.122, 9.41.124, and 82.12.040; adding new sections to chapter 9.41 RCW; adding a new section to chapter 82.08 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. There is broad consensus that felons, persons convicted of domestic violence crimes, and persons dangerously mentally ill as determined by a court should not be eligible to possess guns for public safety reasons. Criminal and public safety background checks are an effective and easy mechanism to ensure that guns are not purchased by or transferred to those who are prohibited from possessing them. Criminal and public safety background checks also reduce illegal gun trafficking. Because Washington's current background check requirements apply only to sales or transfers by licensed firearms dealers, many guns are sold or transferred without a criminal and public safety background check, allowing criminals and dangerously mentally ill individuals to gain access to guns.

Conducting criminal and public safety background checks will help ensure that all persons buying guns are legally eligible to do so. The people find that it is in the public interest to strengthen our background check system by extending the requirement for a background check to apply to all gun sales and transfers in the state, except as permitted herein. To encourage compliance with background check requirements, the sales tax imposed by RCW 82.08.020 would not apply to the sale or transfer of any firearms between two unlicensed persons if the unlicensed persons have complied with all background check requirements.

This measure would extend criminal and public safety background checks to all gun sales or transfers. Background checks would not be required for gifts between immediate family members or for antiques.

Sec. 2. RCW 9.41.010 and 2013 c 183 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Antique firearm" means a firearm or replica of a firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898, including any matchlock, flintlock, percussion cap, or similar type of ignition system and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(2) "Barrel length" means the distance from the bolt face of a closed action down the length of the axis of the bore to the crown of the muzzle, or in the case of a barrel with attachments to the end of any legal device permanently attached to the end of the muzzle.

(3) "Crime of violence" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a

class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, kidnapping in the second degree, arson in the second degree, assault in the second degree, assault of a child in the second degree, extortion in the first degree, burglary in the second degree, residential burglary, and robbery in the second degree;

(b) Any conviction for a felony offense in effect at any time prior to June 6, 1996, which is comparable to a felony classified as a crime of violence in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense comparable to a felony classified as a crime of violence under (a) or (b) of this subsection.

(4) "Dealer" means a person engaged in the business of selling firearms at wholesale or retail who has, or is required to have, a federal firearms license under 18 U.S.C. Sec. 923(a). A person who does not have, and is not required to have, a federal firearms license under 18 U.S.C. Sec. 923(a), is not a dealer if that person makes only occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby, or sells all or part of his or her personal collection of firearms.

(5) "Family or household member" means "family" or "household member" as used in RCW 10.99.020.

(6) "Felony" means any felony offense under the laws of this state or any federal or out-of-state offense comparable to a felony offense under the laws of this state.

(7) "Felony firearm offender" means a person who has previously been convicted or found not guilty by reason of insanity in this state of any felony firearm offense. A person is not a felony firearm offender under this chapter if any and all qualifying offenses have been the subject of an expungement, pardon, annulment, certificate, or rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted or a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(8) "Felony firearm offense" means:

(a) Any felony offense that is a violation of this chapter (~~(9-41-RCW)~~);

(b) A violation of RCW 9A.36.045;

(c) A violation of RCW 9A.56.300;

(d) A violation of RCW 9A.56.310;

(e) Any felony offense if the offender was armed with a firearm in the commission of the offense.

(9) "Firearm" means a weapon or device from which a projectile or projectiles may be fired by an explosive such as gunpowder.

(10) "Gun" has the same meaning as firearm.

(11) "Law enforcement officer" includes a general authority Washington peace officer as defined in RCW 10.93.020, or a specially commissioned Washington peace officer as defined in RCW 10.93.020. "Law enforcement officer" also includes a limited authority Washington peace officer as defined in RCW 10.93.020 if such officer is duly authorized by his or her employer to carry a concealed pistol.

~~((H))~~ (12) "Lawful permanent resident" has the same meaning afforded a person "lawfully admitted for permanent residence" in 8 U.S.C. Sec. 1101(a)(20).

~~((42))~~ (13) "Licensed dealer" means a person who is federally licensed under 18 U.S.C. Sec. 923(a).

(14) "Loaded" means:

- (a) There is a cartridge in the chamber of the firearm;
 - (b) Cartridges are in a clip that is locked in place in the firearm;
 - (c) There is a cartridge in the cylinder of the firearm, if the firearm is a revolver;
 - (d) There is a cartridge in the tube or magazine that is inserted in the action;
- or
- (e) There is a ball in the barrel and the firearm is capped or primed if the firearm is a muzzle loader.

~~((43))~~ (15) "Machine gun" means any firearm known as a machine gun, mechanical rifle, submachine gun, or any other mechanism or instrument not requiring that the trigger be pressed for each shot and having a reservoir clip, disc, drum, belt, or other separable mechanical device for storing, carrying, or supplying ammunition which can be loaded into the firearm, mechanism, or instrument, and fired therefrom at the rate of five or more shots per second.

~~((44))~~ (16) "Nonimmigrant alien" means a person defined as such in 8 U.S.C. Sec. 1101(a)(15).

~~((45))~~ (17) "Person" means any individual, corporation, company, association, firm, partnership, club, organization, society, joint stock company, or other legal entity.

(18) "Pistol" means any firearm with a barrel less than sixteen inches in length, or is designed to be held and fired by the use of a single hand.

~~((46))~~ (19) "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

~~((47))~~ (20) "Sale" and "sell" (~~refers to~~) mean the actual approval of the delivery of a firearm in consideration of payment or promise of payment (~~of a certain price in money~~).

~~((48))~~ (21) "Serious offense" means any of the following felonies or a felony attempt to commit any of the following felonies, as now existing or hereafter amended:

- (a) Any crime of violence;
- (b) Any felony violation of the uniform controlled substances act, chapter 69.50 RCW, that is classified as a class B felony or that has a maximum term of imprisonment of at least ten years;
- (c) Child molestation in the second degree;
- (d) Incest when committed against a child under age fourteen;
- (e) Indecent liberties;
- (f) Leading organized crime;
- (g) Promoting prostitution in the first degree;
- (h) Rape in the third degree;
- (i) Drive-by shooting;
- (j) Sexual exploitation;

(k) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner;

(l) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(m) Any other class B felony offense with a finding of sexual motivation, as "sexual motivation" is defined under RCW 9.94A.030;

(n) Any other felony with a deadly weapon verdict under RCW 9.94A.825; ~~((e))~~

(o) Any felony offense in effect at any time prior to June 6, 1996, that is comparable to a serious offense, or any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious offense; or

(p) Any felony conviction under section 9 of this act.

~~((19))~~ (22) "Short-barreled rifle" means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((20))~~ (23) "Short-barreled shotgun" means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun by any means of modification if such modified weapon has an overall length of less than twenty-six inches.

~~((21))~~ (24) "Shotgun" means a weapon with one or more barrels, designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned, made or remade, and intended to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

(25) "Transfer" means the intended delivery of a firearm to another person without consideration of payment or promise of payment including, but not limited to, gifts and loans.

(26) "Unlicensed person" means any person who is not a licensed dealer under this chapter.

NEW SECTION. Sec. 3. A new section is added to chapter 9.41 RCW to read as follows:

(1) All firearm sales or transfers, in whole or part in this state including without limitation a sale or transfer where either the purchaser or seller or transferee or transferor is in Washington, shall be subject to background checks unless specifically exempted by state or federal law. The background check requirement applies to all sales or transfers including, but not limited to, sales and transfers through a licensed dealer, at gun shows, online, and between unlicensed persons.

(2) No person shall sell or transfer a firearm unless:

(a) The person is a licensed dealer;

(b) The purchaser or transferee is a licensed dealer; or

(c) The requirements of subsection (3) of this section are met.

(3) Where neither party to a prospective firearms transaction is a licensed dealer, the parties to the transaction shall complete the sale or transfer through a licensed dealer as follows:

(a) The seller or transferor shall deliver the firearm to a licensed dealer to process the sale or transfer as if it is selling or transferring the firearm from its inventory to the purchaser or transferee, except that the unlicensed seller or transferor may remove the firearm from the business premises of the licensed dealer while the background check is being conducted. If the seller or transferor removes the firearm from the business premises of the licensed dealer while the background check is being conducted, the purchaser or transferee and the seller or transferor shall return to the business premises of the licensed dealer and the seller or transferor shall again deliver the firearm to the licensed dealer prior to completing the sale or transfer.

(b) Except as provided in (a) of this subsection, the licensed dealer shall comply with all requirements of federal and state law that would apply if the licensed dealer were selling or transferring the firearm from its inventory to the purchaser or transferee, including but not limited to conducting a background check on the prospective purchaser or transferee in accordance with federal and state law requirements and fulfilling all federal and state recordkeeping requirements.

(c) The purchaser or transferee must complete, sign, and submit all federal, state, and local forms necessary to process the required background check to the licensed dealer conducting the background check.

(d) If the results of the background check indicate that the purchaser or transferee is ineligible to possess a firearm, then the licensed dealer shall return the firearm to the seller or transferor.

(e) The licensed dealer may charge a fee that reflects the fair market value of the administrative costs and efforts incurred by the licensed dealer for facilitating the sale or transfer of the firearm.

(4) This section does not apply to:

(a) A transfer between immediate family members, which for this subsection shall be limited to spouses, domestic partners, parents, children, siblings, grandparents, grandchildren, nieces, nephews, first cousins, aunts, and uncles, that is a bona fide gift;

(b) The sale or transfer of an antique firearm;

(c) A temporary transfer of possession of a firearm if such transfer is necessary to prevent imminent death or great bodily harm to the person to whom the firearm is transferred if:

(i) The temporary transfer only lasts as long as immediately necessary to prevent such imminent death or great bodily harm; and

(ii) The person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law;

(d) Any law enforcement or corrections agency and, to the extent the person is acting within the course and scope of his or her employment or official duties, any law enforcement or corrections officer, United States marshal, member of the armed forces of the United States or the national guard, or federal official;

(e) A federally licensed gunsmith who receives a firearm solely for the purposes of service or repair, or the return of the firearm to its owner by the federally licensed gunsmith;

(f) The temporary transfer of a firearm (i) between spouses or domestic partners; (ii) if the temporary transfer occurs, and the firearm is kept at all times, at an established shooting range authorized by the governing body of the jurisdiction in which such range is located; (iii) if the temporary transfer occurs and the transferee's possession of the firearm is exclusively at a lawful organized competition involving the use of a firearm, or while participating in or practicing for a performance by an organized group that uses firearms as a part of the performance; (iv) to a person who is under eighteen years of age for lawful hunting, sporting, or educational purposes while under the direct supervision and control of a responsible adult who is not prohibited from possessing firearms; or (v) while hunting if the hunting is legal in all places where the person to whom the firearm is transferred possesses the firearm and the person to whom the firearm is transferred has completed all training and holds all licenses or permits required for such hunting, provided that any temporary transfer allowed by this subsection is permitted only if the person to whom the firearm is transferred is not prohibited from possessing firearms under state or federal law; or

(g) A person who (i) acquired a firearm other than a pistol by operation of law upon the death of the former owner of the firearm or (ii) acquired a pistol by operation of law upon the death of the former owner of the pistol within the preceding sixty days. At the end of the sixty-day period, the person must either have lawfully transferred the pistol or must have contacted the department of licensing to notify the department that he or she has possession of the pistol and intends to retain possession of the pistol, in compliance with all federal and state laws.

NEW SECTION. Sec. 4. A new section is added to chapter 9.41 RCW to read as follows:

Except as otherwise provided in this chapter, a licensed dealer may not deliver any firearm to a purchaser or transferee until the earlier of:

(1) The results of all required background checks are known and the purchaser or transferee is not prohibited from owning or possessing a firearm under federal or state law; or

(2) Ten business days have elapsed from the date the licensed dealer requested the background check. However, for sales and transfers of pistols if the purchaser or transferee does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, then the time period in this subsection shall be extended from ten business days to sixty days.

Sec. 5. RCW 9.41.090 and 1996 c 295 s 8 are each amended to read as follows:

(1) In addition to the other requirements of this chapter, no dealer may deliver a pistol to the purchaser thereof until:

(a) The purchaser produces a valid concealed pistol license and the dealer has recorded the purchaser's name, license number, and issuing agency, such record to be made in triplicate and processed as provided in subsection (5) of this section. For purposes of this subsection (1)(a), a "valid concealed pistol license" does not include a temporary emergency license, and does not include any license issued before July 1, 1996, unless the issuing agency conducted a records search for disqualifying crimes under RCW 9.41.070 at the time of issuance;

(b) The dealer is notified in writing by the chief of police or the sheriff of the jurisdiction in which the purchaser resides that the purchaser is eligible to possess a pistol under RCW 9.41.040 and that the application to purchase is approved by the chief of police or sheriff; or

~~(c) The requirements or time periods in section 4 of this act have been satisfied ((Five business days, meaning days on which state offices are open, have elapsed from the time of receipt of the application for the purchase thereof as provided herein by the chief of police or sheriff designated in subsection (5) of this section, and, when delivered, the pistol shall be securely wrapped and shall be unloaded. However, if the purchaser does not have a valid permanent Washington driver's license or state identification card or has not been a resident of the state for the previous consecutive ninety days, the waiting period under this subsection (1)(c) shall be up to sixty days)).~~

(2)(a) Except as provided in (b) of this subsection, in determining whether the purchaser meets the requirements of RCW 9.41.040, the chief of police or sheriff, or the designee of either, shall check with the national crime information center, the Washington state patrol electronic database, the department of social and health services electronic database, and with other agencies or resources as appropriate, to determine whether the applicant is ineligible under RCW 9.41.040 to possess a firearm.

(b) Once the system is established, a dealer shall use the state system and national instant criminal background check system, provided for by the Brady Handgun Violence Prevention Act (18 U.S.C. Sec. 921 et seq.), to make criminal background checks of applicants to purchase firearms. However, a chief of police or sheriff, or a designee of either, shall continue to check the department of social and health services' electronic database and with other agencies or resources as appropriate, to determine whether applicants are ineligible under RCW 9.41.040 to possess a firearm.

(3) In any case under ~~((subsection (1)(c) of))~~ this section where the applicant has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor, the dealer shall hold the delivery of the pistol until the warrant for arrest is served and satisfied by appropriate court appearance. The local jurisdiction for purposes of the sale shall confirm the existence of outstanding warrants within seventy-two hours after notification of the application to purchase a pistol is received. The local jurisdiction shall also immediately confirm the satisfaction of the warrant on request of the dealer so that the hold may be released if the warrant was for an offense other than an offense making a person ineligible under RCW 9.41.040 to possess a pistol.

(4) In any case where the chief or sheriff of the local jurisdiction has reasonable grounds based on the following circumstances: (a) Open criminal charges, (b) pending criminal proceedings, (c) pending commitment proceedings, (d) an outstanding warrant for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, or (e) an arrest for an offense making a person ineligible under RCW 9.41.040 to possess a pistol, if the records of disposition have not yet been reported or entered sufficiently to determine eligibility to purchase a pistol, the local jurisdiction may hold the sale and delivery of the pistol ~~((beyond five days))~~ up to thirty days in order to confirm existing records in this state or elsewhere. After thirty days, the hold

will be lifted unless an extension of the thirty days is approved by a local district court or municipal court for good cause shown. A dealer shall be notified of each hold placed on the sale by local law enforcement and of any application to the court for additional hold period to confirm records or confirm the identity of the applicant.

(5) At the time of applying for the purchase of a pistol, the purchaser shall sign in triplicate and deliver to the dealer an application containing his or her full name, residential address, date and place of birth, race, and gender; the date and hour of the application; the applicant's driver's license number or state identification card number; a description of the pistol including the make, model, caliber and manufacturer's number if available at the time of applying for the purchase of a pistol. If the manufacturer's number is not available, the application may be processed, but delivery of the pistol to the purchaser may not occur unless the manufacturer's number is recorded on the application by the dealer and transmitted to the chief of police of the municipality or the sheriff of the county in which the purchaser resides; and a statement that the purchaser is eligible to possess a pistol under RCW 9.41.040.

The application shall contain a warning substantially as follows:

CAUTION: Although state and local laws do not differ, federal law and state law on the possession of firearms differ. If you are prohibited by federal law from possessing a firearm, you may be prosecuted in federal court. State permission to purchase a firearm is not a defense to a federal prosecution.

The purchaser shall be given a copy of the department of fish and wildlife pamphlet on the legal limits of the use of firearms, firearms safety, and the fact that local laws and ordinances on firearms are preempted by state law and must be consistent with state law.

The dealer shall, by the end of the business day, sign and attach his or her address and deliver a copy of the application and such other documentation as required under subsection (1) of this section to the chief of police of the municipality or the sheriff of the county of which the purchaser is a resident. The triplicate shall be retained by the dealer for six years. The dealer shall deliver the pistol to the purchaser following the period of time specified in this ((section)) chapter unless the dealer is notified of an investigative hold under subsection (4) of this section in writing by the chief of police of the municipality or the sheriff of the county, whichever is applicable, denying the purchaser's application to purchase and the grounds thereof. The application shall not be denied unless the purchaser is not eligible to possess a pistol under RCW 9.41.040 or 9.41.045, or federal law.

The chief of police of the municipality or the sheriff of the county shall retain or destroy applications to purchase a pistol in accordance with the requirements of 18 U.S.C. Sec. 922.

(6) A person who knowingly makes a false statement regarding identity or eligibility requirements on the application to purchase a pistol is guilty of false swearing under RCW 9A.72.040.

(7) This section does not apply to sales to licensed dealers for resale or to the sale of antique firearms.

Sec. 6. RCW 9.41.122 and 1970 ex.s. c 74 s 1 are each amended to read as follows:

Residents of Washington may purchase rifles and shotguns in a state other than Washington: PROVIDED, That such residents conform to the applicable provisions of the federal Gun Control Act of 1968, Title IV, Pub. L. 90-351 as administered by the United States secretary of the treasury: AND PROVIDED FURTHER, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such purchase is made: AND PROVIDED FURTHER, That when any part of the transaction takes place in Washington, including, but not limited to, internet sales, such residents are subject to the procedures and background checks required by this chapter.

Sec. 7. RCW 9.41.124 and 1970 ex.s. c 74 s 2 are each amended to read as follows:

Residents of a state other than Washington may purchase rifles and shotguns in Washington: PROVIDED, That such residents conform to the applicable provisions of the federal Gun Control Act of 1968, Title IV, Pub. L. 90-351 as administered by the United States secretary of the treasury: AND PROVIDED FURTHER, That such residents are eligible to purchase or possess such weapons in Washington and in the state in which such persons reside: AND PROVIDED FURTHER, That such residents are subject to the procedures and background checks required by this chapter.

NEW SECTION. **Sec. 8.** A new section is added to chapter 9.41 RCW to read as follows:

The department of licensing shall have the authority to adopt rules for the implementation of this chapter as amended. In addition, the department of licensing shall report any violation of this chapter by a licensed dealer to the bureau of alcohol, tobacco, firearms and explosives within the United States department of justice and shall have the authority, after notice and a hearing, to revoke the license of any licensed dealer found to be in violation of this chapter.

NEW SECTION. **Sec. 9.** A new section is added to chapter 9.41 RCW to read as follows:

Notwithstanding the penalty provisions in this chapter, any person knowingly violating section 3 of this act is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. If a person previously has been found guilty under this section, then the person is guilty of a class C felony punishable under chapter 9A.20 RCW for each subsequent knowing violation of section 3 of this act. A person is guilty of a separate offense for each and every gun sold or transferred without complying with the background check requirements of section 3 of this act. It is an affirmative defense to any prosecution brought under this section that the sale or transfer satisfied one of the exceptions in section 3(4) of this act.

NEW SECTION. **Sec. 10.** A new section is added to chapter 82.08 RCW to read as follows:

The tax imposed by RCW 82.08.020 does not apply to the sale or transfer of any firearms between two unlicensed persons if the unlicensed persons have complied with all background check requirements of chapter 9.41 RCW.

Sec. 11. RCW 82.12.040 and 2011 1st sp.s. c 20 s 103 are each amended to read as follows:

(1) Every person who maintains in this state a place of business or a stock of goods, or engages in business activities within this state, shall obtain from the department a certificate of registration, and shall, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g), (3)(a), or (6)(b), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. For the purposes of this chapter, the phrase "maintains in this state a place of business" shall include the solicitation of sales and/or taking of orders by sales agents or traveling representatives. For the purposes of this chapter, "engages in business activity within this state" includes every activity which is sufficient under the Constitution of the United States for this state to require collection of tax under this chapter. The department must in rules specify activities which constitute engaging in business activity within this state, and must keep the rules current with future court interpretations of the Constitution of the United States.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g), (3)(a), or (6)(b), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless personally liable to the state for the amount of such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if:

(a) The person's activities in this state, whether conducted directly or through another person, are limited to:

- (i) The storage, dissemination, or display of advertising;
- (ii) The taking of orders; or

(iii) The processing of payments; and

(b) The activities are conducted electronically via a web site on a server or other computer equipment located in Washington that is not owned or operated by the person making sales into this state nor owned or operated by an affiliated person. "Affiliated persons" has the same meaning as provided in RCW 82.04.424.

(6) Subsection (5) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(7) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (7) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(8) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(9) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter.

NEW SECTION. Sec. 12. 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.

CHAPTER 2

[Initiative 1351]

Concerning K-12 education.

AN ACT Relating to lowering class sizes and increasing school staff to provide all students the opportunity for a quality education; amending RCW 28A.150.260; adding a new section to chapter 28A.150 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. This initiative concerns reducing the number of students per class in grades K-12. Washington ranks forty-seventh out of fifty states in the nation in the number of students per class. The voters understand that reduced class sizes are critical for students especially to learn technical skills such as mathematics, science, technology, and other skills critical for success in the new economy.

It is the intent of the voters that reduction in class sizes be achieved by the legislature funding annual investments to lower class sizes and to increase school staffing in order to provide every student with the opportunities to receive

a high quality basic education as well as improve student performance and graduation rates.

A teacher's ability to individualize instruction, provide timely feedback to students and families, and keep students actively engaged in learning activities is substantially increased with smaller class sizes. Students in smaller classes have shown improved attendance, greater academic growth, and higher scores on achievement tests; and students from disadvantaged groups experience two to three times the average gains of their peers. Smaller class sizes will provide an equitable opportunity for all students to reach their potential and will assist in closing the achievement gap.

In order to comply with the constitutional requirement to amply fund basic education and with the Washington supreme court decision in *McCleary v. the State of Washington*, it is the intent of the voters to implement with fidelity chapter 548, Laws of 2009 and chapter 236, Laws of 2010. These laws revised the definition of the program of basic education, established new methods for distributing state funds to school districts to support this program of basic education, and established a process where the quality education council and technical working groups would make recommendations as to the level of resources that would be required to achieve the state's defined program of basic education by 2018.

This measure would create smaller class sizes for grades K-12 over a four-year period with priority to schools with high levels of student poverty. These annual improvements are to be considered basic education funding that may be used to assist the Washington supreme court to determine the adequacy of progress in addressing the state's paramount duty in accordance with the *McCleary* decision. State funding would be provided based on a reduction of K-3 class size to seventeen and grade 4-12 class size to twenty-five; and for schools with more than fifty percent of students in poverty, that is, more than fifty percent of students were eligible for free and reduced-price meals in the prior school year, a reduction of K-3 class size to fifteen, grade 4 to twenty-two, and grade 5-12 class size to twenty-three. The measure would also provide funding for increased school teaching and student support including librarians, counselors, school nurses, teaching assistants, and other critical staff necessary for the safe and effective operation of a school, to meet individual student needs, and to ensure all required school functions can be performed by appropriately trained personnel.

Sec. 2. RCW 28A.150.260 and 2011 1st sp.s. c 27 s 2 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as required for class size reduction funding provided under subsection (4)(f) of this section and as may be required under chapter 28A.155, 28A.165, 28A.180, or 28A.185 RCW, or federal laws and regulations,

nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature and except when specifically provided as a school district allocation, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

- (i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;
- (ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and
- (iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(4)(a) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on the following general education average class size of full-time equivalent students per teacher:

	General education average class size
Grades K-3	((25-23)) <u>17.0</u>
Grade 4	((27-00)) <u>25.0</u>
Grades 5-6	((27-00)) <u>25.0</u>
Grades 7-8	((28-53)) <u>25.0</u>
Grades 9-12	((28-74)) <u>25.0</u>

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size

Approved career and technical education offered at the middle school and high school level	((26.57)) <u>19.0</u>
Skill center programs meeting the standards established by the office of the superintendent of public instruction	((22.76)) <u>16.0</u>

(d) In addition, the omnibus appropriations act shall at a minimum specify(=

~~(i) A high-poverty average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and~~

~~(ii)) a specialty average class size for laboratory science, advanced placement, and international baccalaureate courses.~~

(e) For each level of prototypical school at which more than fifty percent of the students were eligible for free and reduced-price meals in the prior school year, the superintendent shall allocate funding based on the following average class size of full-time equivalent students per teacher:

General education average class size in high poverty

<u>Grades K-3</u>	<u>15.0</u>
<u>Grade 4</u>	<u>22.0</u>
<u>Grades 5-6</u>	<u>23.0</u>
<u>Grades 7-8</u>	<u>23.0</u>
<u>Grades 9-12</u>	<u>23.0</u>

(f)(i) Funding for average class sizes in this subsection (4) shall be provided only to the extent of, and proportionate to, the school district's demonstrated actual average class size, up to the funded class sizes.

(ii) Districts that demonstrate capital facility needs that prevent them from reducing actual class sizes to funded levels, may use funding in this subsection (4) for school based-personnel who provide direct services to students. Districts that use this funding for purposes other than reducing actual class sizes must annually report the number and dollar value for each type of personnel funded by school and grade level.

(iii) The office of the superintendent of public instruction shall develop rules to implement this subsection (4).

(5) The minimum allocation for each level of prototypical school shall include allocations necessary for the safe and effective operation of a school, to meet individual student needs, and to ensure all required school functions can be

performed by appropriately trained personnel, for the following types of staff in addition to classroom teachers:

	Elementary School	Middle School	High School
Principals, assistant principals, and other certificated building-level administrators	((1.253)) <u>1.3</u>	((1.353)) <u>1.4</u>	((1.880)) <u>1.9</u>
Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs	((0.663)) <u>1.0</u>	((0.519)) <u>1.0</u>	((0.523)) <u>1.0</u>
Health and social services:			
School nurses	((0.076)) <u>0.585</u>	((0.060)) <u>0.888</u>	((0.096)) <u>0.824</u>
Social workers	((0.042)) <u>0.311</u>	((0.006)) <u>0.088</u>	((0.015)) <u>0.127</u>
Psychologists	((0.017)) <u>0.104</u>	((0.002)) <u>0.024</u>	((0.007)) <u>0.049</u>
Guidance counselors, a function that includes parent outreach and graduation advising	((0.493)) <u>0.50</u>	((1.116)) <u>2.0</u>	((1.909)) <u>3.5</u>
Teaching assistance, including any aspect of educational instructional services provided by classified employees	((0.936)) <u>2.0</u>	((0.700)) <u>1.0</u>	((0.652)) <u>1.0</u>
Office support and other noninstructional aides	((2.012)) <u>3.0</u>	((2.325)) <u>3.5</u>	((3.269)) <u>3.5</u>
Custodians	((1.657)) <u>1.7</u>	((1.942)) <u>2.0</u>	((2.965)) <u>3.0</u>
Classified staff providing student and staff safety	((0.079)) <u>0.0</u>	((0.092)) <u>0.7</u>	((0.141)) <u>1.3</u>
Parent involvement coordinators	((0.00)) <u>1.0</u>	((0.00)) <u>1.0</u>	((0.00)) <u>1.0</u>

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

	Staff per 1,000 K-12 students
Technology	((0.628)) <u>2.8</u>
Facilities, maintenance, and grounds	((1.813)) <u>4.0</u>
Warehouse, laborers, and mechanics	((0.332)) <u>1.9</u>

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year:

	Per annual average full-time equivalent student in grades K-12
Technology	\$54.43
Utilities and insurance	\$147.90
Curriculum and textbooks	\$58.44
Other supplies and library materials	\$124.07
Instructional professional development for certified and classified staff	\$9.04
Facilities maintenance	\$73.27
Security and central office	\$50.76

(b) During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

	Per annual average full-time equivalent student in grades K-12
Technology	\$113.80
Utilities and insurance	\$309.21
Curriculum and textbooks	\$122.17
Other supplies and library materials	\$259.39
Instructional professional development for certificated and classified staff	\$18.89
Facilities maintenance	\$153.18
Security and central office administration	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and

(d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(10) In addition to the allocations otherwise provided under this section, amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the district percentage of students in grades K-12 who were eligible for free or reduced-price meals in the prior school year. The minimum allocation for the program shall provide for each level of prototypical school resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher. Notwithstanding other provisions of this subsection (10), the actual per-student allocation may be scaled to provide a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for students needing less intensive intervention, as detailed in the omnibus appropriations act.

(c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

(11) The allocations under subsections (4)(a) and (b), (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections (4) and (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(b) Allocations or enhancements provided under subsections (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

(13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

(b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect.

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month, including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction and shall be included as part of the superintendent's biennial budget request. The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ways and means committee and the senate ways and means committee.

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.150 RCW to read as follows:

In order to make measurable progress toward implementing the provisions of section 2, chapter ..., Laws of 2015 (section 2 of this act) by September 1, 2017, the legislature shall increase state funding allocations under RCW 28A.150.260 according to the following schedule:

(1) For the 2015-2017 biennium, funding allocations shall be no less than fifty percent of the difference between the funding necessary to support the numerical values under RCW 28A.150.260 as of September 1, 2013, and the funding necessary to support the numerical values under section 2, chapter ..., Laws of 2015 (section 2 of this act), with priority for additional funding provided during this biennium for the highest poverty schools and school districts;

(2) By the end of the 2017-2019 biennium and thereafter, funding allocations shall be no less than the funding necessary to support the numerical values under section 2, chapter ..., Laws of 2015 (section 2 of this act).

NEW SECTION. **Sec. 4.** This act may be known and cited as the lower class sizes for a quality education act.

NEW SECTION. **Sec. 5.** Section 2 of this act takes effect September 1, 2018.

CHAPTER 3

[Substitute House Bill 1105]

OPERATING BUDGET--SUPPLEMENTAL

AN ACT Relating to fiscal matters; amending RCW 82.33.020; adding new sections to 2013 2nd sp.s. c 4 (uncodified); making appropriations; and declaring an emergency.

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

NEW SECTION. **Sec. 1. FOR THE OFFICE OF THE STATE ACTUARY**

General Fund—State Appropriation (FY 2015) \$276,000

The appropriation in this section is subject to the following conditions and limitations: \$276,000 of the general fund—state appropriation for fiscal year 2015 is provided to improve the legislature's access to independent and objective health care actuarial analysis.

NEW SECTION. Sec. 2. FOR THE MILITARY DEPARTMENT

Disaster Response Account—State Appropriation	\$11,460,000
Disaster Response Account—Federal Appropriation	\$6,141,000
TOTAL APPROPRIATION	\$17,601,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for disasters declared by the governor and may be spent only with the approval of the office of financial management.

NEW SECTION. Sec. 3. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—CHILDREN AND FAMILY SERVICES PROGRAM

General Fund—State Appropriation (FY 2015)	\$9,424,000
General Fund—Federal Appropriation	(\$2,459,000)
TOTAL APPROPRIATION	\$6,965,000

The appropriations in this section are subject to the following conditions and limitations: The amount provided in this section is for increased costs of services for children and families, including supervised visitation and extended foster care.

NEW SECTION. Sec. 4. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH DIVISION—COMMUNITY SERVICES

General Fund—State Appropriation (FY 2015)	\$11,999,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) The entire appropriation is provided solely to reimburse regional support networks for increased costs that are not covered under the Medicaid program and that are incurred in order to meet statutory obligations to provide individualized mental health treatment in appropriate settings to individuals who are detained or committed under the involuntary treatment act. Prior to distributing funds to a regional support network requesting reimbursement for costs relative to increased utilization, the department must receive adequate documentation of such increased utilization and costs.

(2) In addition to those authorized in section 204(1)(d), chapter 221, Laws of 2014, an additional 30 nonforensic beds per day are allocated for use by regional support networks at western state hospital.

NEW SECTION. Sec. 5. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH DIVISION—INSTITUTIONAL SERVICES

General Fund—State Appropriation (FY 2015)	\$8,621,000
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The appropriation in this section is subject to the following conditions and limitations:

(1) \$1,425,000 of the appropriation is provided solely for the startup and operation of a 30 bed civil ward at western state hospital.

(2) \$450,000 of the appropriation is provided solely for the startup and operation of a 15 bed forensic ward at western state hospital.

(3) \$106,000 of the appropriation is provided solely to increase the number of staff providing competency evaluation services.

(4) \$339,000 of the appropriation is provided solely for the startup and operation of a psychiatric intensive care unit to provide specialized intensive care to assaultive patients from western and eastern state hospitals.

(5) \$318,000 of the appropriation is provided solely to expand the use of psychiatric emergency response teams at western and eastern state hospitals.

(6) \$459,000 of the appropriation is provided solely for assignment pay to improve recruitment and retention of psychiatrists at eastern and western state hospitals.

(7) \$5,524,000 of the appropriation is provided for covering increased costs of operations at the state hospitals. By April 1, 2015, the department shall prepare and submit to the office of financial management and the fiscal committees of the legislature a staffing plan for the state institutions of the mental health division that will maintain expenditures within appropriated levels.

NEW SECTION. Sec. 6. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—MENTAL HEALTH DIVISION—PROGRAM SUPPORT

General Fund—State Appropriation (FY 2015)	\$335,000
General Fund—Federal Appropriation	\$115,000
TOTAL APPROPRIATION	\$650,000

The appropriations in this section are subject to the following conditions and limitations:

(1) \$335,000 of the general fund—state appropriation and the entire general fund—federal appropriation are provided solely for coordination of efforts to meet statutory obligations to provide individualized mental health treatment in appropriate settings to individuals who are detained or committed under the involuntary treatment act.

(2) \$200,000 of the general fund—state appropriation is provided solely for increasing the number of community competency evaluations that can be done under chapter 284, Laws of 2013 (ESSB 5551).

NEW SECTION. Sec. 7. FOR THE CONSERVATION COMMISSION

Budget Stabilization Account Appropriation (FY 2015)	\$1,165,000
General Fund—Federal Appropriation	\$1,538,000
TOTAL APPROPRIATION	\$2,703,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely to protect water quality, prevent crop damage, and help landowners recover from losses sustained during the Carlton Complex fire.

NEW SECTION. Sec. 8. FOR THE DEPARTMENT OF NATURAL RESOURCES

Budget Stabilization Account Appropriation (FY 2015)	\$62,704,000
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General Fund—Federal Appropriation	\$9,661,000
TOTAL APPROPRIATION	\$72,365,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely for costs of emergency fire suppression. These amounts may not be used to fund agency indirect and administrative expenses.

NEW SECTION. Sec. 9. FOR THE DEPARTMENT OF FISH AND WILDLIFE

Budget Stabilization Account Appropriation (FY 2015)	\$771,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriations are provided solely to pay for emergency fire suppression costs, emergency seeding, winter feeding of deer, and emergency fence repair costs. These amounts may not be used to fund agency indirect and administrative expenses.

NEW SECTION. Sec. 10. FOR THE WASHINGTON STATE PATROL

Disaster Response Account—State Appropriation	\$12,547,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 through 43.43.964.

NEW SECTION. Sec. 11. FOR THE OFFICE OF FINANCIAL MANAGEMENT—FIRE CONTINGENCY

Budget Stabilization Account Appropriation (FY 2015)	\$12,547,000
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The appropriation in this section is subject to the following conditions and limitations: The appropriation is provided solely for expenditure into the disaster response account to be used for any Washington state fire service resource mobilization costs incurred in response to an emergency or disaster authorized under RCW 43.43.960 through 43.43.964.

NEW SECTION. Sec. 12. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—DEVELOPMENTAL DISABILITIES DIVISION

General Fund—State Appropriation (FY 2015)	\$10,625,000
General Fund—Federal Appropriation	\$10,625,000
TOTAL APPROPRIATION	\$21,250,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely to fully satisfy the first amended supplemental judgment and order and second amended final judgment on jury verdict issued by the Thurston county superior court on September 5, 2014, in the case of *Rekhter v. DSHS*, cause no. 07-2-00895-8.

NEW SECTION. Sec. 13. FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES—LONG-TERM CARE ADMINISTRATION

General Fund—State Appropriation (FY 2015)	\$24,769,000
General Fund—Federal Appropriation	\$24,875,000
TOTAL APPROPRIATION	\$49,644,000

The appropriations in this section are subject to the following conditions and limitations: The appropriations are provided solely to fully satisfy the first amended supplemental judgment and order and second amended final judgment on jury verdict issued by the Thurston county superior court on September 5, 2014, in the case of *Rekhter v. DSHS*, cause no. 07-2-00895-8.

Sec. 14. RCW 82.33.020 and 2012 1st sp.s. c 8 s 3 are each amended to read as follows:

(1) Four times each year the supervisor must prepare, subject to the approval of the economic and revenue forecast council under RCW 82.33.010:

(a) An official state economic and revenue forecast;

(b) An unofficial state economic and revenue forecast based on optimistic economic and revenue projections; and

(c) An unofficial state economic and revenue forecast based on pessimistic economic and revenue projections.

(2) The supervisor must submit forecasts prepared under this section, along with any unofficial forecasts provided under RCW 82.33.010, to the governor and the members of the committees on ways and means and the chairs of the committees on transportation of the senate and house of representatives, including one copy to the staff of each of the committees, on or before November 20th, February 20th in the even-numbered years, March 20th in the odd-numbered years, June 27th, and September 27th. In fiscal year 2015, the March 20th forecast shall be submitted on or before February 20, 2015. All forecasts must include both estimated receipts and estimated revenues in conformance with generally accepted accounting principles as provided by RCW 43.88.037. In odd-numbered years, the period covered by forecasts for the state general fund and related funds must cover the current fiscal biennium and the next ensuing fiscal biennium. In even-numbered years, the period covered by the forecasts for the state general fund and related funds shall be current fiscal and the next two ensuing fiscal biennia.

(3) All agencies of state government must provide to the supervisor immediate access to all information relating to economic and revenue forecasts. Revenue collection information must be available to the supervisor the first business day following the conclusion of each collection period.

(4) The economic and revenue forecast supervisor and staff must co-locate and share information, data, and files with the tax research section of the department of revenue but may not duplicate the duties and functions of one another.

(5) As part of its forecasts under subsection (1) of this section, the supervisor must provide estimated revenue from tuition fees as defined in RCW 28B.15.020.

(6) The economic and revenue forecast council must, in consultation with the economic and revenue forecast work group created in RCW 82.33.040, review the existing economic and revenue forecast council revenue model, data, and methodologies and in light of recent economic changes, engage outside experts if necessary, and recommend changes to the economic and revenue forecast council revenue forecasting process to increase confidence and promote accuracy in the revenue forecast. The recommendations are due by September 30, 2012, and every five years thereafter.

NEW SECTION. **Sec. 15.** Sections 1 through 13 of this act are each added to 2013 2nd sp.s. c 4 (uncodified).

NEW SECTION. **Sec. 16.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House February 12, 2015.

Passed by the Senate February 11, 2015.

Approved by the Governor February 19, 2015 11:07 AM.

Filed in Office of Secretary of State February 19, 2015.

CHAPTER 4

[Senate Bill 5035]

MEDAL OF VALOR

AN ACT Relating to the medal of valor; amending RCW 1.60.010, 1.60.020, and 1.60.030; and declaring an emergency.

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

Sec. 1. RCW 1.60.010 and 2000 c 224 s 1 are each amended to read as follows:

There is established a decoration of the state medal of valor with accompanying certificate, ribbons, and appurtenances for award by the governor, in the name of the state, to any person or group of persons who has or have saved, or attempted to save, the life of another at the risk of serious injury or death to himself or herself, upon the selection of the governor's state medal of valor committee.

Sec. 2. RCW 1.60.020 and 2000 c 224 s 2 are each amended to read as follows:

There is created the state medal of valor committee for selecting honorees for the award of the state medal of valor. The committee membership consists of the governor, president of the senate, speaker of the house of representatives, and the chief justice of the supreme court, or their designees. The secretary of state shall serve as a nonvoting ex officio member, and shall serve as secretary to the committee. The committee shall meet annually to consider candidates for this award. Any individual may nominate any resident or group of residents of this state for any act of valor covered by this section. The committee shall adopt rules establishing the qualifications for the state medal of valor, the protocol governing the decoration, the certificate, and appurtenances necessary to the implementation of this chapter.

Sec. 3. RCW 1.60.030 and 2000 c 224 s 3 are each amended to read as follows:

(1) The award will be presented by the governor of the state of Washington to the recipient or recipients only during a joint session of both houses of the legislature.

(2) If the governor is unable to present the award due to the disability or illness of the governor, the governor may delegate the presenting of the award to the president of the senate, the speaker of the house of representatives, or the chief justice of the supreme court.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate January 30, 2015.

Passed by the House February 19, 2015.

Approved by the Governor March 2, 2015.

Filed in Office of Secretary of State March 2, 2015.

CHAPTER 5

[Substitute Senate Bill 5889]

COMPETENCY TO STAND TRIAL--EVALUATIONS--RESTORATION SERVICES

AN ACT Relating to timeliness of competency evaluation and restoration services; and amending RCW 10.77.068.

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

Sec. 1. RCW 10.77.068 and 2012 c 256 s 2 are each amended to read as follows:

(1)(a) The legislature establishes the following performance targets and maximum time limits for the timeliness of the completion of accurate and reliable evaluations of competency to stand trial and admissions for inpatient restoration services related to competency to proceed or stand trial for adult criminal defendants. The legislature recognizes that these targets may not be achievable in all cases without compromise to the quality of competency evaluation and restoration services, but intends for the department to manage, allocate, and request appropriations for resources in order to meet these targets whenever possible without sacrificing the accuracy and quality of competency evaluations and restorations, and to otherwise make sustainable improvements and track performance related to the timeliness of competency services:

(i) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized ~~((treatment or))~~ evaluation services related to competency, or to extend an offer of admission for legally authorized services following dismissal of charges based on ~~((incompetent))~~ incompetence to proceed or stand trial~~((;))~~:

(A) A performance target of seven days or less; and

(B) A maximum time limit of fourteen days;

(ii) For a state hospital to extend an offer of admission to a defendant in pretrial custody for legally authorized inpatient restoration treatment related to competency:

(A) A performance target of seven days or less; and

(B) A maximum time limit of fourteen days;

(iii) For completion of a competency evaluation in jail and distribution of the evaluation report for a defendant in pretrial custody~~((;))~~:

(A) A performance target of seven days or less; and

(B) A maximum time limit of fourteen days, plus an additional seven-day extension if needed for clinical reasons to complete the evaluation at the determination of the department;

~~((;)))~~ (iv) For completion of a competency evaluation in the community and distribution of the evaluation report for a defendant who is released from

custody and makes a reasonable effort to cooperate with the evaluation, a performance target of twenty-one days or less.

(b) The time periods measured in these performance targets and maximum time limits shall run from the date on which the state hospital receives the court referral and charging documents, discovery, police reports, the names and addresses of the attorneys for the defendant and state or county, the name of the judge ordering the evaluation, information about the alleged crime, and criminal history information related to the defendant. The ~~((targets))~~ maximum time limits in (a)~~((i) and (ii))~~ of this subsection shall be phased in over a ~~((six-month))~~ one-year period ~~((from May 1, 2012. The target in (a)(iii) of this subsection shall be phased in over a twelve-month period from May 1, 2012.~~

~~(e) The legislature recognizes the following nonexclusive list of circumstances that may place achievement of targets for completion of competency services described in (a) of this subsection out of the department's reach in an individual case without aspersion to the efforts of the department))~~ beginning July 1, 2015, in a manner that results in measurable incremental progress toward meeting the time limits over the course of the year.

(c) It shall be a defense to an allegation that the department has exceeded the maximum time limits for completion of competency services described in (a) of this subsection if the department can demonstrate by a preponderance of the evidence that the reason for exceeding the maximum time limits was outside of the department's control including, but not limited to, the following circumstances:

(i) Despite a timely request, the department has not received necessary medical clearance information regarding the current medical status of a defendant in pretrial custody for the purposes of admission to a state hospital;

(ii) The individual circumstances of the defendant make accurate completion of an evaluation of competency to proceed or stand trial dependent upon review of mental health, substance use disorder, or medical history information which is in the custody of a third party and cannot be immediately obtained by the department. Completion of a competency evaluation shall not be postponed for procurement of mental health, substance use disorder, or medical history information which is merely supplementary to the competency determination;

(iii) Completion of the referral is frustrated by lack of availability or participation by counsel, jail or court personnel, interpreters, or the defendant;

(iv) The department does not have access to appropriate private space to conduct a competency evaluation for a defendant in pretrial custody;

(v) The defendant asserts legal rights that result in a delay in the provision of competency services; or

~~((iv))~~ (vi) An unusual spike in the receipt of evaluation referrals or in the number of defendants requiring restoration services has occurred, causing temporary delays until the unexpected excess demand for competency services can be resolved.

(2) The department shall:

(a) Develop, document, and implement procedures to monitor the clinical status of defendants admitted to a state hospital for competency services that allow the state hospital to accomplish early discharge for defendants for whom

clinical objectives have been achieved or may be achieved before expiration of the commitment period;

(b) Investigate the extent to which patients admitted to a state hospital under this chapter overstay time periods authorized by law and take reasonable steps to limit the time of commitment to authorized periods; and

(c) Establish written standards for the productivity of forensic evaluators and utilize these standards to internally review the performance of forensic evaluators.

(3) Following any quarter in which a state hospital has failed to meet one or more of the performance targets or maximum time limits in subsection (1) of this section after full implementation of the performance target or maximum time limit, the department shall report to the executive and the legislature the extent of this deviation and describe any corrective action being taken to improve performance. This report must be made publicly available. An average may be used to determine timeliness under this subsection.

(4) Beginning December 1, 2013, the department shall report annually to the legislature and the executive on the timeliness of services related to competency to proceed or stand trial and the timeliness with which court referrals accompanied by charging documents, discovery, and criminal history information are provided to the department relative to the signature date of the court order. The report must be in a form that is accessible to the public and that breaks down performance by county.

(5) This section does not create any new entitlement or cause of action related to the timeliness of competency evaluations or admission for inpatient restoration services related to competency to proceed or stand trial, nor can it form the basis for contempt sanctions under chapter 7.21 RCW or a motion to dismiss criminal charges.

Passed by the Senate March 4, 2015.

Passed by the House March 9, 2015.

Approved by the Governor March 12, 2015.

Filed in Office of Secretary of State March 12, 2015.

CHAPTER 6

[Substitute House Bill 1559]

WASHINGTON STATE UNIVERSITY--UNIVERSITY OF WASHINGTON--PROGRAM OFFERINGS

AN ACT Relating to higher education programs at Washington State University and the University of Washington; amending RCW 28B.10.115 and 28B.20.060; and adding a new section to chapter 28B.30 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.30 RCW to read as follows:

The board of regents of Washington State University may offer and teach medicine as a major line, and is authorized to establish, operate, and maintain a school of medicine at the university. The board of regents of Washington State University may offer and teach forestry as a major line.

Sec. 2. RCW 28B.10.115 and 2009 c 207 s 1 are each amended to read as follows:

Except as provided in section 1 of this act, the courses of instruction of both the University of Washington and Washington State University shall embrace as major lines, pharmacy, architecture, and forest management as distinguished from forest products and logging engineering which are exclusive to the University of Washington. These major lines shall be offered and taught at said institutions only.

Sec. 3. RCW 28B.20.060 and 2009 c 207 s 2 are each amended to read as follows:

Except as provided in section 1 of this act, the courses of instruction of the University of Washington shall embrace as exclusive major lines, law, medicine, forest products, logging engineering, library sciences, and fisheries.

Passed by the House March 9, 2015.

Passed by the Senate March 25, 2015.

Approved by the Governor April 1, 2015.

Filed in Office of Secretary of State April 1, 2015.

CHAPTER 7

[Substitute House Bill 1610]

JURY SERVICE

AN ACT Relating to jury service; and amending RCW 2.36.010, 2.36.100, and 2.36.080.

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

Sec. 1. RCW 2.36.010 and 1993 c 408 s 4 are each amended to read as follows:

Unless the context clearly requires otherwise the definitions in this section apply throughout this chapter.

(1) A jury is a body of persons temporarily selected from the qualified inhabitants of a particular district, and invested with power—

(a) To present or indict a person for a public offense.

(b) To try a question of fact.

(2) "Court" when used without further qualification means any superior court or court of limited jurisdiction in the state of Washington.

(3) "Judge" means every judicial officer authorized to hold or preside over a court. For purposes of this chapter "judge" does not include court commissioners or referees.

(4) "Juror" means any person summoned for service on a petit jury, grand jury, or jury of inquest as defined in this chapter.

(5) "Grand jury" means those twelve persons impaneled by a superior court to hear, examine, and investigate evidence concerning criminal activity and corruption.

(6) "Petit jury" means a body of persons twelve or less in number in the superior court and six in number in courts of limited jurisdiction, drawn by lot from the jurors in attendance upon the court at a particular session, and sworn to try and determine a question of fact.

(7) "Jury of inquest" means a body of persons six or fewer in number, but not fewer than four persons, summoned before the coroner or other ministerial officer, to inquire of particular facts.

(8) "Jury source list" means the list of all registered voters for any county, merged with a list of licensed drivers and identocard holders who reside in the county. The list shall specify each person's name and residence address and conform to the methodology and standards set pursuant to the provisions of RCW 2.36.054 or by supreme court rule. The list shall be filed with the superior court by the county auditor.

(9) "Master jury list" means the list of prospective jurors from which jurors summoned to serve will be randomly selected. The master jury list shall be either randomly selected from the jury source list or may be an exact duplicate of the jury source list.

(10) "Jury term" means a period of time of one or more days, not exceeding ~~((one month))~~ two weeks for counties with a jury source list that has at least seventy thousand names and one month for counties with a jury source list of less than seventy thousand names, during which summoned jurors must be available to report for juror service.

(11) "Juror service" means the period of time a juror is required to be present at the court facility. This period of time may not extend beyond the end of the jury term, and may not exceed ~~((two weeks))~~ one week for counties with a jury source list that has at least seventy thousand names, and two weeks for counties with a jury source list of less than seventy thousand names, except to complete a trial to which the juror was assigned during the ~~((two-week))~~ service period.

(12) "Jury panel" means those persons randomly selected for jury service for a particular jury term.

Sec. 2. RCW 2.36.100 and 1992 c 93 s 5 are each amended to read as follows:

(1) Except for a person who is not qualified for jury service under RCW 2.36.070, no person may be excused from jury service by the court except upon a showing of undue hardship, extreme inconvenience, public necessity, or any reason deemed sufficient by the court for a period of time the court deems necessary.

(2) At the discretion of the court's designee, after a request by a prospective juror to be excused, a prospective juror excused from juror service for a particular time may be assigned to another jury term within the twelve-month period. If the assignment to another jury term is made at the time a juror is excused from the jury term for which he or she was summoned, a second summons under RCW 2.36.095 need not be issued.

(3) When the jury source list has been fully summoned within a consecutive twelve-month period and additional jurors are needed, jurors who have already served during the consecutive twelve-month period may be summoned again for service. A juror who has previously served may only be excused if he or she served at least ~~((two weeks))~~ one week of juror service within the preceding twelve months. An excuse for prior service shall be granted only upon the written request of the prospective juror, which request shall certify the terms of prior service. Prior jury service may include service in superior court, in a court of limited jurisdiction, in the United States District Court, or on a jury of inquest.

Sec. 3. RCW 2.36.080 and 1992 c 93 s 2 are each amended to read as follows:

(1) It is the policy of this state that all persons selected for jury service be selected at random from a fair cross section of the population of the area served by the court, and that all qualified citizens have the opportunity in accordance with chapter 135, Laws of 1979 ex. sess. to be considered for jury service in this state and have an obligation to serve as jurors when summoned for that purpose.

(2) It is the policy of this state to maximize the availability of residents of the state for jury service. It also is the policy of this state to minimize the burden on the prospective jurors, their families, and employers resulting from jury service. The jury term and jury service should be set at as brief an interval as is practical given the size of the jury source list for the judicial district. The optimal jury term is (~~two weeks~~) one week or less. Optimal juror service is one day or one trial, whichever is longer.

(3) A citizen shall not be excluded from jury service in this state on account of race, color, religion, sex, national origin, or economic status.

(4) This section does not affect the right to peremptory challenges under RCW 4.44.130.

Passed by the House March 4, 2015.

Passed by the Senate March 25, 2015.

Approved by the Governor April 1, 2015.

Filed in Office of Secretary of State April 1, 2015.

CHAPTER 8

[Senate Bill 5532]

ORGAN DONATION--GIFT OF LIFE AWARD

AN ACT Relating to Washington's gift of life award; amending RCW 1.50.010, 1.50.030, and 1.50.040; and adding a new section to chapter 1.50 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 1.50 RCW to read as follows:

(1) The legislature finds that eighty-four people died waiting for an organ transplant in Washington state in 2013. The legislature further finds that more than two thousand six hundred people are currently waiting for a life-saving organ transplant in Washington state. Forty of those patients waiting are under the age of eighteen and more than two hundred of those patients have been waiting for more than five years for their life-saving gift. The legislature further finds that organ donation is a very rare and precious gift. Less than one percent of all people who die are eligible to donate their organs due to the unique circumstances needed at death to donate organs. Every donor is a critical donation to those waiting.

(2) Therefore, the legislature intends to update the gift of life award to recognize all Washington citizens who have donated critical life-saving organs.

Sec. 2. RCW 1.50.010 and 2008 c 139 s 25 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Organ donor" means an individual who makes an anatomical gift (~~as specified in~~)of an organ under chapter 68.64 RCW.

(2) "Organ procurement organization" has the same meaning as in RCW 68.64.010.

~~((3) "Person" means a person specified in RCW 68.64.080.)~~

Sec. 3. RCW 1.50.030 and 1999 c 264 s 2 are each amended to read as follows:

(1) The governor's office shall annually present the Washington gift of life award to ((six eligible)) families ((or persons per year under the following:)) of donors who have donated organs in accordance with chapter 68.64 RCW.

~~((1) The))~~Organ procurement organizations may nominate the ~~((six))~~ individuals ~~((or persons))~~ eligible under this section to represent all those who have donated organs during the previous calendar year and may submit documentation supporting the eligibility of the individuals~~((or person))~~ to the governor's office. If more than one organ procurement organization is involved, they shall coordinate in harmony to designate by consensus the organ procurement organization among them to have primary administrative responsibility under this chapter.

(2) The governor's office shall present the awards on an annual basis to each eligible organ donor's family in coordination with the organ procurement organization. Only one award may be presented to the family of an organ donor.

(3) Organ procurement organizations shall seek permission from the family of organ donors selected to receive the gift of life award to release the name of the organ donor to the governor's office for printing of a gift of life certificate and use at any gift of life ceremonies or events.

Sec. 4. RCW 1.50.040 and 1999 c 264 s 3 are each amended to read as follows:

The Washington gift of life award shall consist of the seal of the state of Washington and be inscribed with the words: "For the greatest act of kindness in donating organs to (~~enhance~~)save the lives of others."

Passed by the Senate March 3, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 16, 2015.

Filed in Office of Secretary of State April 16, 2015.

CHAPTER 9

[Substitute House Bill 1002]

INSURANCE--DENTAL--UNFAIR AND DECEPTIVE PRACTICES

AN ACT Relating to prohibiting unfair and deceptive dental insurance practices; adding new sections to chapter 48.43 RCW; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43 RCW to read as follows:

(1) A health carrier offering a dental only plan may not deny coverage for treatment of emergency dental conditions that would otherwise be considered a covered service of an existing benefit contract on the basis that the services were

provided on the same day the covered person was examined and diagnosed for the emergency dental condition.

(2) For purposes of this section:

(a) "Emergency dental condition" means a dental condition manifesting itself by acute symptoms of sufficient severity, including severe pain or infection such that a prudent layperson, who possesses an average knowledge of health and dentistry, could reasonably expect the absence of immediate dental attention to result in:

(i) Placing the health of the individual, or with respect to a pregnant woman the health of the woman or her unborn child, in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of any bodily organ or part.

(b) "Health carrier," in addition to the definition in RCW 48.43.005, also includes health care service contractors, limited health care service contractors, and disability insurers offering dental only coverage.

NEW SECTION. Sec. 2. A new section is added to chapter 48.43 RCW to read as follows:

(1) Each health carrier offering a dental only plan shall submit to the commissioner on or before April 1st of each year as part of the additional data statement or as a supplemental data statement the following information for the preceding year that is derived from the carrier's annual statement, including the exhibit of premiums, enrollments, and utilization for the company at an aggregate level and the additional data to the annual statement:

(a) The total number of dental members;

(b) The total amount of dental revenue;

(c) The total amount of dental payments;

(d) The dental loss ratio that is computed by dividing the total amount of dental payments by the total amount of dental revenues;

(e) The average amount of premiums per member per month; and

(f) The percentage change in the average premium per member per month, measured from the previous year.

(2) A carrier shall electronically submit the information described in subsection (1) of this section in a format and according to instructions prescribed by the commissioner.

(3) The commissioner shall make the information reported under this section available to the public in a format that allows comparison among carriers through a searchable public web site on the internet.

(4) For the purposes of licensed disability insurers and health care service contractors, the commissioner shall work collaboratively with insurers to develop an additional or supplemental data statement that utilizes to the maximum extent possible information from the annual statement forms that are currently filed by these entities.

(5) For purposes of this section, "health carrier," in addition to the definition in RCW 48.43.005, also includes health care service contractors, limited health care service contractors, and disability insurers offering dental only coverage.

(6) Nothing in this section is intended to establish a minimum dental loss ratio.

NEW SECTION. Sec. 3. This act takes effect January 1, 2017.

Passed by the House March 2, 2015.
Passed by the Senate April 9, 2015.
Approved by the Governor April 17, 2015.
Filed in Office of Secretary of State April 17, 2015.

CHAPTER 10

[Substitute House Bill 1010]

OCCUPATIONAL THERAPISTS--REFERRAL OF MEDICAL CASES--OPTOMETRISTS

AN ACT Relating to referral of medical cases to occupational therapists; and amending RCW 18.59.100.

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

Sec. 1. RCW 18.59.100 and 1999 c 333 s 3 are each amended to read as follows:

An occupational therapist shall, after evaluating a patient and if the case is a medical one, refer the case to a physician for appropriate medical direction if such direction is lacking. Treatment by an occupational therapist of such a medical case may take place only upon the referral of a physician, osteopathic physician, podiatric physician and surgeon, naturopath, chiropractor, physician assistant, psychologist, optometrist, or advanced registered nurse practitioner licensed to practice in this state.

Passed by the House February 9, 2015.
Passed by the Senate April 8, 2015.
Approved by the Governor April 17, 2015.
Filed in Office of Secretary of State April 17, 2015.

CHAPTER 11

[House Bill 1011]

STATE BUILDING CODE--CLIMATE ZONES

AN ACT Relating to assigning counties to two climate zones for purposes of the state building code; amending RCW 19.27.031 and 19.27A.020; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the state building code council adopted by rule changes to the climate zones used in the building codes due to modifications in the 2012 international energy conservation code (IECC). The legislature intends to update the statutes to be more reflective of the national standards.

Sec. 2. RCW 19.27.031 and 2003 c 291 s 2 are each amended to read as follows:

Except as otherwise provided in this chapter, there shall be in effect in all counties and cities the state building code which shall consist of the following codes which are hereby adopted by reference:

(1)(a) The International Building Code, published by the International Code Council((I-C-C)), Inc.;

(b) The International Residential Code, published by the International Code Council, Inc.;

(2) The International Mechanical Code, published by the International Code Council(~~(I-C-C)~~), Inc., except that the standards for liquified petroleum gas installations shall be NFPA 58 (Storage and Handling of Liquified Petroleum Gases) and ANSI Z223.1/NFPA 54 (National Fuel Gas Code);

(3) The International Fire Code, published by the International Code Council(~~(I-C-C)~~), Inc., including those standards of the National Fire Protection Association specifically referenced in the International Fire Code: PROVIDED, That, notwithstanding any wording in this code, participants in religious ceremonies shall not be precluded from carrying hand-held candles;

(4) Except as provided in RCW 19.27.170, the Uniform Plumbing Code and Uniform Plumbing Code Standards, published by the International Association of Plumbing and Mechanical Officials: PROVIDED, That any provisions of such code affecting sewers or fuel gas piping are not adopted; ~~((and))~~

(5) The rules adopted by the council establishing standards for making buildings and facilities accessible to and usable by ~~((the physically disabled))~~ individuals with disabilities or elderly persons as provided in RCW 70.92.100 through 70.92.160; and

(6) The state's climate zones for building purposes are designated in RCW 19.27A.020(3) and may not be changed through the adoption of a model code or rule.

In case of conflict among the codes enumerated in subsections (1), (2), (3), and (4) of this section, the first named code shall govern over those following.

The codes enumerated in this section shall be adopted by the council as provided in RCW 19.27.074. The council shall solicit input from first responders to ensure that firefighter safety issues are addressed during the code adoption process.

The council may issue opinions relating to the codes at the request of a local official charged with the duty to enforce the enumerated codes.

Sec. 3. RCW 19.27A.020 and 2010 c 271 s 304 are each amended to read as follows:

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. ~~((Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2))~~ One climate zone includes: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Skamania, Spokane, Stevens, ~~((and))~~ Walla Walla, Whitman, and Yakima counties. The other climate zone

includes all other counties not listed in this subsection (3). The assignment of a county to a climate zone may not be changed by adoption of a model code or rule. Nothing in this section prohibits the council from adopting the same rules or standards for each climate zone.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of ~~((general administration))~~ enterprise services as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of ~~((general administration))~~ enterprise services shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

Passed by the House February 11, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 12

[Senate Bill 5088]

GEOLOGICAL SURVEY--HAZARD ASSESSMENT

AN ACT Relating to geological hazards assessment; and amending RCW 43.92.025 and 58.24.060.

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

Sec. 1. RCW 43.92.025 and 2006 c 340 s 4 are each amended to read as follows:

(1) In addition to the objectives stated in RCW 43.92.020, the geological survey must conduct and maintain an assessment of seismic, landslide, and tsunami hazards in Washington. This assessment must ~~((include the identification and mapping of))~~ apply the best practicable technology, including light detection and ranging (lidar) mapping, to identify and map volcanic,

seismic, landslide, and tsunami hazards, ~~((an estimation of))~~ and estimate potential hazard consequences ~~((s))~~ and the likelihood of ~~((occurrence))~~ a hazard occurring.

~~((2))~~ ~~((maintenance of this assessment))~~ geological survey must ~~((include))~~:

(a) Coordinate with state and local government agencies to compile existing data, including geological hazard maps and geotechnical reports, tending to inform geological hazard planning decisions;

(b) Acquire and process new data or update deficient data using the best practicable technology, including lidar;

(c) Create and maintain an efficient, publicly available database of lidar and geological hazard maps and geotechnical reports collected under (a) and (b) of this subsection; and

(d) Provide technical assistance to state and local government agencies on the proper interpretation and application of the results of ~~((this))~~ the geological hazards assessment.

Sec. 2. RCW 58.24.060 and 1991 sp.s. c 13 s 14 are each amended to read as follows:

There is created in the state treasury the surveys and maps account which shall be a separate account consisting of funds received or collected under chapters 43.92, 58.22, and 58.24 RCW, moneys appropriated to it by law. This account shall be used exclusively by the department of natural resources for carrying out the purposes and provisions of chapters 43.92, 58.22, and 58.24 RCW. Appropriations from the account shall be expended for no other purposes.

Passed by the Senate February 25, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 13

[Substitute House Bill 1043]

SELF-SERVICE STORAGE FACILITIES

AN ACT Relating to self-service storage facilities; amending RCW 19.150.010, 19.150.040, and 19.150.060; and adding new sections to chapter 19.150 RCW.

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

Sec. 1. RCW 19.150.010 and 2008 c 61 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Self-service storage facility" means any real property designed and used for the purpose of renting or leasing individual storage space to occupants who are to have access to the space for the purpose of storing and removing personal property on a self-service basis, but does not include a garage or other storage area in a private residence. No occupant may use a self-service storage facility for residential purposes.

(2) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility, his or her agent, or any other person authorized by him or her to

manage the facility, or to receive rent from an occupant under a rental agreement.

(3) "Occupant" means a person, or his or her sublessee, successor, or assign, who is entitled to the use of the storage space at a self-service storage facility under a rental agreement, to the exclusion of others.

(4) "Rental agreement" means any written agreement or lease which establishes or modifies the terms, conditions, rules or any other provision concerning the use and occupancy of a self-service storage facility.

(5) "Personal property" means movable property not affixed to land, and includes, but is not limited to, goods, merchandise, furniture, and household items.

(6) "Last known address" means that address provided by the occupant in the latest rental agreement, or the address provided by the occupant in a subsequent written notice of a change of address.

(7) "Reasonable manner" means to dispose of personal property by donation to a not-for-profit charitable organization, removal of the personal property from the self-service storage facility by a trash hauler or recycler, or any other method that in the discretion of the owner is reasonable under the circumstances.

(8) "Commercially reasonable manner" means a public sale of the personal property in the self-storage space. The personal property may be sold in the owner's discretion on or off the self-service storage facility site as a single lot or in parcels. If five or more bidders are in attendance at a public sale of the personal property, the proceeds received are deemed to be commercially reasonable.

(9) "Costs of the sale" means reasonable costs directly incurred by the delivering or sending of notices, advertising, accessing, inventorying, auctioning, conducting a public sale, removing, and disposing of property stored in a self-service storage facility.

(10) "Late fee" means a fee or charge assessed by an owner of a self-service storage facility as an estimate of any loss incurred by an owner for an occupant's failure to pay rent when due. A late fee is not a penalty, interest on a debt, nor is a late fee a reasonable expense that the owner may incur in the course of collecting unpaid rent in enforcing the owner's lien rights pursuant to RCW 19.150.020 or enforcing any other remedy provided by statute or contract.

(11) "Verified mail" means any method of mailing that is offered by the United States postal service that provides evidence of mailing.

Sec. 2. RCW 19.150.040 and 2007 c 113 s 2 are each amended to read as follows:

(1) When any part of the rent or other charges due from an occupant remains unpaid for fourteen consecutive days, an owner may terminate the right of the occupant to the use of the storage space at a self-service storage facility by sending a preliminary lien notice to the occupant's last known address, and to the alternative address specified in RCW 19.150.120(2), by first-class mail, postage prepaid, or electronic mail address, containing all of the following:

~~((1))~~ (a) An itemized statement of the owner's claim showing the sums due at the time of the notice and the date when the sums become due.

~~((2))~~ (b) A statement that the occupant's right to use the storage space will terminate on a specified date (not less than fourteen days after ~~(the mailing of)~~)

the notice is sent) unless all sums due and to become due by that date are paid by the occupant prior to the specified date.

~~((3))~~ (c) A notice that the occupant may be denied or continue to be denied, as the case may be, access to the storage space after the termination date if the sums are not paid, and that an owner's lien, as provided for in RCW 19.150.020 may be imposed thereafter.

~~((4))~~ (d). The name, street address, and telephone number of the owner, or his or her designated agent, whom the occupant may contact to respond to the notice.

(2) The owner may not send by electronic mail the notice required under this section to the occupant's last known address or alternative address unless:

(a) The occupant expressly agrees to notice by electronic mail;

(b) The rental agreement executed by the occupant specifies in bold type that notices will be given to the occupant by electronic mail;

(c) The owner provides the occupant with the electronic mail address from which notices will be sent and directs the occupant to modify his or her email settings to allow electronic mail from that address to avoid any filtration systems; and

(d) The owner notifies the occupant of any change in the electronic mail address from which notices will be sent prior to the address change.

Sec. 3. RCW 19.150.060 and 2007 c 113 s 3 are each amended to read as follows:

(1) If a notice has been sent, as required by RCW 19.150.040, and the total sum due has not been paid as of the date specified in the preliminary lien notice, the lien proposed by this notice attaches as of that date and the owner may deny an occupant access to the space, enter the space, inventory the goods therein, and remove any property found therein to a place of safe keeping. The owner ~~((shall then serve by personal service or send to the occupant, addressed to the occupant's last known address and to the alternative address specified in RCW 19.150.120(2) by certified mail, postage prepaid,))~~ must provide the occupant a notice of final lien sale or final notice of disposition ~~((which shall))~~ by personal service, verified mail, or electronic mail to the occupant's last known address and alternative address or electronic mail address. If the owner sends notice required under this section to the occupant's last known electronic mail address and does not receive a reply or receipt of delivery, the owner must send a second notice to the occupant's last known postal address by verified mail. The notice required under this section must state all of the following:

~~((1))~~ (a) That the occupant's right to use the storage space has terminated and that the occupant no longer has access to the stored property.

~~((2))~~ (b) That the stored property is subject to a lien, and the amount of the lien accrued and to accrue prior to the date required to be specified in ~~((subsection (3)))~~ (c) of this ~~((section))~~ subsection.

~~((3))~~ (c) That all the property, other than personal papers and personal photographs, may be sold to satisfy the lien after a specified date which is not less than fourteen days from the last date of ~~((mailing))~~ sending of the final lien sale notice, or a minimum of forty-two days after the date when any part of the rent or other charges due from the occupants remain unpaid, whichever is later, unless the amount of the lien is paid. The owner is not required to sell the personal property within a maximum number of days of when the rent or other

charges first became due. If the total value of property in the storage space is less than three hundred dollars, the owner may, instead of sale, dispose of the property in any reasonable manner, subject to the restrictions of RCW 19.150.080(4). After the sale or other disposition pursuant to this section has been completed, the owner shall provide an accounting of the disposition of the proceeds of the sale or other disposition to the occupant at the occupant's last known address and at the alternative address.

~~((4))~~ (d) That any stored motor vehicles or boats may be towed or removed from the self-service storage facility in lieu of sale pursuant to section 4 of this act.

(e) That any excess proceeds of the sale or other disposition under RCW 19.150.080(2) over the lien amount and reasonable costs of sale will be retained by the owner and may be reclaimed by the occupant, or claimed by another person, at any time for a period of six months from the sale and that thereafter the proceeds will be turned over to the state as abandoned property as provided in RCW 63.29.165.

~~((5))~~ (f) That any personal papers and personal photographs will be retained by the owner and may be reclaimed by the occupant at any time for a period of six months from the sale or other disposition of property and that thereafter the owner may dispose of the personal papers and photographs in a reasonable manner, subject to the restrictions of RCW 19.150.080(3).

~~((6))~~ (g) That the occupant has no right to repurchase any property sold at the lien sale.

(2) The owner may not send by electronic mail the notice required under this section to the occupant's last known address or alternative address unless:

(a) The occupant expressly agrees to notice by electronic mail;

(b) The rental agreement executed by the occupant specifies in bold type that notices will be given to the occupant by electronic mail;

(c) The owner provides the occupant with the electronic mail address from which notices will be sent and directs the occupant to modify his or her email settings to allow electronic mail from that address to avoid any filtration systems; and

(d) The owner notifies the occupant of any change in the electronic mail address from which notices will be sent prior to the address change.

NEW SECTION. Sec. 4. A new section is added to chapter 19.150 RCW to read as follows:

(1) If an occupant is in default for sixty or more days and the personal property stored in the leased space is a motor vehicle or boat, the owner may have the personal property towed or removed from the self-service storage facility in lieu of a sale. Prior to having the vehicle towed, the owner must provide notice to the occupant stating the name, address, and contact information of the towing company.

(2) The owner is not liable for any damage to the personal property towed or removed from the self-service storage facility once the property is in the possession of a third party.

NEW SECTION. Sec. 5. A new section is added to chapter 19.150 RCW to read as follows:

If a rental agreement contains a condition on occupant's use of the space that specifies a limit on the value of personal property that may be stored, that limit is the maximum value of the stored personal property in the occupant's space for the purposes of the storage facility owner's liability only.

Passed by the House February 12, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 14

[Substitute House Bill 1052]

HIGHER EDUCATION--EARLY REGISTRATION--MILITARY SPOUSES OR DOMESTIC PARTNERS

AN ACT Relating to early registration at institutions of higher education for spouses or domestic partners of military members; and amending RCW 28B.15.624.

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

Sec. 1. RCW 28B.15.624 and 2013 c 67 s 1 are each amended to read as follows:

(1) Beginning in the 2013-14 academic year, institutions of higher education that offer an early course registration period for any segment of the student population must have a process in place to offer students who are eligible veterans or national guard members early course registration as follows:

(a) New students who are eligible veterans or national guard members and who have completed all of their admission processes must be offered an early course registration period; and

(b) Continuing and returning former students who are eligible veterans or national guard members and who have met current enrollment requirements must be offered early course registration among continuing students with the same level of class standing or credit as determined by the attending institution and according to institutional policies.

(2) ~~((For the purposes of this section))~~ Beginning in the 2015-16 academic year, the early course registration process available for eligible veterans or national guard members in subsection (1) of this section must be offered to spouses receiving veteran education benefits.

(3) For the purposes of this section, "eligible veterans or national guard members" has the definition in RCW 28B.15.621.

~~((3))~~ (4) This section expires August 1, 2022.

Passed by the House March 2, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 15

[Engrossed Substitute House Bill 1060]

TAXES--LITTER TAX REVENUES--STATE INVESTMENTS

AN ACT Relating to directing state investments of existing litter tax revenues under chapter 82.19 RCW in material waste management efforts without increasing the tax rate; amending RCW 70.93.020, 70.93.180, 70.93.200, 82.19.040, and 82.19.040; reenacting and amending RCW 70.93.180; adding a new section to chapter 82.04 RCW; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 70.93.020 and 1998 c 257 s 2 are each amended to read as follows:

(1) The purpose of this chapter is to accomplish litter control, increase waste reduction, and stimulate all components of recycling and composting throughout this state by delegating to the department of ecology the authority to:

~~((1))~~(a) Conduct a permanent and continuous program to control and remove litter from this state to the maximum practical extent possible;

~~((2))~~(b) Recover and recycle waste materials related to litter and littering;

~~((3))~~(c) Foster public and private recycling of recyclable materials and composting of compostable materials;

~~((4))~~(d) Increase public awareness of the need for waste reduction, recycling, ~~(and)~~ litter control, and composting; ~~(and~~

~~(5))~~(e) Coordinate the litter collection efforts ~~(and expenditure of funds for litter collection)~~ by other agencies identified in this chapter; and

(f) Coordinate and expend funds collected under chapter 82.19 RCW with priority given to products identified under RCW 82.19.020 and solely for the purposes of waste reduction, recycling, composting, and litter collection and control programs.

(2) It is further the intent and purpose of this chapter to: (a) Create jobs for employment of youth in litter cleanup and related activities ~~(and to)~~; (b) stimulate and encourage ~~(small, private)~~ recycling ~~(centers)~~; and (c) encourage proper and appropriate composting. This program shall include the compatible goal of recovery of recyclable materials to conserve energy and natural resources wherever practicable. Every other department of state government and all local governmental units and agencies of this state shall cooperate with the department of ecology in the administration and enforcement of this chapter. The intent of this chapter is to add to and to coordinate existing recycling and litter control and removal efforts and not terminate or supplant such efforts.

Sec. 2. RCW 70.93.180 and 2013 2nd sp.s. c 15 s 6 and 2013 2nd sp.s. c 4 s 989 are each reenacted and amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts

statewide; ~~((for the biennial litter survey under RCW 70.93.200(8);))~~ for statewide public awareness programs under RCW 70.93.200(7); and ~~((during the 2013-2015 biennium;))~~ to support employment of youth in litter clean up as intended in RCW 70.93.020, and for litter pick up using other authorized agencies. The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, ~~((and))~~ recycling, and composting, so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department ~~((= (i)))~~ for local government funding programs for waste reduction, litter control, ~~((and))~~ recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; ~~((and (ii) during the 2013-2015 biennium, to create a matching fund competitive grant program to be used by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter reduction, and recycling of primarily the products taxed under chapter 82.19 RCW. Unspent funds from (a) and (c) of this subsection may be applied to the competitive grant program))~~ (ii) any unspent funds under (b)(i) of this subsection may be used to create and pay for a matching fund competitive grant program to provide funding to qualified local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, recycling, and composting of primarily the products taxed under chapter 82.19 RCW. Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) Thirty percent to the department of ecology ~~((for waste reduction and recycling efforts))~~ to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments for commercial business and residential recycling and composting programs primarily for the products taxed under chapter 82.19 RCW designed to educate the public about waste reduction, litter control, and recyclable and compostable products and programs; and (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques. ~~((During the 2013-2015 biennium, these funds are to be used to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling efforts; (ii) provide technical assistance to local governments for commercial business and residential recycling programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste and litter reduction and recyclable products and programs; and (iii) increase access to recycling programs, particularly for food packaging and plastic bags and appropriate techniques of discarding products.))~~

(2) All moneys directed to the waste reduction, recycling, and litter control account under RCW 82.19.040 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, ~~((and))~~ recycling, and composting programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

~~((5) [(4)] During the 2013-2015 biennium,))~~ (4) Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of waste reduction, recycling, composting, and litter collection, reduction, and control programs.

~~((6) [(5)] During the 2013-2015 biennium, the legislature may appropriate funds from the waste reduction, recycling, and litter control account to the state parks and recreation commission for parks operation and maintenance.))~~

Sec. 3. RCW 70.93.180 and 2013 2nd sp.s. c 4 s 989 are each amended to read as follows:

(1) There is hereby created an account within the state treasury to be known as the waste reduction, recycling, and litter control account. Moneys in the account may be spent only after appropriation. Expenditures from the waste reduction, recycling, and litter control account shall be used as follows:

(a) Fifty percent to the department of ecology, for use by the departments of ecology, natural resources, revenue, transportation, and corrections, and the parks and recreation commission, for use in litter collection programs, to be distributed under RCW 70.93.220. The amount to the department of ecology shall also be used for a central coordination function for litter control efforts statewide; ~~((for the biennial litter survey under RCW 70.93.200(8);))~~ for statewide public awareness programs under RCW 70.93.200(7); and ~~((during the 2013-2015 biennium,))~~ to support employment of youth in litter clean up as intended in RCW 70.93.020, and for litter pick up using other authorized agencies. The amount to the department shall also be used to defray the costs of administering the funding, coordination, and oversight of local government programs for waste reduction, litter control, ~~((and))~~ recycling, and composting so that local governments can apply one hundred percent of their funding to achieving program goals. The amount to the department of revenue shall be used to enforce compliance with the litter tax imposed in chapter 82.19 RCW;

(b)(i) Twenty percent to the department ~~((= (i)))~~ for local government funding programs for waste reduction, litter control, ~~((and))~~ recycling activities, and composting activities by cities and counties under RCW 70.93.250, to be administered by the department of ecology; ~~((and))~~ (ii) ~~((during the 2013-2015 biennium,))~~ any unspent funds under (b)(i) of this subsection may be used to

create and pay for a matching fund competitive grant program to be used by local governments and nonprofit organizations for local or statewide education programs designed to help the public with litter control, waste reduction, ((and)) recycling, and composting of primarily the products taxed under chapter 82.19 RCW. ~~((Unspent funds from (a) and (c) of this subsection may be applied to the competitive grant program)).~~ Grants must adhere to the following requirements: (A) No grant may exceed sixty thousand dollars; (B) grant recipients shall match the grant funding allocated by the department by an amount equal to twenty-five percent of eligible expenses. A local government's share of these costs may be met by cash or contributed services; (C) the obligation of the department to make grant payments is contingent upon the availability of the amount of money appropriated for this subsection (1)(b); and (D) grants are managed under the guidelines for existing grant programs; and

(c) ~~Thirty percent to the department of ecology ((for waste reduction and recycling efforts. During the 2013-2015 biennium, these funds are to be used))~~ to: (i) Implement activities under RCW 70.93.200 for waste reduction, recycling, and composting efforts; (ii) provide technical assistance to local governments for commercial business and residential recycling programs primarily for the products taxed under chapter 82.19 RCW designed to educate citizens about waste ((and litter reduction))reduction, litter control, and recyclable and compostable products and programs; and (iii) increase access to waste reduction, composting, and recycling programs, particularly for food packaging and plastic bags and appropriate composting techniques ((of discarding products)).

(2) All taxes imposed in RCW 82.19.010 and fines and bail forfeitures collected or received pursuant to this chapter shall be deposited in the waste reduction, recycling, and litter control account and used for the programs under subsection (1) of this section.

(3) Not less than five percent and no more than ten percent of the amount appropriated into the waste reduction, recycling, and litter control account every biennium shall be reserved for capital needs, including the purchase of vehicles for transporting crews and for collecting litter and solid waste. Capital funds shall be distributed among state agencies and local governments according to the same criteria provided in RCW 70.93.220 for the remainder of the funds, so that the most effective waste reduction, litter control, ~~((and)) recycling, and composting~~ programs receive the most funding. The intent of this subsection is to provide funds for the purchase of equipment that will enable the department to account for the greatest return on investment in terms of reaching a zero litter goal.

(4) ~~((During the 2011-2013 fiscal biennium, the legislature may transfer from the waste reduction, recycling, and litter control account to the state general fund such amounts as reflect the excess fund balance of the account. Additionally, during the 2011-2013 fiscal biennium, subsection (1)(a), (b), and (c) of this section is suspended.~~

~~(5) During the 2013-2015 biennium,))~~ Funds in the waste reduction, recycling, and litter control account, collected under chapter 82.19 RCW, must be prioritized for the products identified under RCW 82.19.020 solely for the purposes of recycling, composting, and litter collection, reduction, and control programs.

~~((6) During the 2013-2015 biennium, the legislature may appropriate funds from the waste reduction, recycling, and litter control account to the state parks and recreation commission for parks operation and maintenance.))~~

Sec. 4. RCW 70.93.200 and 2014 c 76 s 2 are each amended to read as follows:

In addition to the foregoing, the department of ecology shall use the moneys from RCW 70.93.180 of the waste reduction, recycling, and litter control account to:

(1) Serve as the coordinating agency between the various industry organizations seeking to aid in the waste reduction, anti-litter, ~~((and))~~ recycling, and composting efforts;

(2) Serve as the coordinating and administrating agency for all state agencies and local governments receiving funds for waste reduction, litter control, ~~((and))~~ recycling, and composting under this chapter;

(3) Recommend to the governing bodies of all local governments that they adopt ordinances similar to the provisions of this chapter;

(4) Cooperate with all local governments to accomplish coordination of local waste reduction, anti-litter, ~~((and))~~ recycling, and composting efforts;

(5) Encourage, organize, and coordinate all voluntary local waste reduction, anti-litter, and recycling campaigns seeking to focus the attention of the public on the programs of this state to reduce waste, control and remove litter, and foster recycling and composting;

(6) Investigate the availability of, and apply for funds available from any private or public source to be used in the program outlined in this chapter;

(7) Develop statewide programs by working with local governments, payers of the waste reduction, recycling, and litter control tax, and industry organizations that are active in waste reduction, anti-litter, ~~((and))~~ recycling, and composting efforts to:

(a) Increase public awareness of and participation in recycling and composting; and ~~((tø))~~

(b) Stimulate and encourage local private recycling and composting centers, public participation in recycling and composting, and research and development in the field of litter control, and recycling, removal, and disposal of litter-related recycling materials, and composting; and

~~((Conduct a periodic statewide litter survey targeted at litter composition, sources, demographics, and geographic trends; and~~

~~((9)))~~ Provide on the department's web site a summary of all waste reduction, litter control, ~~((and))~~ recycling, and composting efforts statewide including those of the department and other state agencies and local governments funded for such programs under this chapter.

Sec. 5. RCW 82.19.040 and 2013 2nd sp.s. c 15 s 5 are each amended to read as follows:

(1) To the extent applicable, all of the definitions of chapter 82.04 RCW and all of the provisions of chapter 82.32 RCW apply to the tax imposed in this chapter.

(2) Until June 30, 2017, taxes collected under this chapter shall be distributed as follows: (a) Five million dollars per fiscal year must be deposited in equal monthly amounts to the state parks renewal and stewardship account

under RCW 79A.05.215; and (b) the remainder to the waste reduction, recycling, and litter control account under RCW 70.93.180.

Sec. 6. RCW 82.19.040 and 2001 c 118 s 6 are each amended to read as follows:

(1) To the extent applicable, all of the definitions of chapter 82.04 RCW and all of the provisions of chapter 82.32 RCW apply to the tax imposed in this chapter.

(2) Beginning June 30, 2017, taxes collected under this chapter shall be deposited in the waste reduction, recycling, and litter control account under RCW 70.93.180.

NEW SECTION. **Sec. 7.** A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to grants received by a nonprofit organization from the matching fund competitive grant program established in RCW 70.93.180(1)(b)(ii).

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808, and is not subject to an expiration date.

NEW SECTION. **Sec. 8.** Sections 2 and 5 of this act expire June 30, 2017.

NEW SECTION. **Sec. 9.** Sections 3 and 6 of this act take effect June 30, 2017.

Passed by the House March 3, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 16

[House Bill 1222]

FIREFIGHTERS--APPARATUS LENGTH AND WEIGHT LIMITS

AN ACT Relating to firefighting apparatus length and weight limits; and amending RCW 46.44.190.

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

Sec. 1. RCW 46.44.190 and 2002 c 231 s 1 are each amended to read as follows:

(1) As used in this section, "firefighting apparatus" means a vehicle or combination of vehicles, owned by a regularly organized fire suppression agency, designed, maintained, and used exclusively for fire suppression and rescue or for fire prevention activities. These vehicles and associated loads or equipment are necessary to protect the public safety and are considered nondivisible loads. A vehicle or combination of vehicles that is not designed primarily for fire suppression including, but not limited to, a hazardous materials response vehicle, bus, mobile kitchen, mobile sanitation facility, and heavy equipment transport vehicle is not a firefighting apparatus for purposes of this section.

(2) Firefighting apparatus must comply with all applicable federal and state vehicle operating and safety criteria, including rules adopted by agencies within each jurisdiction.

(3) All owners and operators of firefighting apparatus shall comply with current information, provided by the department, regarding the applicable load restrictions of state and local bridges within the designated fire service area, including any automatic or mutual aid agreement areas.

(4) Firefighting apparatus operating within a fire district or municipal department boundary of the owner of the apparatus, including any automatic or mutual aid agreement areas, may operate without a permit if:

- (a) The weight does not exceed:
 - (i) 600 pounds per inch width of tire;
 - (ii) 24,000 pounds on a single axle;
 - (iii) 43,000 pounds on a tandem axle set;
 - (iv) 67,000 pounds gross vehicle weight, subject to the gross weight limits of RCW 46.44.091(1) (c), (d), and (e);
- (v) The tire manufacturer's tire load rating.
- (b) There is no tridem axle set.
- (c) The dimensions do not exceed:
 - (i) 8 feet, 6 inches wide;
 - (ii) 14 feet high;
 - (iii) ~~((50))~~65 feet overall length;
 - (iv) 15 foot front overhang;
 - (v) Rear overhang not exceeding the length of the wheel base.

(5) Operators of firefighting apparatus that exceed the weight limits in subsection (4) of this section must apply for an overweight permit with the department. The maximum weight a firefighting apparatus may weigh is 50,000 pounds on the tandem axle set and 31,000 pounds on a single drive axle, and may not exceed ~~((600))~~670 pounds per inch width of tire. The maximum weight limit must include the weight of a full water tank, if applicable, all equipment necessary for operation, and the normal number of personnel usually assigned to be on board, or four personnel, whichever is greater. At least four personnel must be physically present at the time the apparatus is weighed.

(6) When applying for a permit, a current weight slip from a certified scale must be attached to the department's application form. Upon receiving an application, the department shall transmit it to the local jurisdictions in which the firefighting apparatus will be operating, so that the local jurisdictions can make a determination on the need for local travel and route restrictions within the operating area. The department shall issue a permit within twenty days of receiving a permit application and shall issue the permit on an annual basis for the apparatus to operate on the state highway system, with reference made to applicable load restrictions and any other limitations stipulated on the permit, including limitations placed by local jurisdictions.

(7) Firefighting apparatus in operation in this state before June 13, 2002, and privately owned industrial firefighting apparatus used for purposes of providing emergency response and mutual aid are each exempt from subsections (4) and (5) of this section. However, operators of the exempt firefighting apparatus must still obtain an annual permit under subsection (6) of this section.

(8) Firefighting apparatus without the proper overweight permits are prohibited from being operated on city, county, or state roadways until the apparatus is within legal weight limits and a current permit has been issued by the department. When the permit is issued, the fire district must notify the

Washington state patrol that the apparatus is in compliance with overweight permit regulations.

(9) The Washington state patrol may conduct random spot checks of firefighting apparatus to ensure compliance with overweight permit regulations. If a firefighting apparatus is found to be not in compliance with overweight permit regulations, the state patrol shall issue a violation notice to the fire department stating this fact and prohibiting operation of the apparatus on city, county, and state roadways.

(10) It is a traffic infraction to continue to operate a firefighting apparatus on the roadways after a violation notice has been issued. The following penalties apply:

(a) For a first offense, the penalty will be no less than fifty dollars but no more than fifty dollars;

(b) For a second offense, the penalty will be no less than seventy-five dollars;

(c) For a third or subsequent offense, the penalty will be no less than one hundred dollars.

(11) No individual liability attaches to an employee or volunteer of the penalized fire department.

Passed by the House March 2, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 17

[House Bill 1172]

INSURERS--RISK MANAGEMENT AND SOLVENCY ASSESSMENT

AN ACT Relating to the risk management and solvency assessment act; amending RCW 42.56.400; reenacting and amending RCW 42.56.400; adding a new chapter to Title 48 RCW; providing effective dates; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The purpose of this chapter is to provide the requirements for maintaining a risk management framework and completing an own risk and solvency assessment and provide guidance and instructions for filing an ORSA summary report with the insurance commissioner of this state.

(2) The requirements of this chapter apply to all insurers domiciled in this state unless exempt pursuant to section 6 of this act.

(3) The legislature finds and declares that the ORSA summary report contains confidential and sensitive information related to an insurer or insurance group's identification of risks material and relevant to the insurer or insurance group filing the report. This information includes proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. It is the intent of this legislature that the ORSA summary report is a confidential document filed with the commissioner, that the ORSA summary report may be shared only as stated in this chapter and to assist the commissioner in the performance of his or

her duties, and that in no event may the ORSA summary report be subject to public disclosure.

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

(1) "Insurance group" means, for the purposes of conducting an ORSA, those insurers and affiliates included within an insurance holding company system as defined in RCW 48.31B.005.

(2) "Insurer" includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except that it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

(3) "ORSA guidance manual" means the own risk and solvency assessment guidance manual developed and adopted by the national association of insurance commissioners.

(4) "ORSA summary report" means a confidential high-level ORSA summary of an insurer or insurance group.

(5) "Own risk and solvency assessment" or "ORSA" means a confidential internal assessment, appropriate to the nature, scale, and complexity of an insurer or insurance group, conducted by that insurer or insurance group of the material and relevant risks associated with the insurer or insurance group's current business plan, and the sufficiency of capital resources to support those risks.

NEW SECTION. Sec. 3. An insurer must maintain a risk management framework to assist the insurer with identifying, assessing, monitoring, managing, and reporting on its material and relevant risks. This requirement is satisfied if the insurance group of which the insurer is a member maintains a risk management framework applicable to the operations of the insurer.

NEW SECTION. Sec. 4. Subject to section 6 of this act, an insurer, or the insurance group of which the insurer is a member, must regularly conduct an ORSA consistent with a process comparable to the ORSA guidance manual. The ORSA must be conducted annually but also at any time when there are significant changes to the risk profile of the insurer or the insurance group of which the insurer is a member.

NEW SECTION. Sec. 5. (1) Upon the commissioner's request, and no more than once each year, an insurer must submit to the commissioner an ORSA summary report or any combination of reports that together contain the information described in the ORSA guidance manual, applicable to the insurer or the insurance group of which it is a member. Notwithstanding any request

from the commissioner, if the insurer is a member of an insurance group, the insurer must submit the report or set of reports required by this subsection if the commissioner is the lead state commissioner of the insurance group as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(2) The report must include a signature of the insurer or insurance group's chief risk officer or other executive having responsibility for the oversight of the insurer's enterprise risk management process attesting to the best of his or her belief and knowledge that the insurer applies the enterprise risk management process described in the ORSA summary report and that a copy of the report has been provided to the insurer's board of directors or the appropriate governing committee.

(3) An insurer may comply with subsection (1) of this section by providing the most recent and substantially similar report or reports provided by the insurer or another member of an insurance group of which the insurer is a member to the commissioner of another state or to a supervisor or regulator of a foreign jurisdiction, if that report provides information that is comparable to the information described in the ORSA guidance manual. Any such report in a language other than English must be accompanied by a translation of that report into the English language.

NEW SECTION. Sec. 6. (1) An insurer is exempt from the requirements of this chapter, if:

(a) The insurer has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premium reinsured with the federal crop insurance corporation and federal flood program, less than five hundred million dollars; and

(b) The insurance group of which the insurer is a member has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premium reinsured with the federal crop insurance corporation and federal flood program, less than one billion dollars.

(2) If an insurer qualifies for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does not qualify for exemption pursuant to subsection (1)(b) of this section, then the ORSA summary report that may be required pursuant to section 5 of this act must include every insurer within the insurance group. This requirement is satisfied by the submission of more than one ORSA summary report for any combination of insurers, provided any combination of reports includes every insurer within the insurance group.

(3) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, but the insurance group of which the insurer is a member does qualify for exemption pursuant to subsection (1)(b) of this section, then the only ORSA summary report that may be required pursuant to section 5 of this act is the report applicable to that insurer.

(4) If an insurer does not qualify for exemption pursuant to subsection (1)(a) of this section, the insurer may apply to the commissioner for a waiver from the requirements of this chapter based upon unique circumstances. In deciding whether to grant the insurer's request for waiver, the commissioner may consider the type and volume of business written, ownership and organizational structure, and any other factor the commissioner considers relevant to the insurer or

insurance group of which the insurer is a member. If the insurer is a part of an insurance group with insurers domiciled in more than one state, the commissioner shall coordinate with the lead state commissioner and with the other domiciliary commissioners in considering whether to grant the insurer's request for a waiver.

(5) Notwithstanding the exemptions stated in this section, the commissioner may require that an insurer maintain a risk management framework, conduct an ORSA, and file an ORSA summary report (a) based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests; and (b) if the insurer has risk-based capital at the company action level event as set forth in RCW 48.05.440 or 48.43.310, meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-310, or otherwise exhibits qualities of a troubled insurer as determined by the commissioner.

(6) If an insurer that qualifies for exemption pursuant to subsection (1)(a) of this section subsequently no longer qualifies for that exemption due to changes in premium reflected in the insurer's most recent annual statement or in the most recent annual statements of the insurers within the insurance group of which the insurer is a member, the insurer has one year following the year the threshold is exceeded to comply with the requirement of this chapter.

NEW SECTION. Sec. 7. (1) The ORSA summary report shall be prepared consistent with the ORSA guidance manual, subject to the requirements of subsection (2) of this section. Documentation and supporting information must be maintained and made available upon examination or upon the request of the commissioner.

(2) The review of the ORSA summary report, and any additional requests for information, must be made using similar procedures currently used in the analysis and examination of multistate or global insurers and insurance groups.

NEW SECTION. Sec. 8. (1) Documents, materials, or other information, including the ORSA summary report, in the possession or control of the commissioner that are obtained by, created by, or disclosed to the commissioner or any other person under this chapter, is recognized by this state as being proprietary and to contain trade secrets. All such documents, materials, or other information is confidential by law and privileged, is not subject to chapter 42.56 RCW, is not subject to subpoena, and is not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner may not otherwise make the documents, materials, or other information public without the prior written consent of the insurer.

(2) Neither the commissioner nor any person who received documents, materials, or other ORSA-related information, through examination or otherwise, while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter, is permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's regulatory duties, the commissioner:

(a) May share documents, materials, or other ORSA-related information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, including proprietary and trade secret documents and materials with other state, federal, and international regulatory agencies, including members of any supervisory college recognized by the national association of insurance commissioners, with the national association of insurance commissioners, and with any third-party consultants designated by the commissioner, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(b) May receive documents, materials, or ORSA-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college recognized by the national association of insurance commissioners, from the national association of insurance commissioners, and must maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

(c) Shall enter into written agreements with the national association of insurance commissioners or a third-party consultant governing sharing and use of information provided pursuant to this chapter, consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners or third-party consultant pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state regulators from states in which the insurance group has domiciled insurers. The agreement must provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the ORSA-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

(ii) Specify that ownership of information shared with the national association of insurance commissioners or third-party consultants pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' or a third-party consultant's use of the information is subject to the direction of the commissioner;

(iii) Prohibit the national association of insurance commissioners or third-party consultant from storing the information shared pursuant to this chapter in a permanent database after the underlying analysis is completed;

(iv) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners or a third-party consultant pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners or a third-party consultant for disclosure or production;

(v) Require the national association of insurance commissioners or a third-party consultant to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners or a third-party consultant may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners or a third-party consultant pursuant to this chapter; and

(vi) In the case of an agreement involving a third-party consultant, provide the insurer's written consent.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this chapter.

(5) A waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in this chapter.

(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners or a third-party consultant pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

NEW SECTION. Sec. 9. The commissioner must require any insurer failing, without just cause, to file the ORSA summary report as required in this chapter, after notice and hearing, to pay a fine of five hundred dollars for each day's delay, to be recovered by the commissioner and the fine collected must be transferred to the treasurer for deposit into the state general fund. The maximum fine under this section is one hundred thousand dollars. The commissioner may reduce the fine if the insurer demonstrates to the commissioner that the imposition of the fine would constitute a financial hardship to the insurer.

Sec. 10. RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW (~~(30.04.075)~~)30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~((and))~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; ~~((and))~~

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5); and

(23) Documents, materials, or information obtained by the insurance commissioner under chapter 48.--- RCW (the new chapter created in section 13 of this act).

Sec. 11. RCW 42.56.400 and 2013 c 65 s 5 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW ~~((30.04.075))~~30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~(and)~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Documents, materials, or information obtained by the insurance commissioner under chapter 48.--- RCW (the new chapter created in section 13 of this act).

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. Sections 1 through 9 and 14 of this act constitute a new chapter in Title 48 RCW.

NEW SECTION. Sec. 14. This chapter may be known and cited as the risk management and solvency assessment act.

NEW SECTION. Sec. 15. Except for section 11 of this act, which takes effect July 1, 2017, this act takes effect January 1, 2016.

NEW SECTION. Sec. 16. Section 10 of this act expires July 1, 2017.

Passed by the House March 2, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 18

[Substitute House Bill 1252]

MASSAGE THERAPY--REFLEXOLOGY--UNLICENSED PRACTICE

AN ACT Relating to penalties for allowing or permitting unlicensed practice of massage therapy or reflexology; adding a new section to chapter 18.108 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.108 RCW to read as follows:

The following penalties must be imposed upon an owner of a massage business or reflexology business where the unlicensed practice of massage therapy or reflexology has been committed:

(1) Any person who with knowledge or criminal negligence allows or permits the unlicensed practice of massage therapy or reflexology to be committed within his or her massage business or reflexology business by another is guilty of a misdemeanor for a single violation.

(2) Each subsequent violation, whether alleged in the same or in subsequent prosecutions, is a gross misdemeanor punishable according to chapter 9A.20 RCW.

Passed by the House March 2, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 19

[Substitute Senate Bill 5023]

GROUP HEALTH BENEFIT PLANS--FILING REQUIREMENTS

AN ACT Relating to the filing of group health benefit plans other than small group plans, stand-alone dental plans, and stand-alone vision plans by disability insurers, health care service contractors, and health maintenance organizations; amending RCW 48.18.100 and 48.19.010; adding a new section to chapter 48.43 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to enhance competition and create regulatory uniformity in the filing requirements for group

health benefit plans other than small group plans, as well as stand-alone dental plan and stand-alone vision plan rates and forms in order to increase competition among carriers and provide a more competitive market for these products.

Sec. 2. RCW 48.18.100 and 2008 c 217 s 12 are each amended to read as follows:

(1) No insurance policy form or application form where written application is required and is to be attached to the policy, or printed life or disability rider or endorsement form may be issued, delivered, or used unless it has been filed with and approved by the commissioner. This section does not apply to:

(a) Surety bond forms;

(b) Forms filed under RCW 48.18.103;

(c) Forms exempted from filing requirements by the commissioner under RCW 48.18.103;

(d) Manuscript policies, riders, or endorsements of unique character designed for and used with relation to insurance upon a particular subject; ((~~or~~))

(e) Contracts of insurance procured under the provisions of chapter 48.15 RCW; or

(f) Forms filed under the requirements of section 3 of this act.

(2) Every such filing containing a certification, in a form approved by the commissioner, by either the chief executive officer of the insurer or by an actuary who is a member of the American academy of actuaries, attesting that the filing complies with Title 48 RCW and Title 284 of the Washington Administrative Code, may be used by the insurer immediately after filing with the commissioner. The commissioner may order an insurer to cease using a certified form upon the grounds set forth in RCW 48.18.110. This subsection does not apply to certain types of policy forms designated by the commissioner by rule.

(3) Except as provided in RCW 48.18.103 and section 3 of this act, every filing that does not contain a certification pursuant to subsection (2) of this section must be made not less than thirty days in advance of issuance, delivery, or use. At the expiration of the thirty days, the filed form shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. The commissioner may extend by not more than an additional fifteen days the period within which he or she may affirmatively approve or disapprove any form, by giving notice of the extension before expiration of the initial thirty-day period. At the expiration of the period that has been extended, and in the absence of prior affirmative approval or disapproval, the form shall be deemed approved. The commissioner may withdraw any approval at any time for cause. By approval of any form for immediate use, the commissioner may waive any unexpired portion of the initial thirty-day waiting period.

(4) The commissioner's order disapproving any form or withdrawing a previous approval must state the grounds for disapproval.

(5) No form may knowingly be issued or delivered as to which the commissioner's approval does not then exist.

(6) The commissioner may, by rule, exempt from the requirements of this section any class or type of insurance policy forms if filing and approval is not desirable or necessary for the protection of the public.

(7) Every member or subscriber to a rating organization must adhere to the form filings made on its behalf by the organization. Deviations from the organization are permitted only when filed with the commissioner in accordance with this chapter.

(8) Medical malpractice insurance form filings are subject to the provisions of this section.

(9) Variable contract forms; disability insurance policy forms; individual life insurance policy forms; life insurance policy illustration forms; industrial life insurance contract, individual medicare supplement insurance policy, and longterm care insurance policy forms, which are amended solely to comply with the changes in nomenclature required by RCW 48.18A.035, 48.20.013, 48.20.042, 48.20.072, 48.23.380, 48.23A.040, 48.23A.070, 48.25.140, 48.66.120, and 48.76.090 are exempt from this section.

NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43 RCW to read as follows:

(1) All rates and forms of group health benefit plans other than small group plans and all stand-alone dental and stand-alone vision plans offered by a health carrier or limited health care service contractor as defined in RCW 48.44.035 and modification of a contract form or rate must be filed before the contract form is offered for sale to the public and before the rate schedule is used.

(2) Filings of negotiated contract forms for groups other than small groups, and applicable rate schedules, that are placed into effect at time of negotiation or that have a retroactive effective date are not required to be filed in accordance with subsection (1) of this section, but must be filed within thirty working days after the earlier of:

- (a) The date group contract negotiations are completed; or
- (b) The date renewal premiums are implemented.

(3) For purposes of this section, a negotiated contract form is a health benefit plan, stand-alone dental plan, or stand-alone vision plan where benefits, and other terms and conditions, including the applicable rate schedules are negotiated and agreed to by the carrier or limited health care service contractor and the policy or contract holder. The negotiated policy form and associated rate schedule must otherwise comply with state and federal laws governing the content and schedule of rates for the negotiated plans.

(4) Stand-alone dental and stand-alone vision plans offered by a disability insurer to out-of-state groups specified by RCW 48.21.010(2) may be negotiated, but may not be offered in this state before the commissioner finds that the stand-alone dental or stand-alone vision plan otherwise meet the standards set forth in RCW 48.21.010(2) (a) and (b).

(5) The commissioner may, subject to a carrier's or limited health care service contractor's right to demand and receive a hearing under chapters 48.04 and 34.05 RCW, disapprove filings submitted under this section, as permitted under RCW 48.18.110, 48.44.020, and 48.46.060.

(6) The commissioner shall adopt rules to standardize the rate and form filing requirements under this section. In developing rules to implement this section, the commissioner must use the already adopted standards in place for health care service contractors and health maintenance organizations.

(7) The requirements of this section apply to all group health benefit plans, stand-alone dental plans, and stand-alone vision plans issued or renewed on or after January 1, 2016.

Sec. 4. RCW 48.19.010 and 1987 c 185 s 24 are each amended to read as follows:

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

(a) Life insurance;

(b) Disability insurance;

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

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

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

(f) Title insurance.

(2) Except, that every insurer shall, as to disability insurance, before using file with the commissioner its manual of classification, manual of rules and rates, and any modifications thereof except as provided under section 3 of this act or rate filing requirements established by a specific statute or federal law.

Passed by the Senate March 4, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 20

[Senate Bill 5031]

BUSINESS CORPORATION ACT--ADVANCE ACTION--BUSINESS OPPORTUNITIES

AN ACT Relating to permitting advance action regarding business opportunities under the business corporation act; amending RCW 23B.01.400, 23B.02.020, 23B.08.700, and 23B.08.720; and adding a new section to chapter 23B.08 RCW.

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

Sec. 1. RCW 23B.01.400 and 2012 c 215 s 17 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the record is to operate should have noticed it. For example, printing in

italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(5) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(6) "Deliver" includes (a) mailing, (b) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders, transmission by facsimile equipment, and (c) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11, 23B.13, 23B.14, or 23B.16 RCW delivery by electronic transmission.

(7) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(8) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(9) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(10) "Electronically transmitted" means the initiation of an electronic transmission.

(11) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(12) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Execute," "executes," or "executed" means (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission, or (c) with respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(14) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(15) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(16) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

(17) "Governmental subdivision" includes authority, county, district, and municipality.

(18) "Includes" denotes a partial definition.

(19) "Individual" includes the estate of an incompetent or deceased individual.

(20) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(21) "Means" denotes an exhaustive definition.

(22) "Notice" has the meaning provided in RCW 23B.01.410.

(23) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(24) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(25) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(26) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(27) "Qualified director" means (a) with respect to a director's conflicting interest transaction as defined in RCW 23B.08.700, any director who does not have either (i) a conflicting interest respecting the transaction, or (ii) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction; (b) with respect to section 5 of this act, a qualified director under (a) of this subsection if the business opportunity were a director's conflicting interest transaction; and (c) with respect to RCW 23B.02.020(5)(k), a director who is not a director (i) to whom the limitation or elimination of the duty of an officer to offer potential business opportunities to the corporation would apply, or (ii) who has a familial, financial, professional, or employment relationship with another officer to whom the limitation or elimination would apply, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the limitation or elimination.

(28) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

~~((28))~~(29) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and

their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

~~((29))~~(30) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

~~((30))~~(31) "Shares" means the units into which the proprietary interests in a corporation are divided.

~~((31))~~(32) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

~~((32))~~(33) "Social purpose" includes any general social purpose and any specific social purpose.

~~((33))~~(34) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

~~((34))~~(35) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

~~((35))~~(36) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

~~((36))~~(37) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

~~((37))~~(38) "Tangible medium" means a writing, copy of a writing, or facsimile, or a physical reproduction, each on paper or on other tangible material.

~~((38))~~(39) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

~~((39))~~(40) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

~~((40))~~(41) "Writing" does not include an electronic transmission.

~~((41))~~(42) "Written" means embodied in a tangible medium.

Sec. 2. RCW 23B.02.020 and 2009 c 189 s 3 are each amended to read as follows:

(1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of RCW 23B.04.010;

(b) The number of shares the corporation is authorized to issue in accordance with RCW 23B.06.010 and 23B.06.020;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office in accordance with RCW 23B.05.010; and

(d) The name and address of each incorporator in accordance with RCW 23B.02.010.

(2) The articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed, unless the articles of incorporation dispense with a board of directors pursuant to RCW 23B.08.010.

(3) Unless its articles of incorporation provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may adopt bylaws to be effective only in an emergency as provided by RCW 23B.02.070;

(b) A corporation has the purpose of engaging in any lawful business under RCW 23B.03.010;

(c) A corporation has perpetual existence and succession in its corporate name under RCW 23B.03.020;

(d) A corporation has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including itemized powers under RCW 23B.03.020;

(e) All shares are of one class and one series, have unlimited voting rights, and are entitled to receive the net assets of the corporation upon dissolution under RCW 23B.06.010 and 23B.06.020;

(f) If more than one class of shares is authorized, all shares of a class must have preferences, limitations, and relative rights identical to those of other shares of the same class under RCW 23B.06.010;

(g) If the board of directors is authorized to designate the number of shares in a series, the board may, after the issuance of shares in that series, reduce the number of authorized shares of that series under RCW 23B.06.020;

(h) The board of directors must approve any issuance of shares under RCW 23B.06.210;

(i) Shares may be issued pro rata and without consideration to shareholders under RCW 23B.06.230;

(j) Shares of one class or series may not be issued as a share dividend with respect to another class or series, unless there are no outstanding shares of the class or series to be issued, or a majority of votes entitled to be cast by such class or series approve as provided in RCW 23B.06.230;

(k) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation under RCW 23B.06.240;

(l) A shareholder has, and may waive, a preemptive right to acquire the corporation's unissued shares as provided in RCW 23B.06.300;

(m) Shares of a corporation acquired by it may be reissued under RCW 23B.06.310;

(n) The board may authorize and the corporation may make distributions not prohibited by statute under RCW 23B.06.400;

(o) The preferential rights upon dissolution of certain shareholders will be considered a liability for purposes of determining the validity of a distribution under RCW 23B.06.400;

(p) Corporate action may be approved by shareholders by unanimous consent of all shareholders entitled to vote on the corporate action, unless the approval of a lesser number of shareholders is permitted as provided in RCW 23B.07.040, which shareholder consent shall be in the form of a record;

(q) Unless this title requires otherwise, the corporation is required to give notice only to shareholders entitled to vote at a meeting and the notice for an annual meeting need not include the purpose for which the meeting is called under RCW 23B.07.050;

(r) A corporation that is a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(s) Subject to statutory exceptions, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting under RCW 23B.07.210;

(t) A majority of the votes entitled to be cast on a matter by a voting group constitutes a quorum, unless the title provides otherwise under RCW 23B.07.250 and 23B.07.270;

(u) Corporate action on a matter, other than election of directors, by a voting group is approved if the votes cast within the voting group favoring the corporate action exceed the votes cast opposing the corporate action, unless this title requires a greater number of affirmative votes under RCW 23B.07.250;

(v) All shares of one or more classes or series that are entitled to vote will be counted together collectively on any matter at a meeting of shareholders under RCW 23B.07.260;

(w) Directors are elected by cumulative voting under RCW 23B.07.280;

(x) Directors are elected by a plurality of votes cast by shares entitled to vote under RCW 23B.07.280, except as otherwise provided in the articles of incorporation or a bylaw adopted pursuant to RCW 23B.10.205;

(y) A corporation must have a board of directors under RCW 23B.08.010;

(z) All corporate powers must be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors under RCW 23B.08.010;

(aa) The shareholders may remove one or more directors with or without cause under RCW 23B.08.080;

(bb) A vacancy on the board of directors may be filled by the shareholders or the board of directors under RCW 23B.08.100;

(cc) A corporation shall indemnify a director who was wholly successful in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding under RCW 23B.08.520;

(dd) A director of a corporation who is a party to a proceeding may apply for indemnification of reasonable expenses incurred by the director in connection with the proceeding to the court conducting the proceeding or to another court of competent jurisdiction under RCW 23B.08.540;

(ee) An officer of the corporation who is not a director is entitled to mandatory indemnification under RCW 23B.08.520, and is entitled to apply for court-ordered indemnification under RCW 23B.08.540, in each case to the same extent as a director under RCW 23B.08.570;

(ff) The corporation may indemnify and advance expenses to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director under RCW 23B.08.570;

(gg) A corporation may indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that may be provided by its articles of incorporation, bylaws, general or specific approval of its board of directors, or contract under RCW 23B.08.570;

(hh) A corporation's board of directors may adopt certain amendments to the corporation's articles of incorporation without shareholder approval under RCW 23B.10.020;

(ii) Unless this title or the board of directors requires a greater vote or a vote by voting groups, an amendment to the corporation's articles of incorporation must be approved by each voting group entitled to vote on the proposed amendment by two-thirds, or, in the case of a public company, a majority, of all the votes entitled to be cast by that voting group under RCW 23B.10.030;

(jj) A corporation's board of directors may amend or repeal the corporation's bylaws unless this title reserves this power exclusively to the shareholders in whole or in part, or unless the shareholders in amending or repealing a bylaw provide expressly that the board of directors may not amend or repeal that bylaw under RCW 23B.10.200;

(kk) Unless this title or the board of directors require a greater vote or a vote by voting groups, a plan of merger or share exchange must be approved by each voting group entitled to vote on the merger or share exchange by two-thirds of all the votes entitled to be cast by that voting group under RCW 23B.11.030;

(ll) Approval by the shareholders of the sale, lease, exchange, or other disposition of all, or substantially all, the corporation's property in the usual and regular course of business is not required under RCW 23B.12.010;

(mm) Approval by the shareholders of the mortgage, pledge, dedication to the repayment of indebtedness, or other encumbrance of any or all of the corporation's property, whether or not in the usual and regular course of business, is not required under RCW 23B.12.010;

(nn) Unless the board of directors requires a greater vote or a vote by voting groups, a sale, lease, exchange, or other disposition of all or substantially all of the corporation's property, other than in the usual and regular course of business, must be approved by each voting group entitled to vote on such transaction by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.12.020; and

(oo) Unless the board of directors requires a greater vote or a vote by voting groups, a proposal to dissolve must be approved by each voting group entitled to vote on the dissolution by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.14.020.

(4) Unless its articles of incorporation or its bylaws provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may approve the issuance of some or all of the shares of any or all of the corporation's classes or series without certificates under RCW 23B.06.260;

(b) A corporation that is not a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(c) A director need not be a resident of this state or a shareholder of the corporation under RCW 23B.08.020;

(d) The board of directors may fix the compensation of directors under RCW 23B.08.110;

(e) Members of the board of directors may participate in a meeting of the board by any means of similar communication by which all directors participating can hear each other during the meeting under RCW 23B.08.200;

(f) Corporate action permitted or required by this title to be taken at a board of directors' meeting may be approved without a meeting if approved by all members of the board under RCW 23B.08.210;

(g) Regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting under RCW 23B.08.220;

(h) Special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting, and the notice need not describe the purpose of the special meeting under RCW 23B.08.220;

(i) A quorum of a board of directors consists of a majority of the number of directors under RCW 23B.08.240;

(j) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors under RCW 23B.08.240;

(k) A board of directors may create one or more committees and appoint members of the board of directors to serve on them under RCW 23B.08.250; and

(l) Unless approved by the shareholders, a corporation may indemnify, or make advances to, a director for reasonable expenses incurred in the defense of any proceeding to which the director was a party because of being a director only to the extent such action is consistent with RCW 23B.08.500 through 23B.08.580.

(5) The articles of incorporation may contain the following provisions:

(a) The names and addresses of the individuals who are to serve as initial directors;

(b) The par value of any authorized shares or classes of shares;

(c) Provisions not inconsistent with law related to the management of the business and the regulation of the affairs of the corporation;

(d) Any provision that under this title is required or permitted to be set forth in the bylaws;

(e) Provisions not inconsistent with law defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

(f) Provisions authorizing corporate action to be approved by consent of less than all of the shareholders entitled to vote on the corporate action, in accordance with RCW 23B.07.040;

(g) If the articles of incorporation authorize dividing shares into classes, the election of all or a specified number of directors may be effected by the holders of one or more authorized classes of shares under RCW 23B.08.040;

(h) The terms of directors may be staggered under RCW 23B.08.060;

(i) Shares may be redeemable or convertible (i) at the option of the corporation, the shareholder, or another person, or upon the occurrence of a designated event; (ii) for cash, indebtedness, securities, or other property; or (iii) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events under RCW 23B.06.010; ~~(and)~~

(j) A director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director may be eliminated or limited under RCW 23B.08.320; and

(k) A provision limiting or eliminating any duty of a director or any other person to offer the corporation the right to have or participate in any, or one or more classes or categories of, business opportunities, prior to the pursuit or taking of the opportunity by the director or other person. However, if such provision applies to an officer or related person (as such term is defined in RCW 23B.08.700) of an officer, the board of directors, by action of qualified directors taken in compliance with the same procedures as are set forth in RCW 23B.08.720 and taken subsequent to the inclusion of such provision in the articles of incorporation, (i) must approve the application of such provision to an officer or a related person of that officer, and (ii) may condition the application of such provision to such officer or related person of that officer on any basis.

(6) The articles of incorporation or the bylaws may contain the following provisions:

(a) A restriction on the transfer or registration of transfer of the corporation's shares under RCW 23B.06.270;

(b) Shareholders may participate in a meeting of shareholders by any means of communication by which all persons participating in the meeting can hear each other under RCW 23B.07.080;

(c) A quorum of the board of directors may consist of as few as one-third of the number of directors under RCW 23B.08.240;

(d) If the corporation is registered as an investment company under the investment company act of 1940, a provision limiting the requirement to hold an annual meeting of shareholders as provided in RCW 23B.07.010(2); and

(e) If the corporation is registered as an investment company under the investment company act of 1940, a provision establishing terms of directors which terms may be longer than one year as provided in RCW 23B.05.050.

(7) The articles of incorporation need not set forth any of the corporate powers enumerated in this title.

Sec. 3. RCW 23B.08.700 and 2009 c 189 s 30 are each amended to read as follows:

For purposes of RCW 23B.08.710 through ~~((23B.08.730))~~section 5 of this act:

(1) "Conflicting interest" with respect to a corporation means the interest a director of the corporation has respecting a transaction effected or proposed to be effected by the corporation, or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest, if:

(a) Whether or not the transaction is brought before the board of directors of the corporation for action, the director knows at the time of commitment that the director or a related person is a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the director or a related person that the interest would reasonably be expected to exert an influence on the director's judgment if the director were called upon to vote on the transaction; or

(b) The transaction is brought, or is of such character and significance to the corporation that it would in the normal course be brought, before the board of directors of the corporation for action, and the director knows at the time of

commitment that any of the following persons is either a party to the transaction or has a beneficial financial interest in or so closely linked to the transaction and of such financial significance to the person that the interest would reasonably be expected to exert an influence on the director's judgment if the director were called upon to vote on the transaction: (i) An entity, other than the corporation, of which the director is a director, general partner, agent, or employee; (ii) a person that controls one or more of the entities specified in (b)(i) of this subsection or an entity that is controlled by, or is under common control with, one or more of the entities specified in (b)(i) of this subsection; or (iii) an individual who is a general partner, principal, or employer of the director.

(2) "Director's conflicting interest transaction" with respect to a corporation means a transaction effected or proposed to be effected by the corporation, or by a subsidiary of the corporation or any other entity in which the corporation has a controlling interest, respecting which a director of the corporation has a conflicting interest.

(3) "Related person" of ~~((a director))~~an individual means (a)~~(i)~~ the spouse, or a parent or sibling thereof, of the ~~((director))~~individual, or a child, grandchild, sibling, parent, or spouse of any thereof, of the ~~((director))~~individual, or ~~((an individual))~~a natural person having the same home as the ~~((director))~~individual, or a trust or estate of which ~~((an individual))~~a person specified ~~((herein))~~in this subsection (3)(a) is a substantial beneficiary; or ~~((b))~~(ii) a trust, estate, incompetent, conservatee, or minor of which the ~~((director))~~individual is a fiduciary and (b) with respect to section 5 of this act, in addition to the persons under (a) of this subsection, (i) an entity controlled by the individual or any person specified in (a)(i) or (ii) of this subsection; (ii) an entity, other than the corporation, of which the individual is a director, general partner, agent or employee; (iii) a person that controls one or more of the entities specified in (b)(ii) of this subsection or an entity that is controlled by, or is under common control with, one or more of the entities specified in (b)(ii) of this subsection; or (iv) a natural person who is a general partner, principal, or employer of the individual.

(4) "Required disclosure" means disclosure by the director who has a conflicting interest of (a) the existence and nature of the director's conflicting interest, and (b) all facts known to the director respecting the subject matter of the transaction that an ordinarily prudent person would reasonably believe to be material to a judgment about whether or not to proceed with the transaction.

(5) "Time of commitment" respecting a transaction means the time when the transaction becomes effective or, if made pursuant to contract, the time when the corporation, or its subsidiary or the entity in which it has a controlling interest, becomes contractually obligated so that its unilateral withdrawal from the transaction would entail significant loss, liability, or other damage.

Sec. 4. RCW 23B.08.720 and 1989 c 165 s 118 are each amended to read as follows:

(1) Directors' action respecting a transaction is effective for purposes of RCW 23B.08.710(2)(a) if the transaction received the affirmative vote of a majority, but no fewer than two, of those qualified directors on the board of directors or on a duly empowered committee of the board who voted on the transaction after either required disclosure to them, to the extent the information

was not known by them, or compliance with subsection (2) of this section, provided that action by a committee is so effective only if:

(a) All its members are qualified directors; and

(b) Its members are either all the qualified directors on the board or are appointed by the affirmative vote of a majority of the qualified directors on the board.

(2) If a director has a conflicting interest respecting a transaction, but neither the director nor a related person of the director specified in RCW 23B.08.700(3)(a) (i) and (ii) is a party to the transaction, and if the director has a duty under law or professional canon, or a duty of confidentiality to another person, respecting information relating to the transaction such that the director may not make the disclosure described in RCW 23B.08.700(4)(b), then disclosure is sufficient for purposes of subsection (1) of this section if the director (a) discloses to the directors voting on the transaction the existence and nature of the director's conflicting interest and informs them of the character and limitations imposed by that duty before their vote on the transaction, and (b) plays no part, directly or indirectly, in their deliberations or vote.

(3) A majority, but no fewer than two, of all the qualified directors on the board of directors, or on the committee, constitutes a quorum for purposes of action that complies with this section. Directors' action that otherwise complies with this section is not affected by the presence or vote of a director who is not a qualified director.

~~((4) For purposes of this section "qualified director" means, with respect to a director's conflicting interest transaction, any director who does not have either (a) a conflicting interest respecting the transaction, or (b) a familial, financial, professional, or employment relationship with a second director who does have a conflicting interest respecting the transaction, which relationship would, in the circumstances, reasonably be expected to exert an influence on the first director's judgment when voting on the transaction.))~~

NEW SECTION. Sec. 5. A new section is added to chapter 23B.08 RCW to read as follows:

(1) If a director or officer or related person of either pursues or takes advantage, directly or indirectly, of a business opportunity, that action may not be enjoined or set aside, or give rise to an award of damages or other sanctions, in a proceeding by a shareholder or by or in the right of the corporation on the ground that such opportunity should have first been offered to the corporation, if:

(a) Before the director, officer, or related person becomes legally obligated respecting the opportunity, the director or officer brings it to the attention of the corporation: and

(i) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in RCW 23B.08.720, as if the decision being made concerned a director's conflicting interest transaction, or

(ii) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in RCW 23B.08.730, as if the decision being made concerned a director's conflicting interest transaction,

except that, in the case of both (a)(i) and (ii) of this subsection, rather than making "required disclosure" as defined in RCW 23B.08.700(4), in each case the director or officer must have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director or officer; or

(b) The duty to offer the corporation the right to have or participate in the particular business opportunity or the class or category in to which that particular business opportunity falls has been limited or eliminated pursuant to a provision of the articles of incorporation (and in the case of officers and their related persons, made effective by action of qualified directors) in accordance with RCW 23B.02.020(5)(k).

(2) In any proceeding seeking equitable relief or other remedies based upon an alleged improper pursuit or taking advantage of a business opportunity by a director or officer, the fact that the director or officer did not employ the procedure described in subsection (1)(a)(i) or (ii) of this section before taking advantage of the opportunity does not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director or officer breached a duty to the corporation in the circumstances.

Passed by the Senate February 24, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 21

[Senate Bill 5144]

ROBERT BREE COLLABORATIVE

AN ACT Relating to making the Bree collaborative more accessible to the public and promoting transparency; and amending RCW 70.250.050.

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

Sec. 1. RCW 70.250.050 and 2011 c 313 s 3 are each amended to read as follows:

(1) Consistent with the authority granted in RCW 41.05.013, the authority shall convene a collaborative, to be known as the Robert Bree collaborative. The collaborative shall identify health care services for which there are substantial variation in practice patterns or high utilization trends in Washington state, without producing better care outcomes for patients, that are indicators of poor quality and potential waste in the health care system. On an annual basis, the collaborative shall identify up to three health care services it will address.

(2) For each health care service identified, the collaborative shall:

(a) Analyze and identify evidence-based best practice approaches to improve quality and reduce variation in use of the service, including identification of guidelines or protocols applicable to the health care service. In evaluating guidelines, the collaborative should identify the highest quality guidelines based upon the most rigorous and transparent methods for identification, rating, and translation of evidence into practice recommendations.

(b) Identify data collection and reporting necessary to develop baseline health service utilization rates and to measure the impact of strategies adopted under this section. Methods for data collection and reporting should strive to minimize cost and administrative effort related to data collection and reporting wherever possible, including the use of existing data resources and nonfee-based tools for reporting.

(c) Identify strategies to increase use of the evidence-based best practice approaches identified under (a) of this subsection in both state purchased and privately purchased health care plans. Strategies considered should include, but are not limited to: Identifying goals for appropriate utilization rates and reduction in practice variation among providers; peer-to-peer consultation or second opinions; provider feedback reports; use of patient decision aids; incentives for appropriate use of health care services; centers of excellence or other provider qualification standards; quality improvement systems; and service utilization and outcomes reporting, including public reporting. In developing strategies, the collaborative should strongly consider related efforts of organizations such as the Puget Sound health alliance, the Washington state hospital association, the national quality forum, the joint commission on accreditation of health care organizations, the national committee for quality assurance, the foundation for health care quality, and, where appropriate, more focused quality improvement efforts, such as the Washington state perinatal advisory committee and the Washington state surgical care and outcomes assessment program. The collaborative shall provide an opportunity for public comment on the strategies chosen before finalizing their recommendations.

(3) If the collaborative chooses a health care service for which there is substantial variation in practice patterns or a high or low utilization trend in Washington state, and a lack of evidence-based best practice approaches, it should consider strategies that will promote improved care outcomes, such as patient decision aids, provider feedback reports, centers of excellence or other provider qualification standards, and research to improve care quality and outcomes.

(4) The governor shall appoint twenty members of the collaborative, who must include:

(a) Two members, selected from health carriers or third-party administrators that have the most fully insured and self-funded covered lives in Washington state. The count of total covered lives includes enrollment in all companies included in their holding company system. Each health carrier or third-party administrator is entitled to no more than a single position on the collaborative to represent all entities under common ownership or control;

(b) One member, selected from the health maintenance organization having the most fully insured and self-insured covered lives in Washington state. The count of total lives includes enrollment in all companies included in its holding company system. Each health maintenance organization is entitled to no more than a single position on the collaborative to represent all entities under common ownership or control;

(c) One member, chosen from among three nominees submitted by the association of Washington health plans, representing national health carriers that operate in multiple states outside of the Pacific Northwest;

(d) Four physicians, selected from lists of nominees submitted by the Washington state medical association, as follows:

(i) Two physicians, one of whom must be a practicing primary care physician, representing large multispecialty clinics with fifty or more physicians, selected from a list of five nominees. The primary care physician must be either a family physician, an internal medicine physician, or a general pediatrician; and

(ii) Two physicians, one of whom must be a practicing primary care physician, representing clinics with less than fifty physicians, selected from a list of five nominees. The primary care physician must be either a family physician, an internal medicine physician, or a general pediatrician;

(e) One osteopathic physician, selected from a list of five nominees submitted by the Washington state osteopathic medical association;

(f) Two physicians representing the largest hospital-based physician systems in the state, selected from a list of five nominees submitted jointly by the Washington state medical association and the Washington state hospital association;

(g) Three members representing hospital systems, at least one of whom is responsible for quality, submitted from a list of six nominees from the Washington state hospital association;

(h) Three members, representing self-funded purchasers of health care services for employees;

(i) Two members, representing state purchased health care programs; and

(j) One member, representing the Puget Sound health alliance.

(5) The governor shall appoint the chair of the collaborative.

(6) The collaborative shall add members to its membership or establish clinical committees for each therapy under review by the collaborative for the purpose of acquiring clinical expertise needed to accomplish its responsibilities under this section and RCW 70.250.010 and 70.250.030. Membership of clinical committees should reflect clinical expertise in the area of health care services being addressed by the collaborative, including clinicians involved in related quality improvement or comparative effectiveness efforts, as well as nonphysician practitioners. Each clinical committee shall include at least two members of the specialty or subspecialty society most experienced with the health service identified for review.

(7) Permanent and ad hoc members of the collaborative or any of its committees may not have personal financial conflicts of interest that could substantially influence or bias their participation. If a collaborative or committee member has a personal financial conflict of interest with respect to a particular health care service being addressed by the collaborative, he or she shall disclose such an interest. The collaborative must determine whether the member should be recused from any deliberations or decisions related to that service.

(8) A person serving on the collaborative or any of its clinical committees shall be immune from civil liability, whether direct or derivative, for any decisions made in good faith while pursuing activities associated with the work of collaborative or any of its clinical committees.

(9) The guidelines or protocols identified under this section shall not be construed to establish the standard of care or duty of care owed by health care providers in any cause of action occurring as a result of health care.

(10) The collaborative shall actively solicit federal or private funds and in-kind contributions necessary to complete its work in a timely fashion. The collaborative shall not accept private funds if receipt of such funding could present a potential conflict of interest or bias in the collaborative's deliberations. Available state funds may be used to support the work of the collaborative when the collaborative has selected a health care service that is a high utilization or high-cost service in state purchased health care programs or the health care service is undergoing evaluation in one or more state purchased health care programs and coordination will reduce duplication of efforts. The collaborative shall not begin the work described in this section unless sufficient funds are received from private or federal resources, or available state funds.

(11) No member of the collaborative or its committees may be compensated for his or her service.

(12) The proceedings of the collaborative shall be open to the public and notice of meetings shall be provided at least twenty days prior to a meeting.

(13) All meetings of the collaborative, including those of a subcommittee, are subject to the open public meetings act.

(14) The collaborative shall report to the administrator of the authority regarding the health services areas it has chosen and strategies proposed. The administrator shall review the strategies recommended in the report, giving strong consideration to the direction provided in section 1, chapter 313, Laws of 2011 and this section. The administrator's review shall describe the outcomes of the review and any decisions related to adoption of the recommended strategies by state purchased health care programs. Following the administrator's review, the collaborative shall report to the legislature and the governor regarding chosen health services, proposed strategies, the results of the administrator's review, and available information related to the impact of strategies adopted in the previous three years on the cost and quality of care provided in Washington state. The initial report must be submitted by November 15, 2011, with annual reports thereafter.

Passed by the Senate March 10, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 22

[Substitute Senate Bill 5165]

HEALTH INSURANCE COVERAGE--PALLIATIVE CARE TREATMENTS

AN ACT Relating to coverage of home health benefits for persons seeking palliative care treatments; amending RCW 48.21.220, 48.21A.090, and 48.44.320; and creating a new section.

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

Sec. 1. RCW 48.21.220 and 1988 c 245 s 31 are each amended to read as follows:

(1) Every insurer entering into or renewing group or blanket disability insurance policies governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered

in conjunction with a policy that provides payment for hospitalization as a part of health care coverage. Persons seeking such services for palliative care in conjunction with treatment or management of serious or life-threatening illness need not be homebound in order to be eligible for coverage under this section.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapter 70.126 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed by the department of social and health services;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 2. RCW 48.21A.090 and 1989 1st ex.s. c 9 s 220 are each amended to read as follows:

(1) Every insurer entering into or renewing extended health insurance governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage. Persons seeking such services for palliative care in conjunction with treatment or management of serious or life-threatening illness need not be homebound in order to be eligible for coverage under this section.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapters 70.126 and 70.127 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed under chapter 70.127 RCW;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

Sec. 3. RCW 48.44.320 and 1989 1st ex.s. c 9 s 222 are each amended to read as follows:

(1) Every health care service contractor entering into or renewing a group health care service contract governed by this chapter shall offer optional coverage for home health care and hospice care for persons who are homebound and would otherwise require hospitalization. Such optional coverage need only be offered in conjunction with a policy that provides payment for hospitalization as a part of health care coverage. Persons seeking such services for palliative care in conjunction with treatment or management of serious or life-threatening illness need not be homebound in order to be eligible for coverage under this section.

(2) Home health care and hospice care coverage offered under subsection (1) of this section shall conform to the following standards, limitations, and restrictions in addition to those set forth in chapters 70.126 and 70.127 RCW:

(a) The coverage may include reasonable deductibles, coinsurance provisions, and internal maximums;

(b) The coverage should be structured to create incentives for the use of home health care and hospice care as an alternative to hospitalization;

(c) The coverage may contain provisions for utilization review and quality assurance;

(d) The coverage may require that home health agencies and hospices have written treatment plans approved by a physician licensed under chapter 18.57 or 18.71 RCW, and may require such treatment plans to be reviewed at designated intervals;

(e) The coverage shall provide benefits for, and restrict benefits to, services rendered by home health and hospice agencies licensed under chapter 70.127 RCW;

(f) Hospice care coverage shall provide benefits for terminally ill patients for an initial period of care of not less than six months and may provide benefits for an additional six months of care in cases where the patient is facing imminent death or is entering remission if certified in writing by the attending physician;

(g) Home health care coverage shall provide benefits for a minimum of one hundred thirty health care visits per calendar year. However, a visit of any duration by an employee of a home health agency for the purpose of providing services under the plan of treatment constitutes one visit;

(h) The coverage may be structured so that services or supplies included in the primary contract are not duplicated in the optional home health and hospice coverage.

(3) The insurance commissioner shall adopt any rules necessary to implement this section.

(4) The requirements of this section shall not apply to contracts or policies governed by chapter 48.66 RCW.

(5) An insurer, as a condition of reimbursement, may require compliance with home health and hospice certification regulations established by the United States department of health and human services.

NEW SECTION. **Sec. 4.** This act applies to plans issued or renewed after December 31, 2016.

Passed by the Senate March 2, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 23

[Substitute Senate Bill 5175]

TELEMEDICINE

AN ACT Relating to telemedicine; amending RCW 70.41.020 and 70.41.230; adding a new section to chapter 41.05 RCW; adding a new section to chapter 48.43 RCW; adding a new section to chapter 74.09 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec. 1.** It is the intent of the legislature to recognize the application of telemedicine as a reimbursable service by which an individual

receives medical services from a health care provider without in-person contact with the provider. It is also the intent of the legislature to reduce the compliance requirements on hospitals when granting privileges or associations to telemedicine physicians.

NEW SECTION. Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) A health plan offered to employees and their covered dependents under this chapter issued or renewed on or after the effective date of this section shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if:

(a) The plan provides coverage of the health care service when provided in person by the provider;

(b) The health care service is medically necessary; and

(c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on the effective date of this section.

(2)(a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Community mental health center;

(f) Skilled nursing facility; or

(g) Renal dialysis center, except an independent renal dialysis center.

(4) Any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the health plan. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require the plan to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(9) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(e) "Provider" has the same meaning as in RCW 48.43.005;

(f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(g) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

NEW SECTION. Sec. 3. A new section is added to chapter 48.43 RCW to read as follows:

(1) For health plans issued or renewed on or after the effective date of this section, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine store and forward technology if:

(a) The plan provides coverage of the health care service when provided in person by the provider;

(b) The health care service is medically necessary; and

(c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on the effective date of this section.

(2)(a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Community mental health center;

- (f) Skilled nursing facility; or
- (g) Renal dialysis center, except an independent renal dialysis center.

(4) Any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the health carrier. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a health carrier to reimburse:

- (a) An originating site for professional fees;
- (b) A provider for a health care service that is not a covered benefit under the plan; or

- (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

- (a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

- (b) "Health care service" has the same meaning as in RCW 48.43.005;

- (c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

- (d) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

- (e) "Provider" has the same meaning as in RCW 48.43.005;

- (f) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

- (g) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

NEW SECTION. Sec. 4. A new section is added to chapter 74.09 RCW to read as follows:

(1) Upon initiation or renewal of a contract with the Washington state health care authority to administer a medicaid managed care plan, a managed health care system shall reimburse a provider for a health care service provided to a covered person through telemedicine store and forward technology if:

(a) The medicaid managed care plan in which the covered person is enrolled provides coverage of the health care service when provided in person by the provider;

(b) The health care service is medically necessary; and

(c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on the effective date of this section.

(2)(a) If the service is provided through store and forward technology there must be an associated visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit.

(b) For purposes of this section, reimbursement of store and forward technology is available only for those services specified in the negotiated agreement between the managed health care system and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a:

(a) Hospital;

(b) Rural health clinic;

(c) Federally qualified health center;

(d) Physician's or other health care provider's office;

(e) Community mental health center;

(f) Skilled nursing facility; or

(g) Renal dialysis center, except an independent renal dialysis center.

(4) Any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the managed health care system. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A managed health care system may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A managed health care system may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a managed health care system to reimburse:

(a) An originating site for professional fees;

(b) A provider for a health care service that is not a covered benefit under the plan; or

(c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

(8) For purposes of this section:

(a) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;

(b) "Health care service" has the same meaning as in RCW 48.43.005;

(c) "Hospital" means a facility licensed under chapter 70.41, 71.12, or 72.23 RCW;

(d) "Managed health care system" means any health care organization, including health care providers, insurers, health care service contractors, health maintenance organizations, health insuring organizations, or any combination thereof, that provides directly or by contract health care services covered under this chapter and rendered by licensed providers, on a prepaid capitated basis and that meets the requirements of section 1903(m)(1)(A) of Title XIX of the federal social security act or federal demonstration waivers granted under section 1115(a) of Title XI of the federal social security act;

(e) "Originating site" means the physical location of a patient receiving health care services through telemedicine;

(f) "Provider" has the same meaning as in RCW 48.43.005;

(g) "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and

(h) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.

(9) To measure the impact on access to care for underserved communities and costs to the state and the medicaid managed health care system for reimbursement of telemedicine services, the Washington state health care authority, using existing data and resources, shall provide a report to the appropriate policy and fiscal committees of the legislature no later than December 31, 2018.

Sec. 5. RCW 70.41.020 and 2010 c 94 s 17 are each amended to read as follows:

Unless the context clearly indicates otherwise, the following terms, whenever used in this chapter, shall be deemed to have the following meanings:

(1) "Department" means the Washington state department of health.

(2) "Emergency care to victims of sexual assault" means medical examinations, procedures, and services provided by a hospital emergency room to a victim of sexual assault following an alleged sexual assault.

(3) "Emergency contraception" means any health care treatment approved by the food and drug administration that prevents pregnancy, including but not limited to administering two increased doses of certain oral contraceptive pills within seventy-two hours of sexual contact.

(4) "Hospital" means any institution, place, building, or agency which provides accommodations, facilities and services over a continuous period of twenty-four hours or more, for observation, diagnosis, or care, of two or more individuals not related to the operator who are suffering from illness, injury, deformity, or abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis. "Hospital" as used in this chapter does not include hotels, or similar places

furnishing only food and lodging, or simply domiciliary care; nor does it include clinics, or physician's offices where patients are not regularly kept as bed patients for twenty-four hours or more; nor does it include nursing homes, as defined and which come within the scope of chapter 18.51 RCW; nor does it include birthing centers, which come within the scope of chapter 18.46 RCW; nor does it include psychiatric hospitals, which come within the scope of chapter 71.12 RCW; nor any other hospital, or institution specifically intended for use in the diagnosis and care of those suffering from mental illness, intellectual disability, convulsive disorders, or other abnormal mental condition. Furthermore, nothing in this chapter or the rules adopted pursuant thereto shall be construed as authorizing the supervision, regulation, or control of the remedial care or treatment of residents or patients in any hospital conducted for those who rely primarily upon treatment by prayer or spiritual means in accordance with the creed or tenets of any well recognized church or religious denominations.

(5) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(6) "Secretary" means the secretary of health.

(7) "Sexual assault" has the same meaning as in RCW 70.125.030.

(8) "Victim of sexual assault" means a person who alleges or is alleged to have been sexually assaulted and who presents as a patient.

(9) "Distant site" means the site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine.

(10) "Originating site" means the physical location of a patient receiving health care services through telemedicine.

(11) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" does not include the use of audio-only telephone, facsimile, or email.

Sec. 6. RCW 70.41.230 and 2013 c 301 s 3 are each amended to read as follows:

(1) Except as provided in subsection (3) of this section, prior to granting or renewing clinical privileges or association of any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from the physician and the physician shall provide the following information:

(a) The name of any hospital or facility with or at which the physician had or has any association, employment, privileges, or practice during the prior five years: PROVIDED, That the hospital may request additional information going back further than five years, and the physician shall use his or her best efforts to comply with such a request for additional information;

(b) Whether the physician has ever been or is in the process of being denied, revoked, terminated, suspended, restricted, reduced, limited, sanctioned, placed on probation, monitored, or not renewed for any professional activity listed in (b)(i) through (x) of this subsection, or has ever voluntarily or involuntarily relinquished, withdrawn, or failed to proceed with an application for any professional activity listed in (b)(i) through (x) of this subsection in order to

avoid an adverse action or to preclude an investigation or while under investigation relating to professional competence or conduct:

- (i) License to practice any profession in any jurisdiction;
 - (ii) Other professional registration or certification in any jurisdiction;
 - (iii) Specialty or subspecialty board certification;
 - (iv) Membership on any hospital medical staff;
 - (v) Clinical privileges at any facility, including hospitals, ambulatory surgical centers, or skilled nursing facilities;
 - (vi) Medicare, medicaid, the food and drug administration, the national institute of health (office of human research protection), governmental, national, or international regulatory agency, or any public program;
 - (vii) Professional society membership or fellowship;
 - (viii) Participation or membership in a health maintenance organization, preferred provider organization, independent practice association, physician-hospital organization, or other entity;
 - (ix) Academic appointment;
 - (x) Authority to prescribe controlled substances (drug enforcement agency or other authority);
- (c) Any pending professional medical misconduct proceedings or any pending medical malpractice actions in this state or another state, the substance of the allegations in the proceedings or actions, and any additional information concerning the proceedings or actions as the physician deems appropriate;
- (d) The substance of the findings in the actions or proceedings and any additional information concerning the actions or proceedings as the physician deems appropriate;
- (e) A waiver by the physician of any confidentiality provisions concerning the information required to be provided to hospitals pursuant to this subsection; and
- (f) A verification by the physician that the information provided by the physician is accurate and complete.

(2) Except as provided in subsection (3) of this section, prior to granting privileges or association to any physician or hiring a physician, a hospital or facility approved pursuant to this chapter shall request from any hospital with or at which the physician had or has privileges, was associated, or was employed, during the preceding five years, the following information concerning the physician:

- (a) Any pending professional medical misconduct proceedings or any pending medical malpractice actions, in this state or another state;
- (b) Any judgment or settlement of a medical malpractice action and any finding of professional misconduct in this state or another state by a licensing or disciplinary board; and
- (c) Any information required to be reported by hospitals pursuant to RCW 18.71.0195.

(3) In lieu of the requirements of subsections (1) and (2) of this section, when granting or renewing privileges or association of any physician providing telemedicine services, an originating site hospital may rely on a distant site hospital's decision to grant or renew clinical privileges or association of the physician if the originating site hospital obtains reasonable assurances, through a

written agreement with the distant site hospital, that all of the following provisions are met:

(a) The distant site hospital providing the telemedicine services is a medicare participating hospital;

(b) Any physician providing telemedicine services at the distant site hospital will be fully privileged to provide such services by the distant site hospital;

(c) Any physician providing telemedicine services will hold and maintain a valid license to perform such services issued or recognized by the state of Washington; and

(d) With respect to any distant site physician who holds current privileges at the originating site hospital whose patients are receiving the telemedicine services, the originating site hospital has evidence of an internal review of the distant site physician's performance of these privileges and sends the distant site hospital such performance information for use in the periodic appraisal of the distant site physician. At a minimum, this information must include all adverse events, as defined in RCW 70.56.010, that result from the telemedicine services provided by the distant site physician to the originating site hospital's patients and all complaints the originating site hospital has received about the distant site physician.

(4) The medical quality assurance commission or the board of osteopathic medicine and surgery shall be advised within thirty days of the name of any physician denied staff privileges, association, or employment on the basis of adverse findings under subsection (1) of this section.

~~((4))~~ (5) A hospital or facility that receives a request for information from another hospital or facility pursuant to subsections (1) ~~((and (2)))~~ through (3) of this section shall provide such information concerning the physician in question to the extent such information is known to the hospital or facility receiving such a request, including the reasons for suspension, termination, or curtailment of employment or privileges at the hospital or facility. A hospital, facility, or other person providing such information in good faith is not liable in any civil action for the release of such information.

~~((5))~~ (6) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts which form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff

privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by regulation of the department of health to be made regarding the care and treatment received.

~~((6))~~ (7) Hospitals shall be granted access to information held by the medical quality assurance commission and the board of osteopathic medicine and surgery pertinent to decisions of the hospital regarding credentialing and recredentialing of practitioners.

~~((7))~~ (8) Violation of this section shall not be considered negligence per se.

NEW SECTION. Sec. 7. Sections 2 through 4 of this act take effect January 1, 2017.

NEW SECTION. Sec. 8. The legislature encourages health plans to adopt the requirements of sections 2 through 4 of this act prior to January 1, 2017. Therefore, nothing in this act prohibits a plan from adopting the requirements of sections 2 through 4 of this act prior to January 1, 2017.

Passed by the Senate February 11, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 24

[Senate Bill 5176]

CAPITOL FURNISHINGS PRESERVATION COMMITTEE

AN ACT Relating to the capitol furnishings preservation committee; and amending RCW 27.48.040.

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

Sec. 1. RCW 27.48.040 and 1999 c 343 s 2 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this ~~(section)~~ subsection apply throughout this section.

(a) "State capitol group" includes the legislative building, the insurance building, the Cherberg building, the John L. O'Brien building, the Newhouse building, ~~(and) the Pritchard building, and the temple of justice building.~~ "State capitol group" also includes the general administration building if the building is repurposed to serve a different function or substantially remodeled.

(b) "Historic furnishings" means furniture, fixtures, and artwork fifty years of age or older.

(2) The capitol furnishings preservation committee is established to:

(a) Promote and encourage the recovery and preservation of the original and historic furnishings of the state capitol group~~(:);~~;

(b) Prevent future loss of historic furnishings~~(:);~~ and

(c) Review and advise future remodeling and restoration projects as they pertain to historic furnishings. The committee's authority does not extend to the placement of any historic furnishings within the state capitol group.

(3) The capitol furnishings preservation committee account is created in the custody of the state treasurer. All receipts designated for the account from

appropriations and from other sources must be deposited into the account. Expenditures from the account may be used only to finance the activities of the capitol furnishings preservation committee. Only the director of the Washington state historical society or the director's designee may authorize expenditures from the account when authorized to do so by the committee. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(4) The committee may:

(a) Authorize the director of the Washington state historical society or the director's designee to expend funds from the capitol furnishings preservation committee account for limited purposes of purchasing and preserving historic furnishings of the state capitol group;

(b) Accept monetary donations, grants, and donations of historic furnishings from, but not limited to, (i) current and former legislators, state officials, and lobbyists; (ii) the families of former legislators, state officials, and lobbyists; and (iii) the general public. Moneys received under this section must be deposited in the capitol furnishings preservation committee account; ~~((and))~~

(c) Engage in or encourage fund-raising activities including ~~((the solicitation of))~~ soliciting charitable gifts, grants, or donations specifically for the limited purpose of the recovery of the original and historic furnishings; and

(d) Engage in interpretive and educational activities, including displaying historic furnishings.

(5) The membership of the committee shall include:

(a) Two members of the house of representatives, one from each major caucus, appointed by the speaker of the house of representatives;

(b) Two members of the senate, one from each major caucus, appointed by the president of the senate;

(c) The chief clerk of the house of representatives or the chief clerk's designee;

(d) The secretary of the senate or the secretary's designee;

(e) The governor or the governor's designee;

(f) The lieutenant governor or the lieutenant governor's designee;

(g) A representative from the office of the secretary of state, the office of the state treasurer, the office of the state auditor, and the office of the insurance commissioner;

(h) A representative from the supreme court;

(i) A representative from the Washington state historical society, the department of ~~((general administration))~~ enterprise services, and the Thurston ~~((county))~~ regional planning council, each appointed by the governor; and

~~((three))~~ (j) Six private citizens, appointed by the governor.

(6) Original or historic furnishings from the state capitol group are not surplus property under chapter 43.19 RCW or other authority unless designated as such by the committee.

Passed by the Senate February 24, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 25

[Senate Bill 5238]

GROWTH MANAGEMENT ACT--PUBLIC PARTICIPATION--PUBLIC WATER SYSTEMS

AN ACT Relating to public water systems; and amending RCW 36.70A.035.

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

Sec. 1. RCW 36.70A.035 and 1999 c 315 s 708 are each amended to read as follows:

(1) The public participation requirements of this chapter shall include notice procedures that are reasonably calculated to provide notice to property owners and other affected and interested individuals, tribes, government agencies, businesses, school districts, group A public water systems required to develop water system plans consistent with state board of health rules adopted under RCW 43.20.050, and organizations of proposed amendments to comprehensive plans and development regulation. Examples of reasonable notice provisions include:

(a) Posting the property for site-specific proposals;

(b) Publishing notice in a newspaper of general circulation in the county, city, or general area where the proposal is located or that will be affected by the proposal;

(c) Notifying public or private groups with known interest in a certain proposal or in the type of proposal being considered;

(d) Placing notices in appropriate regional, neighborhood, ethnic, or trade journals; and

(e) Publishing notice in agency newsletters or sending notice to agency mailing lists, including general lists or lists for specific proposals or subject areas.

(2)(a) Except as otherwise provided in (b) of this subsection, if the legislative body for a county or city chooses to consider a change to an amendment to a comprehensive plan or development regulation, and the change is proposed after the opportunity for review and comment has passed under the county's or city's procedures, an opportunity for review and comment on the proposed change shall be provided before the local legislative body votes on the proposed change.

(b) An additional opportunity for public review and comment is not required under (a) of this subsection if:

(i) An environmental impact statement has been prepared under chapter 43.21C RCW for the pending resolution or ordinance and the proposed change is within the range of alternatives considered in the environmental impact statement;

(ii) The proposed change is within the scope of the alternatives available for public comment;

(iii) The proposed change only corrects typographical errors, corrects cross-references, makes address or name changes, or clarifies language of a proposed ordinance or resolution without changing its effect;

(iv) The proposed change is to a resolution or ordinance making a capital budget decision as provided in RCW 36.70A.120; or

(v) The proposed change is to a resolution or ordinance enacting a moratorium or interim control adopted under RCW 36.70A.390.

(3) This section is prospective in effect and does not apply to a comprehensive plan, development regulation, or amendment adopted before July 27, 1997.

Passed by the Senate March 9, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 26

[Engrossed Substitute Senate Bill 5083]

K-12 EDUCATION--ATHLETIC ACTIVITIES--SUDDEN CARDIAC ARREST

AN ACT Relating to the awareness of sudden cardiac arrest for students engaged in athletic activity; amending RCW 4.24.660; adding a new section to chapter 28A.600 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that sudden cardiac death is the result of an unexpected failure of proper heart function that may occur during or immediately after exercise. The legislature further finds that it has been reported that cardiac arrest is the leading cause of death in young athletes. The legislature finds that approximately one in two hundred fifty young athletes has a heart disorder that may increase his or her risk of sudden cardiac arrest. The legislature intends to make youth athletes, their families, and coaches aware of sudden cardiac arrest.

Sec. 2. RCW 4.24.660 and 2009 c 475 s 1 are each amended to read as follows:

(1) A school district shall not be liable for an injury to or the death of a person due to action or inaction of persons employed by, or under contract with, a youth program if:

(a) The action or inaction takes place on school property and during the delivery of services of the youth program;

(b) The private nonprofit group provides proof of being insured, under an accident and liability policy issued by an insurance company authorized to do business in this state, that covers any injury or damage arising from delivery of its services. Coverage for a policy meeting the requirements of this section must be at least fifty thousand dollars due to bodily injury or death of one person, or at least one hundred thousand dollars due to bodily injury or death of two or more persons in any incident. The private nonprofit shall also provide a statement of compliance with the policies for the management of concussion and head injury in youth sports as set forth in RCW 28A.600.190 and a statement of compliance with the policies for sudden cardiac arrest awareness as set forth in section 3 of this act; and

(c) The group provides proof of such insurance before the first use of the school facilities. The immunity granted shall last only as long as the insurance remains in effect.

(2) Immunity under this section does not apply to any school district before January 1, 2000.

(3) As used in this section, "youth programs" means any program or service, offered by a private nonprofit group, that is operated primarily to provide persons under the age of eighteen with opportunities to participate in services or programs.

(4) This section does not impair or change the ability of any person to recover damages for harm done by: (a) Any contractor or employee of a school district acting in his or her capacity as a contractor or employee; or (b) the existence of unsafe facilities or structures or programs of any school district.

NEW SECTION. **Sec. 3.** A new section is added to chapter 28A.600 RCW to read as follows:

(1) The Washington interscholastic activities association shall work with member schools' board of directors, a nonprofit organization that educates communities about sudden cardiac arrest in youth athletes, and the University of Washington medicine center for sports cardiology to develop and make available an online pamphlet that provides youth athletes, their parents or guardians, and coaches with information about sudden cardiac arrest. The online pamphlet must include information on the nature, risk, symptoms and warning signs, prevention, and treatment of sudden cardiac arrest. The online pamphlet shall be posted on the office of the superintendent of public instruction's web site.

(2) The Washington interscholastic activities association shall work with member schools' board of directors, an organization that provides educational training for safe participation in athletic activity, and the University of Washington medicine center for sports cardiology to make available an existing online sudden cardiac arrest prevention program for coaches.

(3) On a yearly basis, prior to participating in an interscholastic athletic activity a sudden cardiac arrest form stating that the online pamphlet was reviewed shall be signed by the youth athlete and the athlete's parents and/or guardian and returned to the school.

(4) Every three years, prior to coaching an interscholastic athletic activity coaches shall complete the online sudden cardiac arrest prevention program described in this section. Coaches shall provide a certificate showing completion of the online sudden cardiac arrest prevention program to the school.

NEW SECTION. **Sec. 4.** This act may be known and cited as the sudden cardiac arrest awareness act.

Passed by the Senate February 11, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 27

[Substitute Senate Bill 5294]

K-12 EDUCATION--LIBRARY INFORMATION AND TECHNOLOGY PROGRAMS

AN ACT Relating to school library information and technology programs; and amending RCW 28A.320.240.

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

Sec. 1. RCW 28A.320.240 and 2014 c 217 s 205 are each amended to read as follows:

(1) The purpose of this section is to identify quality criteria for school library (~~(media)~~)information and technology programs that support the student learning goals under RCW 28A.150.210, the essential academic learning requirements under RCW 28A.655.070, and high school graduation requirements adopted under RCW 28A.230.090.

(2) Every board of directors shall provide resources and materials for the operation (~~(and stocking of such libraries)~~)of school library information and technology programs as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule of the superintendent of public instruction.

(3) "Teacher-librarian" means a (~~(certified)~~)certificated teacher with a library media endorsement under rules adopted by the professional educator standards board.

(4) "School(-)library (~~(media)~~)information and technology program" means a school-based program that is staffed by a certificated teacher-librarian and provides a (~~(variety of resources)~~)broad, flexible array of services, resources, and instruction that support student mastery of the essential academic learning requirements and state standards in all subject areas and the implementation of the district's school improvement plan.

(5) The teacher-librarian, through the (~~(school library media)~~)school library information and technology program, shall collaborate as an instructional partner to help all students meet the content goals in all subject areas, and assist high school students completing high school and beyond plans required for graduation.

(6) The teacher-librarian's duties may include, but are not limited to, collaborating with his or her schools to:

(a) Integrate information and technology into curriculum and instruction, including but not limited to instructing other certificated staff about using and integrating information and technology literacy into instruction through workshops, modeling lessons, and individual peer coaching;

(b) Provide information management instruction to students and staff about how to effectively use emerging learning technologies for school and lifelong learning, as well as in the appropriate use of computers and mobile devices in an educational setting;

(c) Help teachers and students efficiently and effectively access the highest quality information available while using information ethically;

(d) Instruct students in digital citizenship including how to be critical consumers of information and provide guidance about thoughtful and strategic use of online resources; and

(e) Create a culture of reading in the school community by developing a diverse, student-focused collection of materials that ensures all students can find something of quality to read and by facilitating school-wide reading initiatives along with providing individual support and guidance for students.

Passed by the Senate February 25, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 28

[Substitute Senate Bill 5296]

LOCKSMITH SERVICES

AN ACT Relating to locksmith services; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Local telephone directory" means a publication listing telephone numbers for various businesses in a certain geographic area and distributed free of charge to some or all telephone subscribers in that area.

(2) "Local telephone number" means a telephone number that can be dialed without incurring long distance charges from telephones located within the area covered by the local telephone directory in which the number is listed. The term does not include long distance numbers, toll-free numbers, or nine-hundred exchange numbers listed in a local telephone directory.

(3) "Locksmith services" means:

(a) Selling, installing, servicing, repairing, repinning, recombining, and adjusting locks, safes, vaults, or safe deposit boxes;

(b) Originating keys;

(c) Operating, bypassing, or neutralizing locks, safes, vaults, or safe deposit boxes;

(d) Creating, documenting, selling, installing, managing, and servicing master-key systems;

(e) Unlocking, bypassing, or neutralizing locks for motor vehicles;

(f) Originating keys for motor vehicles, which can include the programming, reprogramming, or bypassing of any security transponder, immobilizer system, or subsequent technology built by the manufacturer; and

(g) Keying or recombining motor vehicle locks.

(4) "Person" means an individual, partnership, limited liability partnership, corporation, or limited liability corporation.

NEW SECTION. **Sec. 2.** (1) No person whose primary business is to provide locksmith services and who represents himself or herself to the public as a locksmith may misrepresent his, her, or its geographic location by:

(a) Listing a local telephone number in a local telephone directory or on an internet web site if:

(i) Calls to the telephone number are routinely forwarded or otherwise transferred to a business location that is outside the calling area covered by the local telephone directory or outside the local calling area for the local telephone number listed on an internet web site; and

(ii) The listing fails to conspicuously disclose the locality and state in which the business is located; or

(b) Listing a business name in a local telephone directory or on an internet web site if:

(i) The name misrepresents the business's geographic location; and

(ii) The listing fails to disclose the locality and state in which the business is located.

(2) A person whose primary business is to provide locksmith services and who represents himself or herself to the public as a locksmith must conspicuously display on the business web site and all advertising:

(a) The number of the business license issued to it by the state or a local government; or

(b) The state unified business identifier account number.

(3) The requirements of subsections (1) and (2) of this section do not apply to businesses that provide locksmith services that are ancillary to their primary business, such as businesses that provide roadside or towing services.

NEW SECTION. Sec. 3. The legislature finds that the practices covered by section 2(1) of this act are matters vitally affecting the public interest for the purpose of applying chapter 19.86 RCW. A violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying chapter 19.86 RCW.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act constitute a new chapter in Title 19 RCW.

Passed by the Senate February 27, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 29

[Senate Bill 5337]

PORT DISTRICTS--PER DIEM RATES

AN ACT Relating to per diem rates for port district officers and employees; and amending RCW 53.08.176.

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

Sec. 1. RCW 53.08.176 and 1965 c 101 s 2 are each amended to read as follows:

Each port district shall adopt a resolution (which may be amended from time to time) which shall establish the basic rules and regulations governing methods and amount of reimbursement payable to such port officials and employees for travel and other business expenses incurred on behalf of the district. The resolution shall, among other things, establish procedures for approving such expenses; set forth the method of authorizing the direct purchase of transportation; the form of the voucher; and requirements governing the use of credit cards issued in the name of the port district. Such regulations may provide for payment of per diem in lieu of actual expenses when travel requires overnight lodging: PROVIDED, That in all cases any per diem payment shall not exceed (~~twenty-five dollars per day~~) the United States general service administration's per diem rates. The state auditor shall, as provided by general law, cooperate with the port district in establishing adequate procedures for regulating and auditing the reimbursement of all such expenses.

Passed by the Senate February 4, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.
Filed in Office of Secretary of State April 17, 2015.

CHAPTER 30

[Engrossed Substitute Senate Bill 5346]

FIRST RESPONDERS--EMERGENCY RESPONSE SERVICES--CONTACT INFORMATION

AN ACT Relating to providing first responders with contact information for subscribers of personal emergency response services during an emergency; and adding a new section to chapter 70.54 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 70.54 RCW to read as follows:

(1) When requested by first responders during an emergency, employees of companies providing personal emergency response services must provide to first responders the name, address, and any other information necessary for first responders to contact subscribers within the jurisdiction of the emergency.

(2) Companies providing personal emergency response services may adopt policies to respond to requests from first responders to release subscriber contact information during an emergency. Policies may include procedures to:

- (a) Verify that the requester is a first responder;
- (b) Verify that the request is made pursuant to an emergency;
- (c) Fulfill the request by providing the subscriber contact information; and
- (d) Deny the request if no emergency exists or if the requester is not a first responder.

(3) Information received by a first responder under subsection (1) of this section is confidential and exempt from disclosure under chapter 42.56 RCW, and may be used only in responding to the emergency that prompted the request for information. Any first responder receiving the information must destroy it at the end of the emergency.

(4) It is not a violation of this section if a personal emergency response services company or an employee makes a good faith effort to comply with this section. In addition, the company or employee is immune from civil liability for a good faith effort to comply with this section. Should a company or employee prevail upon the defense provided in this section, the company or employee is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense.

(5) First responders and their employing jurisdictions are not liable for failing to request the information in subsection (1) of this section. In addition, this act does not create a private right of action nor does it create any civil liability on the part of the state or any of its subdivisions, including first responders.

(6) For the purposes of this section:

(a) "Emergency" means an occurrence that renders the personal emergency response services system inoperable for a period of twenty-four or more continuous hours, and that requires the attention of first responders acting within the scope of their official duties.

(b) "First responder" means firefighters, law enforcement officers, and emergency medical personnel, as licensed or certificated by this state.

(c) "Personal emergency response services" means a service provided for profit that allows persons in need of emergency assistance to contact a call center by activating a wearable device, such as a pendant or bracelet.

(7) This section does not require a personal emergency response services company to:

(a) Provide first responders with subscriber contact information in nonemergency situations; or

(b) Provide subscriber contact information to entities other than first responders.

Passed by the Senate March 10, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 31

[Engrossed Senate Bill 5424]

PUBLIC UTILITY DISTRICTS--RENEWABLE NATURAL GAS--PRODUCTION AND DISTRIBUTION

AN ACT Relating to allowing public utility districts to produce and distribute renewable natural gas; and amending RCW 54.04.190.

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

Sec. 1. RCW 54.04.190 and 2007 c 348 s 210 are each amended to read as follows:

(1) In addition to any other authority provided by law, public utility districts are authorized to produce and distribute biodiesel, ethanol, and ethanol blend fuels, including entering into crop purchase contracts for a dedicated energy crop for the purpose of generating electricity or producing biodiesel produced from Washington feedstocks, cellulosic ethanol, and cellulosic ethanol blend fuels for use in internal operations of the electric utility and for sale or distribution.

(2) In addition to any other authority provided by law:

(a) Public utility districts are authorized to produce renewable natural gas and utilize the renewable natural gas they produce for internal operations.

(b) Public utility districts may sell renewable natural gas that is delivered into a gas transmission pipeline located in the state of Washington or delivered in pressurized containers:

(i) At wholesale; or

(ii) To an end-use customer if delivered in a pressurized container, or if the end-use customer takes delivery of the renewable natural gas through a pipeline, and the end-use customer is an eligible purchaser of natural gas from sellers other than the gas company from which that end-use customer takes transportation service and:

(A) When the sale is made to an end-use customer in the state of Washington, the sale is made pursuant to a transportation tariff approved by the Washington utilities and transportation commission; or

(B) When the sale to an end-use customer is made outside of the state of Washington, the sale is made pursuant to a transportation tariff approved by the state agency which regulates retail sales of natural gas.

(c) Public utility districts may sell renewable natural gas at wholesale or to an end-use customer through a pipeline directly from renewable natural gas production facilities to facilities that compress, liquefy, or dispense compressed natural gas or liquefied natural gas fuel for end use as a transportation fuel.

(3) Except as provided in subsection (2)(b)(i) of this section, nothing in this section authorizes a public utility district to sell renewable natural gas delivered by pipeline to an end-use customer of a gas company.

(4)(a) Except as provided in this subsection (4), nothing in this section authorizes a public utility district to own or operate natural gas distribution pipeline systems used to serve retail customers.

(b) For the purposes of subsection (2)(b) of this section, public utility districts are authorized to own and operate interconnection pipelines that connect renewable natural gas production facilities to gas transmission pipelines.

(c) For the purposes of subsection (2)(c) of this section, public utility districts may own and/or operate pipelines to supply, and/or compressed natural gas or liquefied natural gas facilities to provide, renewable natural gas for end use as a transportation fuel if all such pipelines and facilities are located in the county in which the public utility district is authorized to provide utility service.

(5) Exercise of the authorities granted under this section to public utility districts does not subject them to the jurisdiction of the utilities and transportation commission, except that public utility districts are subject only to administration and enforcement by the commission of state and federal requirements related to pipeline safety and fees payable to the commission that are applicable to such administration and enforcement.

(6) For purposes of this subsection:

(a) "Renewable natural gas" means a gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, and anaerobic digesters.

(b) "Gas company" has the same meaning as in RCW 80.04.010.

Passed by the Senate March 3, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 32

[Substitute Senate Bill 5438]

TRAFFIC CONTROL SIGNALS--BICYCLES AND MOPEDS

AN ACT Relating to allowing bicycles and mopeds to stop and proceed through traffic control signals under certain conditions; and amending RCW 46.61.184.

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

Sec. 1. RCW 46.61.184 and 2014 c 167 s 1 are each amended to read as follows:

Notwithstanding any provision of law to the contrary, the operator of a bicycle, moped, or street legal motorcycle approaching an intersection, including a left turn intersection, that is controlled by a triggered traffic control signal using a vehicle detection device that is inoperative due to the size or composition of the bicycle, moped, or street legal motorcycle shall come to a full and

complete stop at the intersection. If the traffic control signal, including the left turn signal, as appropriate, fails to operate after one cycle of the traffic signal, the operator may, after exercising due care, proceed directly through the intersection or proceed to turn left, as appropriate. It is not a defense to a violation of RCW 46.61.050 that the ~~((driver))~~operator of a bicycle, moped, or motorcycle proceeded under the belief that a traffic control signal used a vehicle detection device or was inoperative due to the size or composition of the bicycle, moped, or motorcycle when the signal did not use a vehicle detection device or that any such device was not in fact inoperative due to the size or composition of the bicycle, moped, or motorcycle. For purposes of this section, "bicycle" includes a bicycle, as defined in RCW 46.04.071, and an electric-assisted bicycle, as defined in RCW 46.04.169.

Passed by the Senate March 2, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 33

[Engrossed Senate Bill 5504]

LIQUOR--DISTRIBUTOR EMPLOYEES--STOCKING

AN ACT Relating to allowing additional liquor distributor employees to stock liquor under certain circumstances; and amending RCW 66.44.318.

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

Sec. 1. RCW 66.44.318 and 1995 c 100 s 2 are each amended to read as follows:

(1) Except as provided in this section, nothing is construed to permit a nonretail class liquor licensee's employee between the ages of eighteen and twenty-one years to handle, transport, or otherwise possess liquor.

(2) Licensees holding nonretail class liquor licenses are permitted to allow their employees between ~~((the))~~ the ages of eighteen and twenty-one years to stock, merchandise, and handle ~~((beer or wine))~~ liquor on or about the:

(a) Nonretail premises if there is an adult twenty-one years of age or older on duty supervising such activities on the premises; and

(b) Retail licensee's premises, except between 11:00 p.m. and 4:00 a.m., as long as there is an adult twenty-one years of age or older, employed by the retail licensee, and present at the retail licensee's premises during the activities described in this subsection (2).

(3) Any act or omission of the nonretail class liquor licensee's employee occurring at or about the retail licensee's premises, which violates any provision of this title, is the sole responsibility of the nonretail class liquor licensee.

(4) Nothing in this section absolves the retail licensee from responsibility for the acts or omissions of its own employees who violate any provision of this title.

Passed by the Senate March 4, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 34

[Senate Bill 5556]

IRRIGATION DISTRICTS--ADMINISTRATION

AN ACT Relating to irrigation district administration; amending RCW 87.06.040; and repealing RCW 87.80.140 and 87.80.150.

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

Sec. 1. RCW 87.06.040 and 1988 c 134 s 4 are each amended to read as follows:

(1) After the completion of the title searches, the treasurer, in the name of the irrigation district, shall commence legal action to foreclose on the assessment liens. The treasurer shall give notice of application for judgment foreclosing assessment liens and summons to all parties in interest as disclosed by the title search. The treasurer may include in any notice any number of separate properties. Such notice and summons shall contain:

(a) A statement that the irrigation district is applying to superior court of the county in which the property is located for a judgment foreclosing the lien against the property for delinquent assessments, costs, and interest;

(b) The full name of the superior court in which the district is applying for the judgment; and for each property: The description of the property, the local street address (if any), and the name of each party in interest;

(c) A description of the lien amount due, which shall include the amount listed in RCW 87.06.020(1)(d), plus any costs and interest accruing since the date of preparation of the certificate of delinquency;

(d) A direction to each party in interest summoning the party to appear within sixty days after service of the notice and summons, exclusive of the day of the service, and defend the action or pay the lien amount due; and when service is made by publication, a direction summoning each party to appear within sixty days after the date of the first publication of the notice and summons, exclusive of the day of first publication, and defend the action or pay the amount due;

(e) A notice that, in case of failure to defend or pay the amount due, judgment will be rendered foreclosing the lien of the assessments, costs, and interest against the property; and

(f) The date, time, and place of the foreclosure sale as specified in the application for judgment.

(2) The treasurer shall record in the office of the auditor of the county in which the property is located a notice of lis pendens before commencing the service of the notice and summons.

(3) The notice and summons shall be served in a manner reasonably calculated to inform each party in interest of the foreclosure action. At a minimum, service shall be accomplished by either (a) personal service upon a party in interest, or (b) publication once in a newspaper of general circulation that is circulated in the area in which the property is located and mailing of notice by certified mail to the party in interest.

(4) Notice and summons need not be served on holders of easements on the property if the easements are a matter of public record in the auditor's office of

the county in which the property is located. Any foreclosure of delinquent assessments on any tract, lot, or parcel of real property subject to such easement or easements, and any treasurer's deed subsequently issued, is subject to such easement or easements that were established of record before the date of the certificate of delinquency for which the delinquent assessment was foreclosed.

(5) It shall be the duty of the treasurer to mail a copy of the notice and summons, within fifteen days after the first publication or service thereof, to the treasurer of each county, city, or town within which any property involved in an assessment foreclosure is situated, but the treasurer's failure to do so shall not affect the jurisdiction of the court nor the priority of any assessment lien sought to be foreclosed.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

IRCW 87.80.140 (Annual budget of board—Hearing—Notice) and 1996 c 320 s 12 & 1949 c 56 s 13; and

2RCW 87.80.150 (Hearing and adoption of budget) and 1949 c 56 s 14.

Passed by the Senate February 25, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 35

[Engrossed Substitute House Bill 1170]

PORT DISTRICTS--ADMINISTRATIVE POWERS

AN ACT Relating to the administrative powers of port districts; adding a new chapter to Title 53 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the shipping and port industries must contend with an increasingly competitive global market. Historically, port districts competed against other local port districts. Today, port districts compete on a global scale, and the current landscape is rapidly changing with the expansion of facilities in Canada and the impending widening of the Panama Canal. The ports of Seattle and Tacoma are the third largest container trade centers in the United States, but they are in a race to hold onto this position. The legislature finds that Washington's ports need to be able to work cooperatively to protect the maritime base of the state.

The legislature intends to enable certain port districts to create port public development authorities for the management of their maritime activities and to act cooperatively under the interlocal cooperation act, chapter 39.34 RCW. The legislature intends for the port districts to be able to partner as a single management team and use financial resources strategically, while remaining separate entities and complying with federal regulations. The legislature finds that enacting this authority will help Washington remain competitive globally, protect the state's long-term economic and societal interests in port district jobs and growth, and provide a tool to allow ports to work together on behalf of the state.

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

(1) "Port commission" means a port commission governed by chapter 53.12 RCW of a port district that either singly or jointly creates a port development authority under the provisions of this chapter.

(2) "Port district" or "port districts" means a port district or port districts that are located in a county with a population of more than eight hundred thousand on the effective date of this section.

(3) "Port public development authority" or "port development authority" means a port public development authority created by a single port district or jointly created by two port districts in accordance with section 3 of this act.

NEW SECTION. Sec. 3. (1) A port district or two port districts that act jointly in accordance with subsection (3) of this section may by resolution:

(a) Create a port development authority solely to manage maritime activities of the port district or districts; and

(b) Transfer to any port development authority created under this section, with or without consideration, any funds, real or personal property, property interests, or services.

(2) Port development authorities created under subsection (1) of this section may:

(a) Administer and execute federal grants or programs;

(b) Receive and administer private funds, goods, or services for any lawful public purpose related to maritime activities of the port district or districts; and

(c) Perform any lawful public purpose or public function related to maritime activities of the port district or districts, including exercise any powers of the port district or districts that created the port development authority, subject to limitations provided in this chapter.

(3) Two port districts, each located in a county with a population of more than eight hundred thousand on the effective date of this section, may jointly exercise the authority provided in this section under an agreement for joint or cooperative action executed in accordance with the interlocal cooperation act, chapter 39.34 RCW.

(4) Any resolution to create a port development authority that is adopted by a port district under this section must limit the liability of the port development authority to the assets and property of the port development authority.

NEW SECTION. Sec. 4. (1) The affairs, operations, and funds of a port development authority must be governed by the port district or districts that created the port development authority. Each port district governing the port development authority must oversee the affairs, operations, and funds of the port development authority exclusively through the elected port commission of the port district. If the port development authority is jointly created by more than one port district under section 3 of this act, then the port development authority must be managed by each port district as a member of the port development authority, in accordance with the terms of this section and the charter for the port development authority. Each port district member shall act in such capacity through its own elected commissioners.

(2) Any port district that creates a port development authority under section 3 of this act must provide for the organization and operation of the port

development authority, oversee the affairs, operations, and funds of the port development authority in order to correct any deficiency, and ensure that the purposes of each program undertaken are reasonably accomplished.

(3) A port development authority, in managing maritime activities of a port district or districts under this chapter, may:

(a) Own and sell real and personal property;

(b) Contract with individuals, associations, corporations, the state, and the United States;

(c) Sue and be sued;

(d) Loan and borrow funds;

(e) Issue bonds, notes, and other evidences of indebtedness;

(f) Transfer funds, real or personal property, property interests, or services; and

(g) Perform community services related to maritime activities managed by the port development authority.

(4) Port development authorities do not have the power of eminent domain or the power to levy taxes or special assessments.

NEW SECTION. Sec. 5. (1) For the management of maritime activities, port districts and port development authorities are authorized to enter into an agreement with the federal government, any federal agency or department, and any state agency or political subdivision of the state, and pursuant to the agreement:

(a) Receive and expend, or cause to be received and expended by a trustee or custodian, federal or private funds for any lawful public purpose related to management of maritime activities of the port district or port development authority;

(b) Issue bonds, notes, or other evidences of indebtedness that are guaranteed or otherwise secured by funds or other instruments provided by or through the federal government; and

(c) Agree to repay and reimburse for any liability of a guarantor of bonds, notes, or other evidences of indebtedness issued by the port district or port development authority.

(2) A port district or port development authority may pledge as security for any bond, note, or other evidence of indebtedness, or for any obligation to repay or reimburse the guarantor of a bond, note, or evidence of indebtedness, its right, title, and interest to or in the following:

(a) Any federal grant or payment received by the port district or port development authority, or that may be received in the future;

(b) Property and revenues that may be obtained directly or indirectly from the use of any federal or private funds received by the port district or port development authority under subsection (1) of this section;

(c) Payments received or owing from any person as a result of the lending of any federal or private funds received by the port district or port development authority under subsection (1) of this section;

(d) Any proceeds under (a), (b), or (c) of this subsection (2), and any securities or investments in which (a), (b), or (c) of this subsection (2) and any associated proceeds are invested; and

(e) Any interest or other earnings on (a), (b), (c), or (d) of this subsection (2).

(3)(a) A port district or port development authority may establish one or more special funds relating to any or all of the sources listed in subsection (2)(a) through (e) of this section. The port district or port development authority may use funds from a special fund to pay:

(i) The principal, interest, premium, if any, and other amounts payable on any bond, note, or other evidence of indebtedness authorized under this section; and

(ii) Any amounts owing on obligations for repayment or reimbursement of guarantors of bonds, notes, or other evidences of indebtedness as authorized under this section.

(b) A port district or port development authority may contract with a financial institution to act as trustee or custodian to: (i) Receive, administer, and expend any federal or private funds; (ii) collect, administer, and make payments from any special fund authorized under this subsection (3); or (iii) perform the functions authorized under both (b)(i) and (ii) of this subsection (3). The trustee or custodian may also perform other duties and functions in connection with authorized transactions.

(c) If any bond, note, other evidence of indebtedness, or related agreement complies with subsection (4) of this section, then any of the funds held by a trustee or custodian, or by a port development authority, do not constitute public moneys or funds of a port district, and must be kept segregated and set apart from other funds at all times.

(4)(a) If a port development authority loans or grants federal or private funds to a private party, or uses federal or private funds to guarantee any obligations of a private party, then any bond, note, or other evidence of indebtedness issued or entered into for the purpose of receiving the federal or private funds, or any agreement to repay or reimburse guarantors, are not obligations of a port district. These obligations may be paid only from:

(i) A special fund established in accordance with subsection (3) of this section;

(ii) Any security pledged in accordance with this section; or

(iii) Both (a)(i) and (ii) of this subsection (4).

(b) Any bond, note, or other evidence of indebtedness to which this subsection (4) applies must contain a recital establishing that the bond, note, or evidence of indebtedness is not an obligation of the port district or the state, and that neither the faith and credit, nor the taxing power of the state, any subdivision or agency of the state, or any port district is pledged to pay the principal, interest, or premium, if any, on the bond, note, or evidence of indebtedness.

(c) Any bond, note, other evidence of indebtedness, or other obligation to which this subsection (4) applies may not be included in any computation for purposes of limitations on indebtedness.

(5) For the purposes of this section, "lawful public purpose" includes any use of funds related to management of the maritime activities of a port district or port development authority, including loans of funds to public or private parties authorized by an agreement with the United States or any federal department or agency through which federal or private funds are obtained or authorized under the federal laws and regulations pertinent to the agreement.

NEW SECTION. Sec. 6. Powers, authorities, or rights expressly or impliedly granted to any port district or agents of the port district under the provisions of this chapter are not operable, applicable, or effective beyond the boundaries of the port district, unless so provided by contract between the port district and a county, a city, or another port district in accordance with an agreement for joint or cooperative action under the interlocal cooperation act, chapter 39.34 RCW.

NEW SECTION. Sec. 7. A port development authority created under this chapter must comply with applicable laws including, but not limited to, the following:

(1) Requirements concerning local government audits by the state auditor and applicable accounting requirements set forth in chapter 43.09 RCW;

(2) The public records act, chapter 42.56 RCW;

(3) Prohibitions on using facilities for campaign purposes under RCW 42.17A.555;

(4) The open public meetings act, chapter 42.30 RCW;

(5) The code of ethics for municipal officers under chapter 42.23 RCW; and

(6) Local government whistleblower protection laws set forth in chapter 42.41 RCW.

NEW SECTION. Sec. 8. (1) In transferring real property to a port development authority under section 3 of this act, the port district or districts creating the port development authority must impose appropriate deed restrictions necessary to ensure the continued use of the property for the public purpose for which the property is transferred.

(2) A port development authority must provide written notice at least thirty days prior to any proposed sale or encumbrance of real property that was transferred by a port district to the port development authority under section 3(1) of this act. The port development authority must, at a minimum, provide notice to:

(a) The port commission of the port district that transferred the real property;

(b) Each local newspaper of general circulation within the boundaries of the port district; and

(c) Each local radio station, television station, or other news medium that has submitted to the port development authority a written request to receive notification.

(3)(a) A port development authority may sell or encumber property transferred by a port district under section 3(1) of this act only after approval of the sale or encumbrance by the port development authority at a public meeting. Notice of the public meeting must be: (i) Provided in accordance with RCW 42.30.080; and (ii) published at least twice in a local newspaper of general circulation no fewer than seven days and no more than two weeks before the public meeting.

(b) Nothing in this section may be construed to prevent the port development authority from holding an executive session during a regular or special meeting in accordance with RCW 42.30.110(1)(c).

NEW SECTION. Sec. 9. (1) If a port development authority is insolvent or dissolved, the superior court of a county in which the port development authority

operates has jurisdiction and authority to appoint trustees or receivers of the assets and property of the port development authority and to supervise the trusteeship or receivership.

(2) All liabilities incurred by a port development authority must be satisfied exclusively from the assets and properties of the port development authority. No creditor or other person has any right of action against the port district or districts creating the port development authority on account of any debts, obligations, or liabilities of the port development authority.

NEW SECTION. Sec. 10. Sections 2 through 9 of this act constitute a new chapter in Title 53 RCW.

Passed by the House March 5, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 17, 2015.

Filed in Office of Secretary of State April 17, 2015.

CHAPTER 36

[House Bill 1277]

MILITARY SERVICE--LODGING--ARMORIES

AN ACT Relating to transient lodging for military service members in armories; and amending RCW 38.20.010.

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

Sec. 1. RCW 38.20.010 and 2009 c 34 s 1 are each amended to read as follows:

Except as provided in this section, state-owned armories shall be used strictly for military purposes.

(1) One room, together with the necessary furniture, heat, light, and janitor service, may be set aside for the exclusive use of bona fide veterans' organizations subject to the direction of the officer in charge. Members of these veterans' organizations and their auxiliaries shall have access to the room and its use at all times.

(2) A bona fide veterans' organization may use any state armory for athletic and social events without payment of rent whenever the armory is not being used by the organized militia. The adjutant general may require the veterans' organization to pay the cost of heating, lighting, or other miscellaneous expenses incidental to this use.

(3) The adjutant general may(~~(, during an emergency,)~~) permit transient lodging of service personnel in armories.

(4) The adjutant general may, upon the recommendation of the executive head or governing body of a county, city or town, permit transient lodging of anyone in armories. The adjutant general may require the county, city or town to pay no more than the actual cost of staffing, heating, lighting and other miscellaneous expenses incidental to this use.

(5) Civilian rifle clubs affiliated with the National Rifle Association of America are permitted to use small arms ranges in the armories at least one night each week under regulations prescribed by the adjutant general.

(6) State-owned armories shall be available, at the discretion of the adjutant general, for public and private use upon payment of rental charges and

compliance with regulations of the state military department. Children attending primary and high schools have a preferential right to use these armories.

The adjutant general shall prepare a schedule of rental charges, including a cleaning deposit, and utility costs for each state-owned armory which may not be waived except for activities sponsored by the organized militia or activities provided for in subsection (4) of this section. The rental charges derived from armory rentals less the cleaning deposit shall be paid into the military department rental and lease account under RCW 38.40.210.

Passed by the House February 9, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 37

[Substitute House Bill 1285]

NEWBORN SCREENING--CRITICAL CONGENITAL HEART DISEASE

AN ACT Relating to screening newborns for critical congenital heart disease; adding a new section to chapter 70.83 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds the following:

(1) Critical congenital heart disease is an abnormality in the structure or function of the heart that exists at birth, may cause life-threatening symptoms, and requires early medical intervention. Congenital heart disease is the most common cause of death in the first year of life. Outwardly healthy babies may be discharged from hospitals before signs of disease are detected.

(2) Pulse oximetry is a low-cost, noninvasive test that is effective at detecting congenital heart defects that otherwise would go undetected.

(3) Critical congenital heart disease was added to the national recommended uniform screening panel in 2011, and the majority of states have established a statewide screening for the disease.

(4) Requiring all hospitals and health care providers attending births to screen newborns for critical congenital heart disease has the potential to save newborn lives with early detection and treatment.

NEW SECTION. Sec. 2. A new section is added to chapter 70.83 RCW to read as follows:

(1) Prior to discharge of an infant born in a hospital, the hospital shall:

(a) Perform critical congenital heart disease screening using pulse oximetry according to recommended American academy of pediatrics guidelines;

(b) Record the results of the critical congenital heart disease screening test in the newborn's medical record; and

(c) If the screening test indicates a suspicion of abnormality, refer the newborn for appropriate care and report the test results to the newborn's attending physician and parent, parents, or guardian.

(2)(a) Except as provided in (b) of this subsection, a health care provider attending a birth outside of a hospital shall, no sooner than twenty-four hours after the birth of an infant born outside of a hospital, but no later than forty-eight hours after the birth:

(i) Perform critical congenital heart disease screening using pulse oximetry according to recommended American academy of pediatrics guidelines;

(ii) Record the results of the critical congenital heart disease screening test in the newborn's medical record; and

(iii) If the screening test indicates a suspicion of abnormality, refer the newborn for appropriate care and report the test results to the newborn's attending physician and parent, parents, or guardian.

(b) If the health care provider does not perform the test required in (a) of this subsection because he or she does not possess the proper equipment, the health care provider shall notify the parent, parents, or guardian in writing that the health care provider was unable to perform the test and that the infant should be tested by another health care provider no sooner than twenty-four hours after the birth, but no later than forty-eight hours after the birth.

(3) No test may be given to a newborn infant under this section whose parent, parents, or guardian object thereto on the grounds that such tests conflict with their religious tenets and practices.

(4) The state board of health may adopt rules to implement the requirements of this section.

(5) For purposes of this section, the following terms have the following meanings unless the context clearly requires otherwise:

(a) "Critical congenital heart disease" means an abnormality in the structure or function of the heart that exists at birth, causes severe, life-threatening symptoms, and requires medical intervention within the first year of life.

(b) "Newborn" means an infant born in any setting in the state of Washington.

Passed by the House March 2, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 38

[House Bill 1302]

CUSTODIAL INTERFERENCE--RESIDENTIAL PROVISIONS--COURT ORDERS

AN ACT Relating to clarifying the applicability of child abduction statutes to residential provisions ordered by a court; amending RCW 9A.40.060 and 9A.40.070; creating a new section; and prescribing penalties.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to address the Washington supreme court's decision in *State v. Veliz*, 176 Wn.2d 849 (2013). The court held that a parent cannot be charged with custodial interference under RCW 9A.40.060(2) if a parent withholds the other parent from having access to the child in violation of residential provisions of a domestic violence protection order. The legislature intends that the provisions of RCW 9A.40.060(2) and 9A.40.070(2) be applicable in cases in which a court has entered any order making residential provisions for a child including, but not limited to, domestic violence protection orders that include such residential provisions.

Sec. 2. RCW 9A.40.060 and 1998 c 55 s 1 are each amended to read as follows:

(1) A relative of a child under the age of eighteen or of an incompetent person is guilty of custodial interference in the first degree if, with the intent to deny access to the child or incompetent person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the child or incompetent person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person and:

(a) Intends to hold the child or incompetent person permanently or for a protracted period; or

(b) Exposes the child or incompetent person to a substantial risk of illness or physical injury; or

(c) Causes the child or incompetent person to be removed from the state of usual residence; or

(d) Retains, detains, or conceals the child or incompetent person in another state after expiration of any authorized visitation period with intent to intimidate or harass a parent, guardian, institution, agency, or other person having lawful right to physical custody or to prevent a parent, guardian, institution, agency, or other person with lawful right to physical custody from regaining custody.

(2) A parent of a child is guilty of custodial interference in the first degree if the parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to time with the child pursuant to a ~~((court-ordered parenting plan))~~ court order making residential provisions for the child, and:

(a) Intends to hold the child permanently or for a protracted period; or

(b) Exposes the child to a substantial risk of illness or physical injury; or

(c) Causes the child to be removed from the state of usual residence.

(3) A parent or other person acting under the directions of the parent is guilty of custodial interference in the first degree if the parent or other person intentionally takes, entices, retains, or conceals a child, under the age of eighteen years and for whom no lawful custody order or ~~((parenting plan))~~ order making residential provisions for the child has been entered by a court of competent jurisdiction, from the other parent with intent to deprive the other parent from access to the child permanently or for a protracted period.

(4) Custodial interference in the first degree is a class C felony.

Sec. 3. RCW 9A.40.070 and 2003 c 53 s 66 are each amended to read as follows:

(1) A relative of a person is guilty of custodial interference in the second degree if, with the intent to deny access to such person by a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person, the relative takes, entices, retains, detains, or conceals the person from a parent, guardian, institution, agency, or other person having a lawful right to physical custody of such person. This subsection shall not apply to a parent's noncompliance with a ~~((court-ordered parenting plan))~~ court order making residential provisions for the child.

(2) A parent of a child is guilty of custodial interference in the second degree if: (a) The parent takes, entices, retains, detains, or conceals the child, with the intent to deny access, from the other parent having the lawful right to

time with the child pursuant to a ~~((court-ordered parenting plan))~~ court order making residential provisions for the child; or (b) the parent has not complied with the residential provisions of a court-ordered parenting plan after a finding of contempt under RCW 26.09.160(3); or (c) if the court finds that the parent has engaged in a pattern of willful violations of ~~((the court-ordered))~~ a court order making residential provisions for the child.

(3) Nothing in subsection (2)(b) of this section prohibits conviction of custodial interference in the second degree under subsection (2)(a) or (c) of this section in absence of findings of contempt.

(4)(a) The first conviction of custodial interference in the second degree is a gross misdemeanor.

(b) The second or subsequent conviction of custodial interference in the second degree is a class C felony.

Passed by the House March 2, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 39

[House Bill 1307]

RESIDENTIAL SERVICES AND SUPPORT PROVIDERS--ENFORCEMENT STANDARDS

AN ACT Relating to enforcement standards for residential services and support providers; amending RCW 71A.12.270; adding a new section to chapter 71A.12 RCW; creating a new section; recodifying RCW 71A.12.270; and prescribing penalties.

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

NEW SECTION. Sec. 1. (1) The legislature recognizes that certified residential services and support providers delivering services to individuals who live in their own homes have a distinct role that differs in some respects from the role of providers delivering services in facilities.

(2) The legislature intends for the department of social and health services to undertake enforcement actions in a manner consistent with the individual rights and choices of residential services and support clients and the principles identified in the residential care standards. These standards, codified in regulation, include the following core principles:

- (a) Health and safety;
- (b) Personal power and choice;
- (c) Personal value and positive recognition by self and others;
- (d) A range of experiences which help people participate in the physical and social life of their communities;
- (e) Good relationships with friends and relatives; and
- (f) Competence to manage daily activities and pursue personal goals.

Sec. 2. RCW 71A.12.270 and 2006 c 303 s 8 are each amended to read as follows:

(1) The enforcement standards in this section apply to all certified residential services and support providers.

(2) The department is authorized to take one or more of the enforcement actions listed in subsection ~~((2))~~ (3) of this section when the department finds

that a provider of residential services and support with whom the department entered into an agreement under this chapter has:

(a) Failed or refused to comply with the health and safety related requirements of this chapter, chapter 74.34 RCW, or the rules adopted under ~~((#))~~ these chapters;

(b) Failed or refused to cooperate with the certification process;

(c) Prevented or interfered with a certification, inspection, or investigation by the department;

(d) Failed to comply with any applicable requirements regarding vulnerable adults under chapter 74.34 RCW; or

(e) Knowingly, or with reason to know, made a false statement of material fact related to certification or contracting with the department, or in any matter under investigation by the department.

~~((2))~~ (3) The department may:

(a) Refuse to certify the provider;

(b) Decertify or refuse to renew the certification of a provider;

~~((b))~~ (c) Impose reasonable conditions on a provider's certification status such as correction within a time specified in the statement of deficiency, training, and limits on the type of client the provider may serve;

~~((e))~~ (d) Suspend department referrals to the provider; ~~((f))~~

~~((d))~~ (e) Suspend the provider from accepting clients with specified needs by imposing a limited stop placement; or

(f) Require a provider to implement a plan of correction ((developed)) approved by the department and to cooperate with subsequent monitoring of the provider's progress.

(4) In the event a provider fails to implement the plan or plans of correction or fails to make a correction imposed under subsection (3)(c) of this section or fails to cooperate with subsequent monitoring, the department may impose civil penalties of ((not more than)) up to one hundred ((fifty)) dollars per day per violation ((-Each day during which the same or similar action or inaction occurs constitutes a separate)) and up to three thousand dollars per violation from the compliance date identified in the approved plan of correction or the statement of deficiencies. If a provider fails to submit a plan of correction for approval by the department, the department may impose civil penalties as described in this subsection starting ten days after the provider received the statement of deficiency.

~~((3))~~ (5) When determining the appropriate enforcement action or actions under subsection ((2)) (3) of this section, the department must select actions commensurate with the seriousness of the harm or threat of harm to the persons being served by the provider. Further, the department may take enforcement actions that are more severe for violations that are uncorrected, repeated, pervasive, or which present a serious threat of harm to the health, safety, or welfare of persons served by the provider. By January 1, 2016, the department shall by rule develop criteria for the selection and implementation of enforcement actions authorized in subsection ((2)) (3) of this section. ((Rules adopted under this section shall include a process for an informal review upon request by a provider.

~~(4) The provisions of chapter 34.05 RCW apply to enforcement actions under this section. Except for the imposition of civil penalties, the effective date~~

~~of enforcement actions shall not be delayed or suspended pending any hearing or informal review.~~

~~(5) The enforcement actions and penalties authorized in this section are not exclusive or exhaustive and nothing in this section prohibits the department from taking any other action authorized in statute or rule or under the terms of a contract with the provider.)~~

(6) If the department orders a stop placement, the provider may not accept any new clients until the stop placement order is terminated. If the department orders a limited stop placement, the provider may not accept clients with specific needs or at a specific site until the limited stop placement order is terminated. The department shall terminate the stop placement or limited stop placement when:

(a) The violations necessitating the stop placement or limited stop placement have been corrected; and

(b) The provider exhibits the capacity to maintain correction of the violations previously found. However, if upon revisiting the provider, the department finds new violations that the department reasonably believes will result in a new stop placement or new limited stop placement, the previous stop placement or limited stop placement remains in effect until the new stop placement or new limited stop placement is imposed.

(7) After a department finding of a violation for which a stop placement or limited stop placement has been imposed, the department shall make an on-site revisit of the provider within fifteen working days from the date the provider notifies the department of the correction to ensure correction of the violation. For violations that are serious, recurring, or uncorrected following a previous citation and that create actual or threatened harm to one or more clients' well-being, including violations of clients' rights, the department shall make an on-site revisit as soon as appropriate to ensure correction of the violation. Verification of correction of all other violations may be made by either a department on-site revisit or by written or photographic documentation found by the department to be credible. This subsection does not prevent the department from enforcing certification suspensions or revocations. Nothing in this subsection interferes with or diminishes the department's authority and duty to ensure that a provider adequately cares for clients, including making departmental on-site revisits as needed to ensure that the provider protects clients and enforcing compliance with this chapter.

(8) The provisions of chapter 34.05 RCW apply to enforcement actions under this section. The certified provider or its designee has the right to an informal dispute resolution process to dispute any violation found or enforcement remedy imposed by the department during a certification inspection or complaint investigation. The purpose of the informal dispute resolution process is to provide an opportunity for an exchange of information that may lead to the modification, deletion, or removal of a violation, parts of a violation, or an enforcement remedy imposed by the department. Except for the imposition of civil penalties, the effective date of enforcement actions may not be delayed or suspended pending any hearing or informal dispute resolution process.

(9) The enforcement actions and penalties authorized in this section are not exclusive or exhaustive and nothing in this section prohibits the department from

taking any other action authorized in statute, rule, or under the terms of a contract with the provider.

(10) A separate residential services and support account is created in the custody of the state treasurer. All receipts from civil penalties imposed under this section must be deposited into the account. Only the director or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The department shall use the special account only for promoting the quality of life and care of clients receiving care and services from the certified providers.

NEW SECTION. Sec. 3. RCW 71A.12.270 is recodified as a section in chapter 71A.12 RCW, to be codified after RCW 71A.12.290.

Passed by the House March 9, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 40

[Substitute House Bill 1313]

FIRE PROTECTION DISTRICTS--REGIONAL FIRE PROTECTION SERVICE AUTHORITIES--BIENNIAL BUDGETS

AN ACT Relating to granting fire protection districts and regional fire protection service authorities biennial budget authority; amending RCW 52.16.030; and adding a new section to chapter 52.26 RCW.

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

Sec. 1. RCW 52.16.030 and 1989 c 63 s 25 are each amended to read as follows:

(1) Annually after the county board or boards of equalization of the county or counties in which the district is located have equalized the assessments for general tax purposes in that year, the secretary of the district shall prepare and certify a budget of the requirements of each district fund, and deliver it to the county legislative authority or authorities of the county or counties in which the district is located in ample time for the tax levies to be made for district purposes.

(2) In lieu of adopting an annual budget, a fire protection district may adopt a biennial budget with a mid-biennium review and modification for the second year of the biennium.

NEW SECTION. Sec. 2. A new section is added to chapter 52.26 RCW to read as follows:

A regional fire protection service authority may, in lieu of adopting an annual budget, adopt a biennial budget with a mid-biennium review and modification for the second year of the biennium.

Passed by the House March 2, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 41

[House Bill 1317]

COUNTIES--SEWER UTILITY CHARGES--LIENS

AN ACT Relating to the lien for collection of sewer utility charges by counties; and amending RCW 36.94.150.

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

Sec. 1. RCW 36.94.150 and 1997 c 393 s 9 are each amended to read as follows:

(1) All counties operating a system of sewerage and/or water shall have a lien for delinquent connection charges and charges for the availability of sewerage and/or water service, together with interest fixed by resolution at eight percent per annum from the date due until paid. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. The lien shall be for all charges, interest, ~~(and)~~ penalties, and lien recording and release fees, and shall attach to the premises to which the services were available. The lien shall be superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

(2) The county department established in RCW 36.94.120 shall certify periodically the delinquencies to the auditor of the county at which time the lien shall attach.

(3) In lieu of the procedure provided in subsection (2) of this section, a county may, by resolution or ordinance, adopt the alternative procedure applicable to cities and towns set forth in RCW 35.67.210, 35.67.215, and 35.67.290.

(4) Upon the expiration of sixty days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. Costs associated with the foreclosure of the lien, including but not limited to advertising, title report, and personnel costs, shall be added to the lien upon filing of the foreclosure action. In addition to the costs and disbursements provided by statute, the court may allow the county a reasonable attorney's fee. The lien shall be foreclosed in the same manner as the foreclosure of real property tax liens.

Passed by the House February 11, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 42

[House Bill 1342]

MICROBREWERIES--TASTING ROOMS--CIDER

AN ACT Relating to permitting the sale of cider in microbrewery tasting rooms; and amending RCW 66.24.244.

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

Sec. 1. RCW 66.24.244 and 2014 c 105 s 3 are each amended to read as follows:

(1) There shall be a license for microbreweries; fee to be one hundred dollars for production of less than sixty thousand barrels of malt liquor, including strong beer, per year.

(2) (a) Any microbrewery licensed under this section may also act as a distributor and/or retailer for beer and strong beer of its own production. ~~((Strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets.))~~

(b) Any microbrewery operating as a distributor and/or retailer under this subsection ~~((shall))~~ must comply with the applicable laws and rules relating to distributors and/or retailers, except that a microbrewery operating as a distributor may maintain a warehouse off the premises of the microbrewery for the distribution of beer provided that:

~~((a))~~ (i) The warehouse has been approved by the board under RCW 66.24.010; and

~~((b))~~ (ii) The number of warehouses off the premises of the microbrewery does not exceed one.

(c) A microbrewery holding a spirits, beer, and wine restaurant license may sell beer of its own production for off-premises consumption from its restaurant premises in kegs or in a sanitary container brought to the premises by the purchaser or furnished by the licensee and filled at the tap by the licensee at the time of sale.

(3) Any microbrewery licensed under this section may also sell from its premises for on-premises and off-premises consumption:

(a) Beer produced by another microbrewery or a domestic brewery ~~((for on and off premises consumption from its premises))~~ as long as the other breweries' brands do not exceed twenty-five percent of the microbrewery's on-tap ~~((offering of its own brands))~~ offerings; or

(b) Cider produced by a domestic winery.

(4) The board may issue up to two retail licenses allowing a microbrewery to operate an on or off-premises ~~((off-premises))~~ tavern, beer and/or wine restaurant, or spirits, beer, and wine restaurant.

(5) A microbrewery that holds a tavern license, spirits, beer, and wine restaurant license, or a beer and/or wine restaurant license ~~((shall))~~ holds the same privileges and endorsements as permitted under RCW 66.24.320, 66.24.330, and 66.24.420.

(6)(a) A microbrewery licensed under this section may apply to the board for an endorsement to sell bottled beer of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars. However, strong beer may not be sold at a farmers market or under any endorsement which may authorize microbreweries to sell beer at farmers markets.

(b) For each month during which a microbrewery will sell beer at a qualifying farmers market, the microbrewery must provide the board or its designee a list of the dates, times, and locations at which bottled beer may be offered for sale. This list must be received by the board before the microbrewery may offer beer for sale at a qualifying farmers market.

(c) Any person selling or serving beer must obtain a class 12 or class 13 alcohol server permit.

(d) The beer sold at qualifying farmers markets must be produced in Washington.

(e) Each approved location in a qualifying farmers market is deemed to be part of the microbrewery license for the purpose of this title. The approved locations under an endorsement granted under this subsection (6) include tasting or sampling privileges subject to the conditions pursuant to RCW 66.24.175. The microbrewery may not store beer at a farmers market beyond the hours that the microbrewery offers bottled beer for sale. The microbrewery may not act as a distributor from a farmers market location.

(f) Before a microbrewery may sell bottled beer at a qualifying farmers market, the farmers market must apply to the board for authorization for any microbrewery with an endorsement approved under this subsection (6) to sell bottled beer at retail at the farmers market. This application (~~(shall)~~ must include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved microbrewery may sell bottled beer; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled beer may be sold. Before authorizing a qualifying farmers market to allow an approved microbrewery to sell bottled beer at retail at its farmers market location, the board (~~(shall)~~ must notify the persons or entities of the application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (6)(f) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(g) The board may adopt rules establishing the application and approval process under this section and any additional rules necessary to implement this section.

(h) For the purposes of this subsection (6):

(i) "Qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(ii) "Farmer" means a natural person who sells, with or without processing, agricultural products that he or she raises on land he or she owns or leases in this state or in another state's county that borders this state.

(iii) "Processor" means a natural person who sells processed food that he or she has personally prepared on land he or she owns or leases in this state or in another state's county that borders this state.

(iv) "Reseller" means a natural person who buys agricultural products from a farmer and resells the products directly to the consumer.

(7) Any microbrewery licensed under this section may contract produce beer for another microbrewer. This contract-production is not a sale for the purposes of RCW 66.28.170 and 66.28.180.

Passed by the House March 3, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 43

[Substitute House Bill 1382]

FIREFIGHTER TRAINING AND TESTING

AN ACT Relating to delivery of basic firefighter training and testing; and amending RCW 43.43.934.

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

Sec. 1. RCW 43.43.934 and 2012 c 229 s 818 are each amended to read as follows:

The director of fire protection shall:

(1)(a)(i) With the state board for community and technical colleges, provide academic, vocational, and field training programs for the fire service; and (ii) with the state colleges and universities, provide instructional programs requiring advanced training, especially in command and management skills;

(b) Cooperate with the common schools, technical and community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule;

(c) Develop and adopt a master plan for constructing, equipping, maintaining, and operating necessary fire service training and education facilities subject to the provisions of chapter 43.19 RCW;

(d) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary for fire service training and education facilities in a manner provided by law; and

~~(e)(i) Develop and adopt a plan ((with a goal of providing firefighter one and wildland training to all firefighters in the state. Wildland training reimbursement will be provided if a fire protection district or a city fire department has and is fulfilling their interior attack policy or if they do not have an interior attack policy. The plan will include a reimbursement for fire protection districts and city fire departments of not less than three dollars for every hour of firefighter one or wildland training. The Washington state patrol shall not provide reimbursement for more than two hundred hours of firefighter one or wildland training for each firefighter trained))~~ for the Washington state patrol fire training academy to deliver basic firefighter training and testing to all city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies in the state. The plan required by this subsection (1)(e) must specify that the delivery of training and testing services will be provided:

(A) To recipients in the following order of priority:

(I) Volunteer departments;

(II) Combination departments; and

(III) Fire agencies that employ only career firefighters and fire officers; and

(B) By personnel of the fire training academy, either at the academy's facilities in North Bend, Washington, or regionally at local fire agencies.

(ii)(A) In lieu of receiving training and testing services from the fire training academy, city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies in the state may seek reimbursement for their firefighter I training expenses. The amount of reimbursement will be calculated on a per capita basis. The per capita amount is equal to the three-year statewide firefighter per capita average for the regional direct delivery of training by the fire training academy. The three-year statewide firefighter per capita average is calculated by dividing the number of firefighters trained using the regional direct delivery program during the three-year period into the total cost of providing regional direct delivery during the same three-year period. The regional direct delivery costs used for the basis of these calculations does not include the costs of the fire training academy personnel used to coordinate the direct delivery programs, the state's indirect costs, or any other indirect costs.

(B) Prior to the implementation of the reimbursement provisions in (e)(ii)(A) of this subsection, the amount of reimbursement for city fire departments, fire protection districts, regional fire protection service authorities, and other public fire agencies must be not less than three dollars for every one hour of firefighter I training, and may not exceed two hundred hours.

(iii) Subject to approval by the director of fire protection, and in accordance with the plan required by this subsection (1)(e), the fire training academy facilities and programs must be made available at no cost to fire service youth programs. The goal of making these facilities and programs available is to increase enrollment of volunteer firefighters, and to improve gender, cultural, and ethnic diversity within the fire service.

(iv) For purposes of this subsection (1)(e), the following definitions apply:

(A) "Basic firefighter training and testing" means training and testing for firefighters that is up to and includes the requirements of firefighter I, as identified by the national fire protection association standard 1001;

(B) "Combination department" means a fire department with emergency service personnel comprising less than eighty-five percent of either volunteer or career membership;

(C) "Delivery of training" includes all resources, personnel, and equipment necessary to deliver training at the fire academy in North Bend, Washington, or regionally at local fire agencies; and

(D) "Volunteer department" means a fire department with volunteer emergency service personnel comprising eighty-five percent or greater of its department membership.

(2)(a) Promote mutual aid and disaster planning for fire services in this state;

(b) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention; and

(c) Implement any legislation enacted by the legislature to meet the requirements of any acts of congress that apply to this section.

(3) In carrying out its statutory duties, the office of the state fire marshal shall give particular consideration to the appropriate roles to be played by the state and by local jurisdictions with fire protection responsibilities. Any

determinations on the division of responsibility shall be made in consultation with local fire officials and their representatives.

To the extent possible, the office of the state fire marshal shall encourage development of regional units along compatible geographic, population, economic, and fire risk dimensions. Such regional units may serve to: (a) Reinforce coordination among state and local activities in fire service training, reporting, inspections, and investigations; (b) identify areas of special need, particularly in smaller jurisdictions with inadequate resources; (c) assist the state in its oversight responsibilities; (d) identify funding needs and options at both the state and local levels; and (e) provide models for building local capacity in fire protection programs.

Passed by the House March 2, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 44

[Substitute House Bill 1447]

DEPARTMENT OF ENTERPRISE SERVICES--DEBARMENT AUTHORITY

AN ACT Relating to the debarment authority of the director of enterprise services; and amending RCW 39.26.200.

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

Sec. 1. RCW 39.26.200 and 2013 2nd sp.s. c 34 s 1 are each amended to read as follows:

(1)(a) The director shall provide notice to the contractor of the director's intent to either fine or debar with the specific reason for either the fine or debarment. The department must establish the debarment (~~(process)~~) and fining processes by rule.

(b) After reasonable notice to the contractor and reasonable opportunity for that contractor to be heard, the director has the authority to debar a contractor for cause from consideration for award of contracts. The debarment must be for a period of not more than three years.

(2) The director may either fine or debar a contractor based on a finding of one or more of the following causes:

(a) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract;

(b) Conviction or a final determination in a civil action under state or federal statutes of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, violation of the federal false claims act, 31 U.S.C. Sec. 3729 et seq., or the state medicaid fraud false claims act, chapter 74.66 RCW, or any other offense indicating a lack of business integrity or business honesty that currently, seriously, and directly affects responsibility as a state contractor;

(c) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;

(d) Two or more violations within the previous five years of the federal labor relations act as determined by the national labor relations board or court of competent jurisdiction;

(e) Violation of contract provisions, as set forth in this subsection, of a character that is regarded by the director to be so serious as to justify debarment action:

(i) Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(ii) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, however the failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor may not be considered to be a basis for debarment;

(f) Violation of ethical standards set forth in RCW 39.26.020; and

(g) Any other cause the director determines to be so serious and compelling as to affect responsibility as a state contractor, including debarment by another governmental entity for any cause listed in regulations.

(3) The director must issue a written decision to debar. The decision must:

(a) State the reasons for the action taken; and

(b) Inform the debarred contractor of the contractor's rights to judicial or administrative review.

Passed by the House March 3, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 45

[House Bill 1547]

STATE TREASURER--CONFERENCE FUNDING AND EXPENDITURES

AN ACT Relating to funding and expenditures for official national association conferences; amending RCW 42.52.150; and adding a new section to chapter 42.52 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 42.52 RCW to read as follows:

When soliciting gifts, grants, or donations to host an official conference within the state of Washington of a national association as approved by the state treasurer, the treasurer and designated employees are presumed not to be in violation of the solicitation and receipt of gift provisions in this chapter.

Sec. 2. RCW 42.52.150 and 2011 c 60 s 29 are each amended to read as follows:

(1) No state officer or state employee may accept gifts, other than those specified in subsections (2) and (5) of this section, with an aggregate value in excess of fifty dollars from a single source in a calendar year or a single gift from multiple sources with a value in excess of fifty dollars. For purposes of this section, "single source" means any person, as defined in RCW 42.52.010, whether acting directly or through any agent or other intermediary, and "single gift" includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not

excluded from the definition of gift under RCW 42.52.010. The value of gifts given to an officer's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(2) Except as provided in subsection (4) of this section, the following items are presumed not to influence under RCW 42.52.140, and may be accepted without regard to the limit established by subsection (1) of this section:

(a) Unsolicited flowers, plants, and floral arrangements;

(b) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(c) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(e) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(f) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(g) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for deposit in the legislative international trade account created in RCW 43.15.050;

(h) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, in trust or otherwise accepted and solicited for the purpose of promoting the expansion of tourism as provided for in RCW 43.330.090;

(i) Gifts, grants, conveyances, bequests, and devises of real or personal property, or both, solicited on behalf of a national legislative association, 2006 official conference of the national lieutenant governors' association, the annual conference of the national association of state treasurers or host committee for the purpose of hosting an official conference under the circumstances specified in RCW 42.52.820 (~~and~~), section 2, chapter 5, Laws of 2006, or section 1 of this act. Anything solicited or accepted may only be received by the national association or host committee and may not be commingled with any funds or accounts that are the property of any person;

(j) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(k) Unsolicited gifts from dignitaries from another state or a foreign country that are intended to be personal in nature.

(3) The presumption in subsection (2) of this section is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

(4) Notwithstanding subsections (2) and (5) of this section, a state officer or state employee of a regulatory agency or of an agency that seeks to acquire goods or services who participates in those regulatory or contractual matters may receive, accept, take, or seek, directly or indirectly, only the following items

from a person regulated by the agency or from a person who seeks to provide goods or services to the agency:

(a) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(b) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(c) Unsolicited items received by a state officer or state employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item by the officer's or employee's agency;

(d) Informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Food and beverages consumed at hosted receptions where attendance is related to the state officer's or state employee's official duties;

(f) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization; and

(g) Those items excluded from the definition of gift in RCW 42.52.010 except:

(i) Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity;

(ii) Payments for seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade, or charitable association or institution; and

(iii) Flowers, plants, and floral arrangements.

(5) A state officer or state employee may accept gifts in the form of food and beverage on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties. Gifts in the form of food and beverage that exceed fifty dollars on a single occasion shall be reported as provided in chapter 42.17A RCW.

Passed by the House March 3, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 21, 2015.

Filed in Office of Secretary of State April 21, 2015.

CHAPTER 46

[House Bill 1977]

HIGHER EDUCATION--TUITION EXEMPTION--HIGHWAY WORKERS

AN ACT Relating to a tuition and fees exemption for children and surviving spouses of certain highway workers; and amending RCW 28B.15.380.

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

Sec. 1. RCW 28B.15.380 and 2012 c 229 s 703 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, and The Evergreen State College

shall exempt the following students from the payment of all tuition fees and services and activities fees:

(1) Children of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, highway worker, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full-time or volunteer fire department in this state, or was a highway worker while employed by a transportation agency: PROVIDED, That such persons may receive the exemption only if they begin their course of study at a state-supported college or university within ten years of their graduation from high school; and

(2) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, highway worker, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full-time or volunteer fire department in this state, or was a highway worker while employed by a transportation agency.

(3) The governing boards of the state universities, the regional universities, and The Evergreen State College shall report to the education data center on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under this section. The education data center shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature.

(4) As used in this section, "transportation agency" means any agency, department, or division of a municipal corporation, political subdivision, or other unit of local government in this state, and any agency, department, or division of state government, having as its primary function the construction and maintenance of the highways and roads within the state of Washington. Such an agency, department, or division is distinguished from a transit agency having as one of its functions the highway maintenance, including but not limited to the state department of transportation. A transportation agency under this section does not include a government contractor.

Passed by the House March 11, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 47

[House Bill 1554]

PUBLIC RECORDS--EXEMPTIONS--CHILD CARE INFORMATION

AN ACT Relating to exempting information of guardians or family members of children enrolled in child care, early learning, parks and recreation, after-school, and youth development programs; and amending RCW 42.56.230.

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

Sec. 1. RCW 42.56.230 and 2014 c 142 s 1 are each amended to read as follows:

The following personal information is exempt from public inspection and copying under this chapter:

(1) Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;

(2)(a) Personal information:

(i) For a child enrolled in licensed child care in any files maintained by the department of early learning; ~~((ø))~~

(ii) For a child enrolled in a public or nonprofit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs; or

(iii) For the family members or guardians of a child who is subject to the exemption under this subsection (2) if the family member or guardian has the same last name of the child or if the family member or guardian resides at the same address of the child and disclosure of the family member's or guardian's information would result in disclosure of the personal information exempted under (a)(i) and (ii) of this subsection.

(b) Emergency contact information under this subsection (2) may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation;

(3) Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy;

(4) Information required of any taxpayer in connection with the assessment or collection of any tax if the disclosure of the information to other persons would: (a) Be prohibited to such persons by RCW 84.08.210, 82.32.330, 84.40.020, 84.40.340, or any ordinance authorized under RCW 35.102.145; or (b) violate the taxpayer's right to privacy or result in unfair competitive disadvantage to the taxpayer;

(5) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law;

(6) Personal and financial information related to a small loan or any system of authorizing a small loan in RCW 31.45.093;

(7)(a) Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identicard.

(b) Information provided under RCW 46.20.111 that indicates that an applicant declined to register with the selective service system.

(c) Any record pertaining to a vehicle license plate, driver's license, or identicard issued under RCW 46.08.066 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement, confidential public health work, public assistance fraud, or child support investigative activity. This exemption does not prevent the release of the total number of vehicle license plates, drivers' licenses, or identicards that, under RCW 46.08.066, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse.

(d) Any record pertaining to a vessel registration issued under RCW 88.02.330 that, alone or in combination with any other records, may reveal the identity of an individual, or reveal that an individual is or was, performing an undercover or covert law enforcement activity. This exemption does not prevent the release of the total number of vessel registrations that, under RCW 88.02.330, an agency or department has applied for, been issued, denied, returned, destroyed, lost, and reported for misuse; and

(8) All information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals under RCW 51.04.063, other than final orders from the board of industrial insurance appeals.

Upon request by the legislature, the department of licensing shall provide a report to the legislature containing all of the information in subsection (7)(c) and (d) of this section that is subject to public disclosure.

Passed by the House March 11, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 48

[House Bill 1595]

PUBLIC WORKS--APPRENTICESHIP UTILIZATION

AN ACT Relating to changing the definition of labor hours for the purposes of the apprenticeship utilization statute; and amending RCW 39.04.310.

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

Sec. 1. RCW 39.04.310 and 2007 c 437 s 1 are each amended to read as follows:

The definitions in this section apply throughout this section and RCW 39.04.300 and 39.04.320 unless the context clearly requires otherwise.

(1) "Apprentice" means an apprentice enrolled in a state-approved apprenticeship training program.

(2) "Apprentice utilization requirement" means the requirement that the appropriate percentage of labor hours be performed by apprentices.

(3) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed (~~(on the site of)~~) upon the public works project. "Labor hours" includes hours performed by workers employed by the contractor and all subcontractors working on the project. "Labor hours" does not include hours worked by foremen, superintendents, owners, and workers who are not subject to prevailing wage requirements.

(4) "School district" has the same meaning as in RCW 28A.315.025.

(5) "State-approved apprenticeship training program" means an apprenticeship training program approved by the Washington state apprenticeship council.

Passed by the House March 6, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 49

[House Bill 1637]

PRESCRIPTION MONITORING DATA--INDIAN TRIBES

AN ACT Relating to authorizing law enforcement and prosecutorial officials of federally recognized Indian tribes access to prescription monitoring data; and amending RCW 70.225.040.

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

Sec. 1. RCW 70.225.040 and 2011 1st sp.s. c 15 s 87 are each amended to read as follows:

(1) Prescription information submitted to the department shall be confidential, in compliance with chapter 70.02 RCW and federal health care information privacy requirements and not subject to disclosure, except as provided in subsections (3) and (4) of this section.

(2) The department shall maintain procedures to ensure that the privacy and confidentiality of patients and patient information collected, recorded, transmitted, and maintained is not disclosed to persons except as in subsections (3) and (4) of this section.

(3) The department may provide data in the prescription monitoring program to the following persons:

(a) Persons authorized to prescribe or dispense controlled substances, for the purpose of providing medical or pharmaceutical care for their patients;

(b) An individual who requests the individual's own prescription monitoring information;

(c) Health professional licensing, certification, or regulatory agency or entity;

(d) Appropriate (~~local, state, and federal~~) law enforcement or prosecutorial officials, including local, state, and federal officials and officials of federally recognized tribes, who are engaged in a bona fide specific investigation involving a designated person;

(e) Authorized practitioners of the department of social and health services and the health care authority regarding medicaid program recipients;

(f) The director or director's designee within the department of labor and industries regarding workers' compensation claimants;

(g) The director or the director's designee within the department of corrections regarding offenders committed to the department of corrections;

(h) Other entities under grand jury subpoena or court order; and

(i) Personnel of the department for purposes of administration and enforcement of this chapter or chapter 69.50 RCW.

(4) The department may provide data to public or private entities for statistical, research, or educational purposes after removing information that could be used to identify individual patients, dispensers, prescribers, and persons who received prescriptions from dispensers.

(5) A dispenser or practitioner acting in good faith is immune from any civil, criminal, or administrative liability that might otherwise be incurred or imposed for requesting, receiving, or using information from the program.

Passed by the House March 2, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.
Filed in Office of Secretary of State April 22, 2015.

CHAPTER 50

[House Bill 1720]

HOUSING--HEALTH AND SAFETY

AN ACT Relating to healthy housing; and amending RCW 70.164.010, 70.164.020, and 70.164.040.

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

Sec. 1. RCW 70.164.010 and 2010 c 287 s 1 are each amended to read as follows:

(1) The legislature finds and declares that weatherization of the residences of low-income households will help conserve energy resources in this state and can reduce the need to obtain energy from more costly conventional energy resources. The legislature also finds that while many efforts have been made by the federal government and by the state, including its cities, counties, and utilities, to increase both the habitability and the energy efficiency of residential structures within the state, stronger coordination of these efforts will result in even greater energy efficiencies, increased cost savings to the state's residents in the form of lower utility bills, improvements in health and safety, lower greenhouse gas emissions and associated climate impacts, as well as increased employment for the state's workforce. The legislature further finds that there is emerging scientific evidence linking residents' health outcomes such as asthma, lead poisoning, and unintentional injuries to substandard housing.

(2) Therefore, it is the intent of the legislature that state funds be dedicated to weatherization and energy efficiency activities as well as the moderate to significant repair and rehabilitation of residential structures that are required as a necessary antecedent to those activities. It is also the intent of the legislature that the department prioritize weatherization, energy efficiency activities, and structural repair of residential structures to facilitate the expeditious allocation of funds from federal energy efficiency programs including, but not limited to, the weatherization assistance program, the weatherization plus health initiative, the energy efficiency and conservation block grant program, residential energy efficiency components of the state energy program, and the retrofit ramp-up program for energy efficiency projects. The legislature further intends to allocate future distributions of energy-related federal jobs stimulus funding to strengthen these programs, and to coordinate energy retrofit and rehabilitation improvements as authorized by chapter 287, Laws of 2010 to increase the number of structures qualifying for assistance under these multiple state and federal energy efficiency programs.

(3) The program implementing the policy of this chapter is necessary to support the poor and infirm and also to benefit the health, safety, and general welfare of all citizens of the state.

Sec. 2. RCW 70.164.020 and 2010 c 287 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of commerce.

(2) "Direct outreach" means:

(a) The use of door-to-door contact, community events, and other methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities; and

(b) The performance of energy audits.

(3) "Energy audit" means an analysis of a dwelling unit to determine the need for cost-effective energy conservation measures as determined by the department.

(4) "Healthy housing improvements" means increasing the health and safety of a home by integrating energy efficiency activities and indoor environmental quality measures, consistent with the weatherization plus health initiative of the federal department of energy and the healthy housing principles adopted by the federal department of housing and urban development.

(5) "Household" means an individual or group of individuals living in a dwelling unit as defined by the department.

~~((5))~~ (6) "Low income" means household income as defined by the department, provided that the definition may not exceed eighty percent of median household income, adjusted for household size, for the county in which the dwelling unit to be weatherized is located.

~~((6))~~ (7) "Nonutility sponsor" means any sponsor other than a public service company, municipality, public utility district, mutual or cooperative, furnishing gas or electricity used to heat low-income residences.

~~((7))~~ (8) "Residence" means a dwelling unit as defined by the department.

~~((8))~~ (9) "Sponsor" means any entity that submits a proposal under RCW 70.164.040, including but not limited to any local community action agency, tribal nation, community service agency, or any other participating agency or any public service company, municipality, public utility district, mutual or cooperative, or any combination of such entities that jointly submits a proposal.

~~((9))~~ (10) "Sponsor match" means the share of the cost of weatherization to be paid by the sponsor.

~~((10))~~ (11) "Sustainable residential weatherization" or "weatherization" means activities that use funds administered by the department for one or more of the following: (a) Energy and resource conservation; (b) energy efficiency improvements; (c) repairs, indoor air quality improvements, and health and safety improvements; and (d) client education. Funds administered by the department for activities authorized under this subsection may only be used for the preservation of a dwelling unit occupied by a low-income household and must, to the extent feasible, be used to support and advance sustainable technologies.

~~((11))~~ (12) "Weatherizing agency" means any approved department grantee, tribal nation, or any public service company, municipality, public utility district, mutual or cooperative, or other entity that bears the responsibility for ensuring the performance of weatherization of residences under this chapter and has been approved by the department.

Sec. 3. RCW 70.164.040 and 2010 c 287 s 4 are each amended to read as follows:

(1) The department shall solicit proposals for low-income weatherization programs from potential sponsors. A proposal shall state the amount of the

sponsor match, the amount requested, the name of the weatherizing agency, and any other information required by the department.

(2)(a) A sponsor may use its own moneys, including corporate or ratepayer moneys, or moneys provided by landlords, charitable groups, government programs, the Bonneville power administration, or other sources to pay the sponsor match.

(b) Moneys provided by a sponsor pursuant to requirements in this section shall be in addition to and shall not supplant any funding for low-income weatherization that would otherwise have been provided by the sponsor or any other entity enumerated in (a) of this subsection.

(c) No proposal may require any contribution as a condition of weatherization from any household whose residence is weatherized under the proposal.

(d) Proposals shall provide that full levels of all cost-effective, structurally feasible, sustainable residential weatherization materials, measures, and practices, as determined by the department, shall be installed when a low-income residence is weatherized.

(3) Sponsors may propose to utilize grant awards and matching funds to make healthy housing improvements to homes undergoing weatherization.

(4)(a) The department may in its discretion accept, accept in part, or reject proposals submitted.

(b) The department shall prioritize allocating funds from the low-income weatherization and ~~((structural))~~ structural rehabilitation ~~((assistance))~~ assistance account to projects that maximize energy efficiency ~~((and))~~, extend the usable life of an affordable home, and improve the health and safety of its residents by: (i) Installing energy efficiency measures; and (ii) providing structural rehabilitation and repairs, so that funding from federal energy efficiency programs such as the weatherization assistance program, the weatherization plus health initiative, the energy efficiency and conservation block grant program, residential energy efficiency components of the state energy program, and the retrofit ramp-up program is distributed expeditiously.

(c) When allocating funds from the low-income weatherization and ~~((structural))~~ structural rehabilitation ~~((assistance))~~ assistance account, the department shall, to the extent feasible, consider local and state benefits including pledged sponsor match, available energy efficiency, repair, and rehabilitation funds from other sources, the preservation of affordable housing, and balance of participation in proportion to population among low-income households for: (i) Geographic regions in the state; (ii) types of fuel used for heating, except that the department shall encourage the use of energy efficient sustainable technologies; (iii) owner-occupied and rental residences; and (iv) singlefamily and multifamily dwellings.

(d) The department shall then allocate funds appropriated from the low-income weatherization and structural rehabilitation assistance account for energy efficiency and repair activities among proposals accepted or accepted in part.

(e) The department shall develop policies to ensure prudent, cost-effective investments are made in homes and buildings requiring energy efficiency, repair, and rehabilitation improvements that will maximize energy savings ~~((and))~~, extend the life of a home, and improve the health and safety of its residents.

(f) The department shall give priority to the structural rehabilitation and weatherization of dwelling units occupied by low-income households with incomes at or below one hundred twenty-five percent of the federally established poverty level.

(g) The department may allocate funds to a nonutility sponsor without requiring a sponsor match if the department determines that such an allocation is necessary to provide the greatest benefits to low-income residents of the state.

(h) The department shall require weatherizing agencies to employ individuals trained from workforce training and apprentice programs established under chapter 536, Laws of 2009 if these workers are available, pay prevailing wages under chapter 39.12 RCW, hire from the community in which the program is located, and create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations.

~~((4))~~ (5)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump sum at the time of structural rehabilitation or weatherization; or (ii) make yearly payments to the low-income weatherization and structural rehabilitation assistance account over a period not to exceed ten years. If a sponsor elects to make yearly payments, the value of the payments shall not be less than the value of the lump sum payment that would have been made under (a)(i) of this subsection.

(b) The department may permit a sponsor to meet its match requirement in whole or in part through providing labor, materials, or other in-kind expenditures.

~~((5))~~ (6) Service providers receiving funding under this section must report to the department at least quarterly, or in alignment with federal reporting, whichever is the greater frequency, the project costs, and the number of dwelling units repaired, rehabilitated, and weatherized, the number of jobs created or maintained, and the number of individuals trained through workforce training and apprentice programs. The director of the department shall review the accuracy of these reports.

~~((6))~~ (7) The department shall adopt rules to carry out this section.

Passed by the House March 10, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 51

[Substitute House Bill 1730]

REAL ESTATE--EARNEST MONEY--HANDLING

AN ACT Relating to the handling of earnest money; amending RCW 4.28.080; and adding a new section to chapter 64.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 64.04 RCW to read as follows:

(1) As used in this section:

(a) "Day" means calendar day.

(b) "Earnest money" means money placed with a holder by a prospective buyer of residential real property to show a good-faith intention to perform pursuant to an executed purchase and sale agreement.

(c) "Holder" means the party holding the earnest money pursuant to an executed purchase and sale agreement including, but not limited to, any of the following:

(i) A real estate firm, as defined in RCW 18.85.011;

(ii) An escrow agent, as defined in RCW 18.44.011;

(iii) A title insurance company issued a certificate of authority pursuant to chapters 48.05 and 48.29 RCW; or

(iv) A title insurance agent licensed pursuant to chapter 48.29 RCW.

(d) "Party" means a person or entity identified as a buyer or seller in an executed purchase and sale agreement for residential real property.

(e) "Residential real property" has the same meaning as defined in RCW 64.06.005.

(2) If a holder receives a written demand from a party to a transaction for all or any part of the earnest money held by the holder in relation to that transaction, the holder must, within fifteen days of receipt of the written demand: (a) Notify all other parties to the transaction of the demand in writing and comply with the other requirements of this section; (b) release the earnest money to one or more of the parties; or (c) commence an interpleader action.

(3) The holder's notice to the other parties must include a copy of the demand and advise the other parties that: (a) They have twenty days from the date of the holder's notice to notify the holder in writing of their objection to the release of the earnest money; and (b) their failure to deliver a timely written objection will result in the holder releasing the earnest money to the demanding party in accordance with the demand upon expiration of the twenty-day period. The holder's notice must also specify an address where written objections to the release of the earnest money must be sent.

(4) The twenty-day period commences upon the date the holder places the holder's notice in the United States postal service mail and sends an email pursuant to subsection (6) of this section. The holder must maintain a log or other method of evidencing the mailing of the holder's notice.

(5) If the holder does not receive, at the address specified in the holder's notice, a written objection from one or more of the other parties within the twenty-day period, the holder must, within ten days of the expiration of the twenty-day period, deliver the earnest money to the demanding party in accordance with the party's written demand. If the holder receives, at the specified address, a written objection or inconsistent demand from another party to the transaction within the twenty-day period, the holder must not release the funds to any party, but must commence an interpleader action within sixty days of receipt of the objection or inconsistent demand, unless the parties provide subsequent consistent instructions that authorize the holder to (a) disburse the earnest money or (b) refrain from commencing an interpleader action for a specified period of time.

(6) The notice from the holder to the other parties must be sent via United States postal service mail and via email using the last known mailing address and email address for such parties to the extent such information is provided by the parties and is contained in the holder's records for that transaction. The holder

has no obligation to search outside its records to determine the current mailing or email address of the other parties, and is not liable for unsuccessfully locating the other parties' current mailing or email addresses if outside records are used.

(7) Unless a holder releases the earnest money pursuant to subsection (2)(b) of this section, a holder that complies with this section is not liable to any party to the transaction, or to any other person, for releasing the earnest money to the demanding party.

(8) This section does not prohibit a holder from interpleading the earnest money at any time, including after receiving a written demand as described in subsection (2) of this section and before the expiration of the twenty-day period as described in subsections (3) and (4) of this section.

(9) If the holder commences an interpleader action, the court must award the holder its reasonable attorneys' fees and costs.

(10) The holder may use the following form of summons for the interpleader action:

SUPERIOR COURT OF WASHINGTON
FOR COUNTY

<p>....., Interpleader Plaintiff,</p>	}	NO. INTERPLEADER SUMMONS
vs., Defendant Seller,		
and, Defendant Buyer.		

TO: THE DEFENDANTS

This interpleader lawsuit has been started against you in the above court. The plaintiff's claim is stated in the complaint.

In order to protect any right you have in the money described in the complaint, you must file a response to the complaint and serve a copy of your response on the other defendant within twenty (20) days after the service of this summons, if served within the state of Washington [or within sixty (60) days after service if served outside the state of Washington], excluding the day of service. The day of service is the day that this summons is personally served or postmarked, if served by mail. If you do not respond to the complaint within this time period, the other defendant may enter a default judgment against you, without notice and you would lose any interest you may have in the money described in the complaint. If you serve a "Notice of Appearance" on the other defendant, you are entitled to notice before such a default judgment is entered.

The plaintiff has waived all claims to the money deposited with the court, except for reimbursement of its reasonable attorneys' fees and costs.

You may wish to seek the advice of an attorney. In such case, you should do so promptly so that your response, if any, can be served within the applicable time.

This summons is issued pursuant to Rule 4 of the superior court civil rules of the state of Washington.

Interpleader Plaintiff

By:

Dated:

Address:

(11) The holder may use the following form of complaint for the interpleader action:

SUPERIOR COURT OF WASHINGTON

FOR COUNTY

.....,	} NO. INTERPLEADER COMPLAINT
Interpleader Plaintiff,	
vs.	
.....,	
Defendant Seller,	}
and	
.....,	
Defendant Buyer.	

COMES NOW the interpleader plaintiff, and alleges as follows:

1. INTERPLEADER. Plaintiff is holding earnest money related to the attached real estate purchase and sale agreement (the "agreement").

2. DEFENDANTS' AGREEMENT. Defendants are the "buyer" and "seller" under the agreement.

3. EARNEST MONEY - CONFLICTING CLAIMS. Pursuant to the agreement, buyer deposited the earnest money with plaintiff in the amount of \$ The sale contemplated by the agreement did not close. Both buyer and seller have made conflicting claims for the earnest money.

4. DEPOSIT WITH COURT. At the time of filing of this complaint, plaintiff has deposited the earnest money with the clerk of the court pursuant to RCW 4.08.170 and superior court civil rule 22.

5. PLAINTIFF'S CLAIM. Plaintiff disclaims any interest in the earnest money, except for reimbursement of its reasonable attorneys' fees and costs. Pursuant to RCW 4.08.170, plaintiff asks that this complaint be accepted without payment of a filing fee or other cost to plaintiff.

6. The defendants' names and addresses last known to plaintiff are:

Defendant Buyer:

Address:

Defendant Seller:

Address:

WHEREFORE, Plaintiff having interplead the earnest money, respectfully requests:

1. That the court adjudicate who is entitled to the earnest money.
2. That the court award plaintiff its reasonable attorneys' fees and costs.

Interpleader Plaintiff

By:

Dated:

Address:

(12) This section:

(a) Applies to all earnest money held by a holder on the effective date of this section, even if the earnest money was deposited with the holder before the effective date of this section;

(b) Applies only to a transaction involving improved residential real property and unimproved residential real property as each are defined in RCW 64.06.005.

Sec. 2. RCW 4.28.080 and 2012 c 211 s 1 are each amended to read as follows:

Service made in the modes provided in this section is personal service. The summons shall be served by delivering a copy thereof, as follows:

(1) If the action is against any county in this state, to the county auditor or, during normal office hours, to the deputy auditor, or in the case of a charter county, summons may be served upon the agent, if any, designated by the legislative authority.

(2) If against any town or incorporated city in the state, to the mayor, city manager, or, during normal office hours, to the mayor's or city manager's designated agent or the city clerk thereof.

(3) If against a school or fire district, to the superintendent or commissioner thereof or by leaving the same in his or her office with an assistant superintendent, deputy commissioner, or business manager during normal business hours.

(4) If against a railroad corporation, to any station, freight, ticket or other agent thereof within this state.

(5) If against a corporation owning or operating sleeping cars, or hotel cars, to any person having charge of any of its cars or any agent found within the state.

(6) If against a domestic insurance company, to any agent authorized by such company to solicit insurance within this state.

(7)(a) If against an authorized foreign or alien insurance company, as provided in RCW 48.05.200.

(b) If against an unauthorized insurer, as provided in RCW 48.05.215 and 48.15.150.

(c) If against a reciprocal insurer, as provided in RCW 48.10.170.

(d) If against a nonresident surplus line broker, as provided in RCW 48.15.073.

(e) If against a nonresident insurance producer or title insurance agent, as provided in RCW 48.17.173.

(f) If against a nonresident adjuster, as provided in RCW 48.17.380.

(g) If against a fraternal benefit society, as provided in RCW 48.36A.350.

(h) If against a nonresident reinsurance intermediary, as provided in RCW 48.94.010.

(i) If against a nonresident life settlement provider, as provided in RCW 48.102.011.

(j) If against a nonresident life settlement broker, as provided in RCW 48.102.021.

(k) If against a service contract provider, as provided in RCW 48.110.030.

(l) If against a protection product guarantee provider, as provided in RCW 48.110.055.

(m) If against a discount plan organization, as provided in RCW 48.155.020.

(8) If against a company or corporation doing any express business, to any agent authorized by said company or corporation to receive and deliver express matters and collect pay therefor within this state.

(9) If against a company or corporation other than those designated in subsections (1) through (8) of this section, to the president or other head of the company or corporation, the registered agent, secretary, cashier or managing agent thereof or to the secretary, stenographer or office assistant of the president or other head of the company or corporation, registered agent, secretary, cashier or managing agent.

(10) If against a foreign corporation or nonresident joint stock company, partnership or association doing business within this state, to any agent, cashier or secretary thereof.

(11) If against a minor under the age of fourteen years, to such minor personally, and also to his or her father, mother, guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he or she resides, or in whose service he or she is employed, if such there be.

(12) If against any person for whom a guardian has been appointed for any cause, then to such guardian.

(13) If against a foreign or alien steamship company or steamship charterer, to any agent authorized by such company or charterer to solicit cargo or passengers for transportation to or from ports in the state of Washington.

(14) If against a selfinsurance program regulated by chapter 48.62 RCW, as provided in chapter 48.62 RCW.

(15) If against a party to a real estate purchase and sale agreement under section 1 of this act, by mailing a copy by first-class mail, postage prepaid, to the party to be served at his or her usual mailing address or the address identified for that party in the real estate purchase and sale agreement.

(16) In all other cases, to the defendant personally, or by leaving a copy of the summons at the house of his or her usual abode with some person of suitable age and discretion then resident therein.

~~((16))~~ (17) In lieu of service under subsection ~~((15))~~ (16) of this section, where the person cannot with reasonable diligence be served as described, the summons may be served as provided in this subsection, and shall be deemed complete on the tenth day after the required mailing: By leaving a copy at his or her usual mailing address with a person of suitable age and discretion who is a resident, proprietor, or agent thereof, and by thereafter mailing a copy by first-class mail, postage prepaid, to the person to be served at his or her usual mailing address. For the purposes of this subsection, "usual mailing address" does not include a United States postal service post office box or the person's place of employment.

Passed by the House March 10, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 52

[Substitute House Bill 1749]

CONTRACTORS--REGISTRATION--OWNERS OF PROPERTY

AN ACT Relating to contractor registration requirements for owners of property; and amending RCW 18.27.010.

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

Sec. 1. RCW 18.27.010 and 2007 c 436 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) "Contractor" includes any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, or demolish any building, highway, road, railroad, excavation or other structure, project, development, or improvement attached to real estate or to do any part thereof including the installation of carpeting or other floor covering, the erection of scaffolding or other structures or works in connection therewith, the installation or repair of roofing or siding, performing tree removal services, or cabinet or similar installation; or, who, to do similar work upon his or her own property, employs members of more than one trade upon a single job or project or under a single building permit except as otherwise provided in this chapter.

(b) "Contractor" also includes a consultant acting as a general contractor.

(c) "Contractor" also includes any person, firm, corporation, or other entity covered by this subsection (1), whether or not registered as required under this chapter or who are otherwise required to be registered or licensed by law, who offer to sell their property without occupying or using the structures, projects, developments, or improvements for more than one year from the date the structure, project, development, or improvement was substantially completed or abandoned. A person, firm, corporation, or other entity is not a contractor under this subsection (1)(c) if the person, firm, corporation, or other entity contracts with a registered general contractor and does not superintend the work.

(2) "Department" means the department of labor and industries.

(3) "Director" means the director of the department of labor and industries or designated representative employed by the department.

(4) "Filing" means delivery of a document that is required to be filed with an agency to a place designated by the agency.

(5) "General contractor" means a contractor whose business operations require the use of more than one building trade or craft upon a single job or project or under a single building permit. A general contractor also includes one who superintends, or consults on, in whole or in part, work falling within the definition of a contractor.

(6) "Notice of infraction" means a form used by the department to notify contractors that an infraction under this chapter has been filed against them.

(7) "Partnership" means a business formed under Title 25 RCW.

(8) "Registration cancellation" means a written notice from the department that a contractor's action is in violation of this chapter and that the contractor's registration has been revoked.

(9) "Registration suspension" means either an automatic suspension as provided in this chapter, or a written notice from the department that a contractor's action is a violation of this chapter and that the contractor's registration has been suspended for a specified time, or until the contractor shows evidence of compliance with this chapter.

(10) "Residential homeowner" means an individual person or persons owning or leasing real property:

(a) Upon which one single-family residence is to be built and in which the owner or lessee intends to reside upon completion of any construction; or

(b) Upon which there is a single-family residence to which improvements are to be made and in which the owner or lessee intends to reside upon completion of any construction.

(11) "Service," except as otherwise provided in RCW 18.27.225 and 18.27.370, means posting in the United States mail, properly addressed, postage prepaid, return receipt requested, or personal service. Service by mail is complete upon deposit in the United States mail to the last known address provided to the department.

(12) "Specialty contractor" means a contractor whose operations do not fall within the definition of "general contractor". A specialty contractor may only subcontract work that is incidental to the specialty contractor's work.

(13) "Substantial completion" means the same as "substantial completion of construction" in RCW 4.16.310.

(14) "Unregistered contractor" means a person, firm, corporation, or other entity doing work as a contractor without being registered in compliance with this chapter. "Unregistered contractor" includes contractors whose registration is expired, revoked, or suspended. "Unregistered contractor" does not include a contractor who has maintained a valid bond and the insurance or assigned account required by RCW 18.27.050, and whose registration has lapsed for thirty or fewer days.

(15) "Unsatisfied final judgment" means a judgment or final tax warrant that has not been satisfied either through payment, court approved settlement, discharge in bankruptcy, or assignment under RCW 19.72.070.

(16) "Verification" means the receipt and duplication by the city, town, or county of a contractor registration card that is current on its face, checking the department's contractor registration database, or calling the department to confirm that the contractor is registered.

Passed by the House March 6, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 53

[Substitute House Bill 1806]

ELECTIONS STATUTES

AN ACT Relating to correcting references to elections statutes; amending RCW 3.34.050, 14.08.304, 27.12.100, 27.15.020, 27.15.050, 28A.315.275, 28A.320.410, 28A.323.050, 28A.343.010, 28A.343.330, 28A.343.350, 28A.343.670, 28A.535.030, 35.02.078, 35.02.100, 35.02.139, 35.06.080, 35.07.050, 35.10.410, 35.10.420, 35.13.060, 35.13.080, 35.13.090, 35.16.030,

35.16.050, 35.17.260, 35.17.310, 35.17.400, 35.18.020, 35.20.100, 35.21.203, 35.22.055, 35.22.200, 35.22.235, 35.22.245, 35.23.051, 35.23.805, 35.23.850, 35.30.080, 35.61.030, 35.61.050, 35.61.270, 35.95A.100, 35A.02.025, 35A.02.050, 35A.02.060, 35A.07.050, 35A.08.100, 35A.12.040, 35A.12.180, 35A.14.050, 35A.29.120, 35A.29.130, 35A.29.180, 35A.42.050, 35A.56.010, 36.16.020, 36.16.030, 36.22.220, 36.32.030, 36.32.0558, 36.32.070, 36.69.070, 36.69.090, 36.105.050, 39.36.050, 43.07.140, 43.135.060, 46.20.205, 52.04.011, 52.06.030, 52.14.060, 52.14.070, 53.04.020, 53.04.080, 53.12.130, 53.12.172, 53.12.221, 53.16.015, 53.36.070, 53.36.100, 54.08.060, 54.40.070, 57.04.140, 57.12.030, 57.12.039, 57.24.190, 67.38.130, 68.52.250, 70.44.047, 70.44.056, 80.36.390, 80.52.050, 82.14.036, 82.46.021, 82.80.090, 85.38.060, 85.38.070, 86.15.050, and 87.03.083; and reenacting and amending RCW 28A.343.030, 28A.343.320, and 28A.343.660.

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

Sec. 1. RCW 3.34.050 and 1998 c 19 s 2 are each amended to read as follows:

At the general election in November 1962 and quadrennially thereafter, there shall be elected by the voters of each district court district the number of judges authorized for the district by the district court districting plan. Judges shall be elected for each district and electoral district, if any, by the qualified electors of the district in the same manner as judges of courts of record are elected, except as provided in chapter (~~29.24~~) 29A.52 RCW. Not less than ten days before the time for filing declarations of candidacy for the election of judges for districts entitled to more than one judge, the county auditor shall designate each such office of district judge to be filled by a number, commencing with the number one and numbering the remaining offices consecutively. At the time of the filing of the declaration of candidacy, each candidate shall designate by number which one, and only one, of the numbered offices for which he or she is a candidate and the name of the candidate shall appear on the ballot for only the numbered office for which the candidate filed a declaration of candidacy.

Sec. 2. RCW 14.08.304 and 1994 c 223 s 4 are each amended to read as follows:

The board of airport district commissioners shall consist of three members. The first commissioners shall be appointed by the county legislative authority. At the next general district election, held as provided in RCW (~~29.13.020~~) 29A.04.330, three airport district commissioners shall be elected. The terms of office of airport district commissioners shall be two years, or until their successors are elected and qualified and have assumed office in accordance with RCW (~~29.04.170~~) 29A.60.280. Members of the board of airport district commissioners shall be elected at each regular district general election on a nonpartisan basis in accordance with the general election law. Vacancies on the board of airport district commissioners shall occur and shall be filled as provided in chapter 42.12 RCW. Members of the board of airport district commissioners shall receive no compensation for their services, but shall be reimbursed for actual necessary traveling and sustenance expenses incurred while engaged on official business.

Sec. 3. RCW 27.12.100 and 1965 c 63 s 1 are each amended to read as follows:

An intercounty rural library district shall be established by joint action of two or more counties proceeding by either of the following alternative methods:

(1) The boards of county commissioners of any two or more counties shall adopt identical resolutions proposing the formation of such a district to include

all of the areas outside of incorporated cities or towns in such counties as may be designated in such resolutions. In lieu of such resolutions a petition of like purport signed by ten percent of the registered voters residing outside of incorporated cities or towns of a county, may be filed with the county auditor thereof, and shall have the same effect as a resolution. The proposition for the formation of the district as stated on the petition shall be prepared by the attorney general upon request of the state library commission. Action to initiate the formation of such a district shall become ineffective in any county if corresponding action is not completed within one year thereafter by each other county included in such proposal. The county auditor in each county shall check the validity of the signatures on the petition and shall certify to the board of county commissioners the sufficiency of the signatures. If each petition contains the signatures of ten percent of the registered voters residing outside the incorporated cities and towns of the county, each board of county commissioners shall pass a resolution calling an election for the purpose of submitting the question to the voters and setting the date of said election. When such action has been taken in each of the counties involved, notification shall be made by each board of county commissioners to the board of county commissioners of the county having the largest population according to the last federal census, who shall give proper notification to each county auditor. At the next general or special election held in the respective counties there shall be submitted to the voters in the areas outside of incorporated cities and towns a question as to whether an intercounty rural library district shall be established as outlined in the resolutions or petitions. Notice of said election shall be given by the county auditor (~~pursuant to RCW 29.27.080. The county auditor shall provide for the printing of a separate ballot and shall provide for the distribution of ballots to the polling places pursuant to RCW 29.04.020~~). The county auditor shall instruct the election boards in split precincts. The respective county canvassing boards in each county to be included within the intercounty rural library district shall canvass the votes and certify the results to the county auditor pursuant to chapter (~~29.62~~) 29A.60 RCW; the result shall then be certified by each county auditor to the county auditor of the county having the largest population according to the last federal census. If a majority of the electors voting on the proposition in each of the counties affected shall vote in favor of such district it shall thereby become established, and the board of county commissioners of the county having the largest population according to the last federal census shall declare the intercounty rural library district established. If two or more of the counties affected are in an existing intercounty rural library district, then the electors in areas outside incorporated cities and towns in those counties shall vote as a unit and the electors in areas outside incorporated cities and towns in each of the other affected counties shall vote as separate units. If a majority of the electors voting on the proposition in the existing district and a majority of the voters in any of the other affected counties shall vote in favor of an expanded intercounty rural library district it shall thereby become established.

(2) The county commissioners of two or more counties meeting in joint session attended by a majority of the county commissioners of each county may, by majority vote of those present, order the establishment of an intercounty rural library district to include all of the area outside of incorporated cities and towns in as many of the counties represented at such joint meeting as shall be

determined by resolution of such joint meeting. If two or more counties are in an existing intercounty rural library district, then a majority vote of all of the commissioners present from those counties voting as a unit, and a majority vote of the commissioners present from any other county shall cause the joint session to order the establishment of an expanded intercounty rural library district. No county, however, shall be included in such district if a majority of its county commissioners vote against its inclusion in such district.

Sec. 4. RCW 27.15.020 and 1996 c 258 s 1 are each amended to read as follows:

Upon receipt of a completed written request to both establish a library capital facility area and submit a ballot proposition under RCW 27.15.050 to finance library capital facilities, that is signed by a majority of the members of the board of trustees of a library district or board of trustees of a city or town library, the county legislative authority or county legislative authorities for the county or counties in which a proposed library capital facility area is to be established shall submit separate ballot propositions to voters to authorize establishing the proposed library capital facility area and authorizing the library capital facility area, if established, to finance library capital facilities by issuing general indebtedness and imposing excess levies to retire the indebtedness. The ballot propositions shall be submitted to voters at a general or special election. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW (~~(29-13-020)~~) 29A.04.330. Approval of the ballot proposition to create a library capital facility area shall be by a simple majority vote.

A completed request submitted under this section shall include: (1) A description of the boundaries of the library capital facility area; and (2) a copy of the resolution of the legislative authority of each city or town, and board of trustees of each library district, with territory included within the proposed library capital facility area indicating both: (a) Its approval of the creation of the proposed library capital facility area; and (b) agreement on how election costs will be paid for submitting ballot propositions to voters that authorize the library capital facility area to incur general indebtedness and impose excess levies to retire the general indebtedness.

Sec. 5. RCW 27.15.050 and 1996 c 258 s 2 are each amended to read as follows:

(1) A library capital facility area may contract indebtedness or borrow money to finance library capital facilities and may issue general obligation bonds for such purpose not exceeding an amount, together with any existing indebtedness of the library capital facility area, equal to one and one-quarter percent of the value of the taxable property in the district and impose excess property tax levies to retire the general indebtedness as provided in RCW 39.36.050 if a ballot proposition authorizing both the indebtedness and excess levies is approved by at least three-fifths of the voters of the library capital facility area voting on the proposition, and the total number of voters voting on the proposition constitutes not less than forty percent of the total number of voters in the library capital facility area voting at the last preceding general

election. The term "value of the taxable property" has the meaning set forth in RCW 39.36.015. Such a proposition shall be submitted to voters at a general or special election and may be submitted to voters at the same election as the election when the ballot proposition authorizing the establishing of the library capital facility area is submitted. If the proposed election date is not a general election, the county legislative authority is encouraged to request an election when another unit of local government with territory located in the proposed library capital facility area is already holding a special election under RCW ((29.13.020)) 29A.04.330.

(2) A library capital facility area may accept gifts or grants of money or property of any kind for the same purposes for which it is authorized to borrow money in subsection (1) of this section.

Sec. 6. RCW 28A.315.275 and 1999 c 315 s 704 are each amended to read as follows:

Notice of special elections as provided for in RCW 28A.315.265 shall be given by the county auditor as provided in RCW ((29.27.080)) 29A.52.355. The notice of election shall state the purpose for which the election has been called and contain a description of the boundaries of the proposed new district and a statement of any terms of adjustment of bonded indebtedness on which to be voted.

Sec. 7. RCW 28A.320.410 and 1969 ex.s. c 223 s 28A.58.521 are each amended to read as follows:

All school district elections, regular or special, shall be conducted according to the election laws of the state as contained in Title 29A RCW, and in the event of a conflict as to the application of the laws of this title or Title 29A RCW, the latter shall prevail.

Sec. 8. RCW 28A.323.050 and 1990 c 33 s 311 are each amended to read as follows:

The registered voters residing within a joint school district shall be entitled to vote on the office of school director of their district.

Jurisdiction of any such election shall rest with the county auditor of the county administering such joint district as provided in RCW ((28A.315.380)) 28A.323.040.

At each general election, or upon approval of a request for a special election as provided for in RCW ((29.13.020)) 29A.04.330, such county auditor shall:

- (1) See that there shall be at least one polling place in each county;
- (2) At least twenty days prior to the elections concerned, certify in writing to the superintendent of the school district the number and location of the polling places established by such auditor for such regular or special elections; and
- (3) Do all things otherwise required by law for the conduct of such election.

It is the intention of this section that the qualified electors of a joint school district shall not be forced to go to a different polling place on the same day when other elections are being held to vote for school directors of their district.

Sec. 9. RCW 28A.343.010 and 1990 c 33 s 317 are each amended to read as follows:

Whenever the directors to be elected in a school district that is not divided into directors' districts are not all to be elected for the same term of years, the county auditor shall distinguish them and designate the same as provided for in

RCW ((29.21.140)) 29A.24.020, and assign position numbers thereto as provided in RCW ((28A.315.470)) 28A.343.320 and each candidate shall indicate on his or her declaration of candidacy the term for which he or she seeks to be elected and position number for which he or she is filing. The candidate receiving the largest number of votes for each position shall be deemed elected.

Sec. 10. RCW 28A.343.030 and 1991 c 363 s 23 and 1991 c 288 s 4 are each reenacted and amended to read as follows:

The board of directors of every firstclass school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more which is not divided into directors' districts may submit to the voters at any regular school district election a proposition to authorize the board of directors to divide the district into directors' districts or for second-class school districts into director districts or a combination of no fewer than three director districts and no more than two at large positions. If a majority of the votes cast on the proposition is affirmative, the board of directors shall proceed to divide the district into directors' districts following the procedure established in RCW ((29.70.100)) 29A.76.010. Such director districts, if approved, shall not become effective until the next regular school election when a new five member board of directors shall be elected, one from each of the director districts from among the residents of the respective director district, or from among the residents of the entire school district in the case of directors at large, by the electors of the entire district, two for a term of two years and three for a term of four years, unless such district elects its directors for six years, in which case, one for a term of two years, two for a term of four years, and two for a term of six years.

Sec. 11. RCW 28A.343.320 and 1990 c 161 s 4 and 1990 c 59 s 98 are each reenacted and amended to read as follows:

Candidates for the position of school director shall file their declarations of candidacy as provided in Title 29A RCW.

The positions of school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: PROVIDED, That in school districts containing director districts, or a combination of director districts and director at large positions, candidates shall file for such director districts or at large positions. Position numbers shall be assigned to correspond to director district numbers to the extent possible.

Sec. 12. RCW 28A.343.330 and 1969 ex.s. c 223 s 28A.57.316 are each amended to read as follows:

Except as provided in RCW ((29.21.040)) 29A.52.210, the positions of school directors and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

SCHOOL DIRECTOR ELECTION BALLOT

District No.

Date

To vote for a person make a cross (X) in the square at the right of the name of the person for whom you desire to vote.

School District Directors

Position No. 1

Vote for One

-
-
-

Position No. 2

Vote for One

-
-
-

To Fill Unexpired Term

Position No. 3

2 (or 4) year term

Vote for One

-
-
-

The names of candidates shall appear upon the ballot in order of filing for each position. There shall be no rotation of names in the printing of such ballots.

Sec. 13. RCW 28A.343.350 and 1999 c 194 s 1 are each amended to read as follows:

Notwithstanding RCW 42.12.010(4), a school director elected from a director district may continue to serve as a director from the district even though the director no longer resides in the director district, but continues to reside in the school district, under the following conditions:

(1) If, as a result of redrawing the director district boundaries, the director no longer resides in the director district, the director shall retain his or her position for the remainder of his or her term of office; and

(2) If, as a result of the director changing his or her place of residence the director no longer resides in the director district, the director shall retain his or her position until a successor is elected and assumes office as follows: (a) If the change in residency occurs after the opening of the regular filing period provided under RCW ((29.15.020)) 29A.24.050, in the year two years after the director was elected to office, the director shall remain in office for the remainder of his or her term of office; or (b) if the change in residency occurs prior to the opening of the regular filing period provided under RCW ((29.15.020)) 29A.24.050, in the year two years after the director was elected to office, the director shall remain in office until a successor assumes office who has been elected to serve the remainder of the unexpired term of office at the school district general election held in that year.

Sec. 14. RCW 28A.343.660 and 1991 c 363 s 28 and 1991 c 288 ss 5 and 6 are each reenacted and amended to read as follows:

Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board, such boundaries to be established so that each such district shall comply, as nearly as practicable, with the criteria established in RCW ((~~29.70.100~~)) 29A.76.010. Boundaries of such director districts shall be adjusted by the school board following the procedure established in RCW ((~~29.70.100~~)) 29A.76.010 after each federal decennial census if population change shows the need thereof to comply with the criteria of RCW ((~~29.70.100~~)) 29A.76.010. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon, in any primary required to be held for the position under Title 29A RCW, by the registered voters of that particular director district. In the general election, each position shall be voted upon by all the registered voters in the school district. The order of the names of candidates shall appear on the primary and general election ballots as required for nonpartisan positions under Title 29A RCW. Except as provided in RCW ((~~28A.315.680~~)) 28A.343.670, every such director so elected in school districts divided into seven director districts shall serve for a term of four years as otherwise provided in RCW ((~~28A.315.460~~)) 28A.343.610.

Sec. 15. RCW 28A.343.670 and 1995 c 335 s 106 are each amended to read as follows:

The school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more shall establish the director district boundaries. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW ((~~28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, and 28A.315.680~~)) 28A.343.300, 28A.343.600, 28A.343.610, 28A.343.660, and 28A.343.670.

Sec. 16. RCW 28A.535.030 and 1990 c 33 s 482 are each amended to read as follows:

At the time of the adoption of the resolution provided for in RCW 28A.535.020, the board of directors shall direct the school district superintendent to give notice to the county auditor of the suggested time and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such superintendent shall also cause written or printed notices to be posted in at least five places in such school

district at least twenty days before such election. In addition to his or her other duties relating thereto, the county auditor shall give notice of such election as provided for in RCW (~~(29.27.080)~~) 29A.52.355.

Sec. 17. RCW 35.02.078 and 1994 c 216 s 18 are each amended to read as follows:

An election shall be held in the area proposed to be incorporated to determine whether the proposed city or town shall be incorporated when the boundary review board takes action on the proposal other than disapproving the proposal, or if the county legislative authority does not disapprove the proposal as provided in RCW 35.02.070. Voters at this election shall determine if the area is to be incorporated.

The initial election on the question of incorporation shall be held at the next special election date specified in RCW (~~(29.13.020)~~) 29A.04.330 that occurs sixty or more days after the final public hearing by the county legislative authority or authorities, or action by the boundary review board or boards. The county legislative authority or authorities shall call for this election and, if the incorporation is approved, shall call for other elections to elect the elected officials as provided in this section. If the vote in favor of the incorporation receives forty percent or less of the total vote on the question of incorporation, no new election on the question of incorporation for the area or any portion of the area proposed to be incorporated may be held for a period of three years from the date of the election in which the incorporation failed.

If the incorporation is authorized as provided by RCW 35.02.120, separate elections shall be held to nominate and elect persons to fill the various elective offices prescribed by law for the population and type of city or town, and to which it will belong. The primary election to nominate candidates for these elective positions shall be held at the next special election date, as specified in RCW (~~(29.13.020)~~) 29A.04.330, that occurs sixty or more days after the election on the question of incorporation. The election to fill these elective positions shall be held at the next special election date, as specified in RCW (~~(29.13.020)~~) 29A.04.330, that occurs thirty or more days after certification of the results of the primary election.

Sec. 18. RCW 35.02.100 and 1986 c 234 s 13 are each amended to read as follows:

The notice of election on the question of the incorporation shall be given as provided by RCW (~~(29.27.080 but)~~) 29A.52.355 and shall (~~(further)~~) describe the boundaries of the proposed city or town, its name, and the number of inhabitants ascertained by the county legislative authority or the boundary review board to reside in it.

Sec. 19. RCW 35.02.139 and 1994 c 223 s 9 are each amended to read as follows:

An election shall be held to elect city or town elected officials at the next municipal general election occurring more than twelve months after the date of the first election of councilmembers or commissioners. Candidates shall run for specific council or commission positions. The staggering of terms of members of the city or town council shall be established at this election, where the simple majority of the persons elected as councilmembers receiving the greatest numbers of votes shall be elected to four-year terms of office and the remainder

of the persons elected as councilmembers shall be elected to two-year terms of office. Newly elected councilmembers or newly elected commissioners shall serve until their successors are elected and qualified. The terms of office of newly elected commissioners shall not be staggered, as provided in chapter 35.17 RCW. All councilmembers and commissioners who are elected subsequently shall be elected to four-year terms of office and shall serve until their successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280.

Sec. 20. RCW 35.06.080 and 1994 c 81 s 9 are each amended to read as follows:

The first election of officers of the new corporation after the advancement of classification is approved shall be at the next general municipal election and the officers of the old corporation, as altered by the election when the advancement was approved, shall remain in office until the officers of the new corporation are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280. A primary shall be held where necessary to nominate candidates for the elected offices of the corporation as a secondclass city. Candidates for city council positions shall run for specific council positions. The council of the old corporation may adopt a resolution providing that the offices of city attorney, clerk, and treasurer are appointive.

The three persons who are elected to council positions one through six receiving the greatest number of votes shall be elected to four-year terms of office and the other three persons who are elected to council positions one through six, and the person elected to council position seven, shall be elected to two-year terms of office. The person elected as mayor and the persons elected to any other elected office shall be elected to four-year terms of office. All successors to all elected positions, other than council position number seven, shall be elected to four-year terms of office and successors to council position number seven shall be elected to two-year terms of office.

There shall be no election of town offices at this election when the first officers of the new corporation are elected and the offices of the town shall expire when the officers of the new corporation assume office.

The ordinances, bylaws, and resolutions adopted by the old corporation shall, as far as consistent with the provisions of this title, continue in force until repealed by the council of the new corporation.

The council and officers of the town shall, upon demand, deliver to the proper officers of the new corporation all books of record, documents, and papers in their possession belonging to the old corporation.

Sec. 21. RCW 35.07.050 and 1965 c 7 s 35.07.050 are each amended to read as follows:

Notice of such election shall be given ((as provided in RCW 29.27.080)).

Sec. 22. RCW 35.10.410 and 1985 c 281 s 4 are each amended to read as follows:

The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may be caused by the adoption of a joint resolution, by a majority vote of each city legislative body, seeking consolidation of such contiguous cities. The joint resolution shall provide for submission of the question to the voters at the next general municipal

election, if one is to be held more than ninety days but not more than one hundred eighty days after the passage of the joint resolution, or shall call for a special election to be held for that purpose at the next special election date, as specified in RCW ((29.13.020)) 29A.04.330, that occurs ninety or more days after the passage of the joint resolution. The legislative bodies of the cities also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

Sec. 23. RCW 35.10.420 and 1995 c 196 s 7 are each amended to read as follows:

The submission of a ballot proposal to the voters of two or more contiguous cities for the consolidation of these contiguous cities may also be caused by the filing of a petition with the legislative body of each such city, signed by the voters of each city in number equal to not less than ten percent of voters who voted in the city at the last general municipal election therein, seeking consolidation of such contiguous cities. A copy of the petition shall be forwarded immediately by each city to the auditor of the county or counties within which that city is located.

The county auditor or auditors shall determine the sufficiency of the signatures in each petition within ten days of receipt of the copies and immediately notify the cities proposed to be consolidated of the sufficiency. If each of the petitions is found to have sufficient valid signatures, the auditor or auditors shall call a special election at which the question of whether such cities shall consolidate shall be submitted to the voters of each of such cities. If a general election is to be held more than ninety days but not more than one hundred eighty days after the filing of the last petition, the question shall be submitted at that election. Otherwise the question shall be submitted at a special election to be called for that purpose at the next special election date, as specified in RCW ((29.13.020)) 29A.04.330, that occurs ninety or more days after the date when the last petition was filed.

If each of the petitions is found to have sufficient valid signatures, the auditor or auditors also shall notify the county legislative authority of each county in which the cities are located of the proposed consolidation.

Petitions shall conform with the requirements for form prescribed in RCW 35A.01.040, except different colored paper may be used on petitions circulated in the different cities. A legal description of the cities need not be included in the petitions.

Sec. 24. RCW 35.13.060 and 1989 c 351 s 2 are each amended to read as follows:

Upon granting the petition under the twenty percent annexation petition under the election method, and after the auditor has certified the petition as being sufficient, the legislative body of the city or town shall indicate to the county auditor its preference for the date of the election on the annexation to be held, which shall be one of the dates for special elections provided under RCW ((29.13.020)) 29A.04.330 that is sixty or more days after the date the preference is indicated. The county auditor shall call the special election at the special election date indicated by the city or town.

Sec. 25. RCW 35.13.080 and 1973 1st ex.s. c 164 s 7 are each amended to read as follows:

Notice of an annexation election shall particularly describe the boundaries of the area proposed to be annexed, describe the boundaries of the proposed service area if the simultaneous creation of a community municipal corporation is provided for, state the objects of the election as prayed in the petition or as stated in the resolution and require the voters to cast ballots which shall contain the words "For annexation" and "Against annexation" or words equivalent thereto, or contain the words "For annexation and adoption of comprehensive plan" and "Against annexation and adoption of comprehensive plan" or words equivalent thereto in case the simultaneous adoption of a comprehensive plan is proposed, and, if appropriate, the words "For creation of community municipal corporation" and "Against creation of community municipal corporation" or words equivalent thereto, or contain the words "For annexation and creation of community municipal corporation" and "Against annexation and creation of community municipal corporation" or words equivalent thereto in case the simultaneous creation of a community municipal corporation is proposed, and which in case the assumption of indebtedness is proposed, shall contain as a separate proposition, the words "For assumption of indebtedness" and "Against assumption of indebtedness" or words equivalent thereto and if only a portion of the indebtedness of the annexing city or town is to be assumed, an appropriate separate proposition for and against the assumption of such portion of the indebtedness shall be submitted to the voters. If the creation of a community municipal corporation and election of community councilmembers is provided for, the notice shall also require the voters within the service area to cast ballots for candidates for positions on such council. The notice shall be posted for at least two weeks prior to the date of election in four public places within the area proposed to be annexed and published in accordance with the notice required by RCW ((29.27.080)) 29A.52.355 prior to the date of election in a newspaper of general circulation in the area proposed to be annexed.

Sec. 26. RCW 35.13.090 and 1996 c 286 s 1 are each amended to read as follows:

(1) The proposition for or against annexation or for or against annexation and adoption of the comprehensive plan, or for or against creation of a community municipal corporation, or any combination thereof, as the case may be, shall be deemed approved if a majority of the votes cast on that proposition are cast in favor of annexation or in favor of annexation and adoption of the comprehensive plan, or for creation of the community municipal corporation, or any combination thereof, as the case may be.

(2) If a proposition for or against assumption of all or any portion of indebtedness was submitted to the registered voters, it shall be deemed approved if a majority of at least three-fifths of the registered voters of the territory proposed to be annexed voting on such proposition vote in favor thereof, and the number of registered voters voting on such proposition constitutes not less than forty percent of the total number of votes cast in such territory at the last preceding general election.

(3) If either or both propositions were approved by the registered voters, the county auditor shall on completion of the canvassing of the returns transmit to the county legislative authority and to the clerk of the city or town to which annexation is proposed a certificate of the election results, together with a certified abstract of the vote showing the whole number who voted at the

election, the number of votes cast for annexation and the number cast against annexation or for annexation and adoption of the comprehensive plan and the number cast against annexation and adoption of the comprehensive plan or for creation of a community municipal corporation and the number cast against creation of a community municipal corporation, or any combination thereof, as the case may be.

(4) If a proposition for assumption of all or of any portion of indebtedness was submitted to the registered voters, the abstract shall include the number of votes cast for assumption of indebtedness and the number of votes cast against assumption of indebtedness, together with a statement of the total number of votes cast in such territory at the last preceding general election.

(5) If the proposition for creation of a community municipal corporation was submitted and approved, the abstract shall include the number of votes cast for the candidates for community council positions and certificates of election shall be issued pursuant to RCW ((29-27-100)) 29A.52.360 to the successful candidates who shall assume office as soon as qualified.

Sec. 27. RCW 35.16.030 and 1994 c 273 s 3 are each amended to read as follows:

The election returns shall be canvassed as provided in RCW ((29-13-040)) 29A.60.010. If three-fifths of the votes cast on the proposition favor the reduction of the corporate limits, the legislative body of the city or town, by an order entered on its minutes, shall direct the clerk to make and transmit to the office of the secretary of state a certified abstract of the vote. The abstract shall show the total number of voters voting, the number of votes cast for reduction and the number of votes cast against reduction.

Sec. 28. RCW 35.16.050 and 1996 c 286 s 3 are each amended to read as follows:

A certified copy of the ordinance defining the reduced city or town limits together with a map showing the corporate limits as altered shall be filed in accordance with RCW ((29-15-026)) 29A.76.020 and recorded in the office of the county auditor of the county in which the city or town is situated, upon the effective date of the ordinance. The new boundaries of the city or town shall take effect immediately after they are filed and recorded with the county auditor.

Sec. 29. RCW 35.17.260 and 1996 c 286 s 4 are each amended to read as follows:

Ordinances may be initiated by petition of registered voters of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it contains a request that, unless passed by the commission, the ordinance be submitted to a vote of the registered voters of the city, the commission shall either:

(1) Pass the proposed ordinance without alteration within twenty days after the county auditor's certificate of sufficiency has been received by the commission; or

(2) Immediately after the county auditor's certificate of sufficiency for the petition is received, cause to be called a special election to be held on the next election date, as provided in RCW ((29-13-020)) 29A.04.330, that occurs not

less than forty-five days thereafter, for submission of the proposed ordinance without alteration, to a vote of the people unless a general election will occur within ninety days, in which event submission must be made on the general election ballot.

Sec. 30. RCW 35.17.310 and 1965 c 7 s 35.17.310 are each amended to read as follows:

The city clerk shall cause any ordinance or proposition required to be submitted to the voters at an election to be published once in each of the daily newspapers in the city not less than five nor more than twenty days before the election, or if no daily newspaper is published in the city, publication shall be made in each of the weekly newspapers published therein. This publication shall be in addition to the notice required in (~~chapter 29.27~~) RCW 29A.52.355.

Sec. 31. RCW 35.17.400 and 1994 c 223 s 11 are each amended to read as follows:

The first election of commissioners shall be held at the next special election that occurs at least sixty days after the election results are certified where the proposition to organize under the commission form was approved by city voters, and the commission first elected shall commence to serve as soon as they have been elected and have qualified and shall continue to serve until their successors have been elected and qualified and have assumed office in accordance with RCW (~~(29.04.170)~~) 29A.60.280. The date of the second election for commissioners shall be in accordance with RCW (~~(29.13.020)~~) 29A.04.330 such that the term of the first commissioners will be as near as possible to, but not in excess of, four years calculated from the first day in January in the year after the year in which the first commissioners were elected.

Sec. 32. RCW 35.18.020 and 1994 c 223 s 12 are each amended to read as follows:

(1) The number of councilmembers in a city or town operating with a council-manager plan of government shall be based upon the latest population of the city or town that is determined by the office of financial management as follows:

(a) A city or town having not more than two thousand inhabitants, five councilmembers; and

(b) A city or town having more than two thousand, seven councilmembers.

(2) Except for the initial staggering of terms, councilmembers shall serve for four-year terms of office. All councilmembers shall serve until their successors are elected and qualified and assume office in accordance with RCW (~~(29.04.170)~~) 29A.60.280. Councilmembers may be elected on a citywide or townwide basis, or from wards or districts, or any combination of these alternatives. Candidates shall run for specific positions. Wards or districts shall be redrawn as provided in chapter (~~(29.70)~~) 29A.76 RCW. Wards or districts shall be used as follows: (a) Only a resident of the ward or district may be a candidate for, or hold office as, a councilmember of the ward or district; and (b) only voters of the ward or district may vote at a primary to nominate candidates for a councilmember of the ward or district. Voters of the entire city or town may vote at the general election to elect a councilmember of a ward or district, unless the city or town had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward or

district associated with the council positions. If a city or town had so limited the voting in the general election to only voters residing within the ward or district, then the city or town shall be authorized to continue to do so.

(3) When a city or town has qualified for an increase in the number of councilmembers from five to seven by virtue of the next succeeding population determination made by the office of financial management, two additional council positions shall be filled at the next municipal general election with the person elected to one of the new council positions receiving the greatest number of votes being elected for a four-year term of office and the person elected to the other additional council position being elected for a two-year term of office. The two additional councilmembers shall assume office immediately when qualified in accordance with RCW ((~~29.01.135~~) 29A.04.133), but the term of office shall be computed from the first day of January after the year in which they are elected. Their successors shall be elected to four-year terms of office.

Prior to the election of the two new councilmembers, the city or town council shall fill the additional positions by appointment not later than forty-five days following the release of the population determination, and each appointee shall hold office only until the new position is filled by election.

(4) When a city or town has qualified for a decrease in the number of councilmembers from seven to five by virtue of the next succeeding population determination made by the office of financial management, two council positions shall be eliminated at the next municipal general election if four council positions normally would be filled at that election, or one council position shall be eliminated at each of the next two succeeding municipal general elections if three council positions normally would be filled at the first municipal general election after the population determination. The council shall by ordinance indicate which, if any, of the remaining positions shall be elected at-large or from wards or districts.

(5) Vacancies on a council shall occur and shall be filled as provided in chapter 42.12 RCW.

Sec. 33. RCW 35.20.100 and 1997 c 25 s 1 are each amended to read as follows:

There shall be three departments of the municipal court, which shall be designated as Department Nos. 1, 2 and 3. However, when the administration of justice and the accomplishment of the work of the court make additional departments necessary, the legislative body of the city may create additional departments as they are needed. The departments shall be established in such places as may be provided by the legislative body of the city, and each department shall be presided over by a municipal judge. However, notwithstanding the priority of action rule, for a defendant incarcerated at a jail facility outside the city limits but within the county in which the city is located, the city may, pursuant to an interlocal agreement under chapter 39.34 RCW, contract with the county to transfer jurisdiction and venue over the defendant to a district court and to provide all judicial services at the district court as would be provided by a department of the municipal court. The judges shall select, by majority vote, one of their number to act as presiding judge of the municipal court for a term of one year, and he or she shall be responsible for administration of the court and assignment of calendars to all departments. A change of venue from one department of the municipal court to another department shall be

allowed in accordance with the provisions of RCW 3.66.090 in all civil and criminal proceedings. The city shall assume the costs of the elections of the municipal judges in accordance with the provisions of RCW ~~((29.13.045))~~ 29A.04.410.

Sec. 34. RCW 35.21.203 and 1989 c 250 s 2 are each amended to read as follows:

The necessary expenses of defending an elective city or town official in a judicial hearing to determine the sufficiency of a recall charge as provided in RCW ~~((29.82.023))~~ 29A.56.140 shall be paid by the city or town if the official requests such defense and approval is granted by the city or town council. The expenses paid by the city or town may include costs associated with an appeal of the decision rendered by the superior court concerning the sufficiency of the recall charge.

Sec. 35. RCW 35.22.055 and 1974 ex.s. c 1 s 1 are each amended to read as follows:

Notwithstanding any other provision of law, whenever the population of a city is three hundred thousand persons or more, not less than ten days before the time for filing declarations of candidacy for election of freeholders under Article XI, section 10 (Amendment 40), of the state Constitution, the city clerk shall designate the positions to be filled by consecutive number, commencing with one. The positions to be designated shall be dealt with as separate offices for all election purposes, and each candidate shall file for one, but only one, of the positions so designated.

In the printing of ballots, the positions of the names of candidates for each numbered position shall be ~~((changed as many times as there are candidates for the numbered positions, following insofar as applicable the procedure provided for in RCW 29.30.040 for the rotation of names on primary ballots, the intention being that ballots at the polls will reflect as closely as practicable the rotation procedure as provided for therein))~~ in accordance with RCW 29A.36.121.

Sec. 36. RCW 35.22.200 and 2001 c 73 s 2 are each amended to read as follows:

The legislative powers of a charter city shall be vested in a mayor and a city council, to consist of such number of members and to have such powers as may be provided for in its charter. The charter may provide for direct legislation by the people through the initiative and referendum upon any matter within the scope of the powers, functions, or duties of the city. The mayor and council and such other elective officers as may be provided for in such charter shall be elected at such times and in such manner as provided in Title 29A RCW, and for such terms and shall perform such duties as may be prescribed in the charter, and shall receive compensation in accordance with the process or standards of a charter provision or ordinance which conforms with RCW 35.21.015.

Sec. 37. RCW 35.22.235 and 2003 c 111 s 2301 are each amended to read as follows:

All regular elections in firstclass cities having a mayor-council form of government whose charters provide for twelve councilmembers elected for a term of two years, two being elected from each of six wards, and for the election of a mayor, treasurer, and comptroller for terms of two years, shall be held biennially as provided in RCW 29A.04.330. The term of each councilmember,

mayor, treasurer, and comptroller shall be four years and until his or her successor is elected and qualified and assumes office in accordance with RCW ((29A.20.040)) 29A.60.280. The terms of the councilmembers shall be so staggered that six councilmembers shall be elected to office at each regular election.

Sec. 38. RCW 35.22.245 and 2003 c 111 s 2302 are each amended to read as follows:

All regular elections in firstclass cities having a mayor-council form of government whose charters provide for seven councilmembers, one to be elected from each of six wards and one at large, for a term of two years, and for the election of a mayor, comptroller, treasurer and attorney for two year terms, shall be held biennially as provided in RCW 29A.04.330. The terms of the six councilmembers to be elected by wards shall be four years and until their successors are elected and qualified and the term of the councilmember to be elected at large shall be two years and until their successors are elected and qualified. The terms of the councilmembers shall be so staggered that three ward councilmembers and the councilmember at large shall be elected at each regular election. The term of the mayor, attorney, treasurer, and comptroller shall be four years and until their successors are elected and qualified and assume office in accordance with RCW ((29A.20.040)) 29A.60.280.

Sec. 39. RCW 35.23.051 and 1997 c 361 s 13 are each amended to read as follows:

General municipal elections in secondclass cities shall be held biennially in the odd-numbered years and shall be subject to general election law.

The terms of office of the mayor, city attorney, clerk, and treasurer shall be four years and until their successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280: PROVIDED, That if the offices of city attorney, clerk, and treasurer are made appointive, the city attorney, clerk, and treasurer shall not be appointed for a definite term: PROVIDED FURTHER, That the term of the elected treasurer shall not commence in the same biennium in which the term of the mayor commences, nor in which the terms of the city attorney and clerk commence if they are elected.

Council positions shall be numbered in each secondclass city so that council position seven has a two-year term of office and council positions one through six shall each have four-year terms of office. Each councilmember shall remain in office until a successor is elected and qualified and assumes office in accordance with RCW ((29.04.170)) 29A.60.280.

In its discretion the council of a secondclass city may divide the city by ordinance, into a convenient number of wards, not exceeding six, fix the boundaries of the wards, and change the ward boundaries from time to time and as provided in RCW ((29.70.100)) 29A.76.010. No change in the boundaries of any ward shall be made within one hundred twenty days next before the date of a general municipal election, nor within twenty months after the wards have been established or altered. However, if a boundary change results in one ward being represented by more councilmembers than the number to which it is entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be

deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

Whenever such city is so divided into wards, the city council shall designate by ordinance the number of councilmembers to be elected from each ward, apportioning the same in proportion to the population of the wards. Thereafter the councilmembers so designated shall be elected by the voters resident in such ward, or by general vote of the whole city as may be designated in such ordinance. Council position seven shall not be associated with a ward and the person elected to that position may reside anywhere in the city and voters throughout the city may vote at a primary to nominate candidates for position seven, when a primary is necessary, and at a general election to elect the person to council position seven. Additional territory that is added to the city shall, by act of the council, be annexed to contiguous wards without affecting the right to redistrict at the expiration of twenty months after last previous division. The removal of a councilmember from the ward for which he or she was elected shall create a vacancy in such office.

Wards shall be redrawn as provided in chapter ~~((29-70))~~ 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

Sec. 40. RCW 35.23.805 and 1994 c 81 s 25 are each amended to read as follows:

In a city initially classified as a secondclass city prior to January 1, 1993, that retained its secondclass city plan of government when the city reorganized as a noncharter code city, the terms of office of mayor, city clerk, city treasurer and councilmembers shall be four years, and until their successors are elected and qualified and assume office in accordance with RCW ~~((29.04.170))~~ 29A.60.280, but not more than six councilmembers normally shall be elected in any one year to fill a full term.

Sec. 41. RCW 35.23.850 and 1995 c 134 s 10 are each amended to read as follows:

In any city initially classified as a secondclass city prior to January 1, 1993, that retained its secondclass city plan of government when the city reorganized as a noncharter code city, the city council may divide the city into wards, not exceeding six in all, or change the boundaries of existing wards at any time less than one hundred twenty days before a municipal general election. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections. However, if these boundary changes result in one ward being represented by more councilmembers than the number to which it is

entitled, those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be deemed to be residents of the wards to which they are assigned for purposes of determining whether those positions are vacant.

The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter ~~((29.70))~~ 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so. The elections for the remaining council position or council positions that are not associated with a ward shall be conducted as if the wards did not exist.

Sec. 42. RCW 35.30.080 and 2003 c 42 s 2 are each amended to read as follows:

(1) When a majority of the legislative body of an unclassified city determines that it would serve the best interests and general welfare of such municipality to change the election procedures of such city to the procedures specified in this section, such legislative body may, by resolution, declare its intention to adopt such procedures for the city. Such resolution must be adopted at least one hundred eighty days before the general municipal election at which the new election procedures are implemented. Within ten days after the passage of the resolution, the legislative body shall cause it to be published at least once in a newspaper of general circulation within the city.

(2) All general municipal elections in an unclassified city adopting a resolution under subsection (1) of this section shall be held biennially in the odd-numbered years as provided in RCW ~~((29.13.020))~~ 29A.04.330 and shall be held in accordance with the general election laws of the state.

The term of the treasurer shall not commence in the same biennium in which the term of the mayor commences. Candidates for the city council shall run for specific council positions. The staggering of terms of city officers shall be established at the first election, where the simple majority of the persons elected as councilmembers receiving the greatest numbers of votes shall be elected to four-year terms of office and the remainder of the persons elected as councilmembers and the treasurer shall be elected to two-year terms of office. Thereafter, all elected city officers shall be elected for four-year terms and until their successors are elected and qualified and assume office in accordance with RCW ~~((29.04.170))~~ 29A.60.280.

Sec. 43. RCW 35.61.030 and 2002 c 88 s 3 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section for review by a boundary review board, the ballot proposition authorizing creation of a metropolitan park district that is submitted to voters for their approval or

rejection shall appear on the ballot of the next general election or at the next special election date specified under RCW ((29.13.020)) 29A.04.330 occurring sixty or more days after the last resolution proposing the creation of the park district is adopted or the date the county auditor certifies that the petition proposing the creation of the park district contains sufficient valid signatures. Where the petition or copy thereof is filed with two or more county auditors in the case of a proposed district in two or more counties, the county auditors shall confer and issue a joint certification upon finding that the required number of signatures on the petition has been obtained.

(2) Where the proposed district is located wholly or in part in a county in which a boundary review board has been created, notice of the proposal to create a metropolitan park district shall be filed with the boundary review board as provided under RCW 36.93.090 and the special election at which a ballot proposition authorizing creation of the park district shall be held on the special election date specified under RCW ((29.13.020)) 29A.04.330 that is sixty or more days after the date the boundary review board is deemed to have approved the proposal, approves the proposal, or modifies and approves the proposal. The creation of a metropolitan park district is not subject to review by a boundary review board if the proposed district only includes one or more cities and in such cases the special election at which a ballot proposition authorizing creation of the park district shall be held as if a boundary review board does not exist in the county or counties.

(3) The petition proposing the creation of a metropolitan park district, or the resolution submitting the question to the voters, shall choose and describe the composition of the initial board of commissioners of the district that is proposed under RCW 35.61.050 and shall choose a name for the district. The proposition shall include the following terms:

- "For the formation of a metropolitan park district to be governed by [insert board composition described in ballot proposition]."
- "Against the formation of a metropolitan park district."

Sec. 44. RCW 35.61.050 and 2002 c 88 s 5 are each amended to read as follows:

(1) The resolution or petition submitting the ballot proposition shall designate the composition of the board of metropolitan park commissioners from among the alternatives provided under subsections (2) through (4) of this section. The ballot proposition shall clearly describe the designated composition of the board.

(2) The commissioners of the district may be selected by election, in which case at the same election at which the proposition is submitted to the voters as to whether a metropolitan park district is to be formed, five park commissioners shall be elected. The election of park commissioners shall be null and void if the metropolitan park district is not created. Candidates shall run for specific commission positions. No primary shall be held to nominate candidates. The person receiving the greatest number of votes for each position shall be elected as a commissioner. The staggering of the terms of office shall occur as follows:

(a) The two persons who are elected receiving the two greatest numbers of votes shall be elected to six-year terms of office if the election is held in an odd-numbered year or five-year terms of office if the election is held in an even-

numbered year; (b) the two persons who are elected receiving the next two greatest numbers of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year or three-year terms of office if the election is held in an even-numbered year; and (c) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners shall take office immediately when they are elected and qualified, and for purposes of computing their terms of office the terms shall be assumed to commence on the first day of January in the year after they are elected. Thereafter, all commissioners shall be elected to six-year terms of office. All commissioners shall serve until their respective successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280. Vacancies shall occur and shall be filled as provided in chapter 42.12 RCW.

(3) In a district wholly located within a city or within the unincorporated area of a county, the governing body of such city or legislative authority of such county may be designated to serve in an ex officio capacity as the board of metropolitan park commissioners, provided that when creation of the district is proposed by citizen petition, the city or county approves by resolution such designation.

(4) Where the proposed district is located within more than one city, more than one county, or any combination of cities and counties, each city governing body and county legislative authority may be designated to collectively serve ex officio as the board of metropolitan park commissioners through selection of one or more members from each to serve as the board, provided that when creation of the district is proposed by citizen petition, each city governing body and county legislative authority approve by resolution such designation. Within six months of the date of certification of election results approving creation of the district, the size and membership of the board shall be determined through interlocal agreement of each city and county. The interlocal agreement shall specify the method for filling vacancies on the board.

(5) Metropolitan park districts created by a vote of the people prior to June 13, 2002, may not change the composition and method of selection of their governing authority without approval of the voters. Should such a change be desired, the board of park commissioners shall submit a ballot proposition to the voters of the metropolitan park district.

Sec. 45. RCW 35.61.270 and 1985 c 469 s 35 are each amended to read as follows:

If the park commissioners concur in the petition, they shall cause the proposal to be submitted to the electors of the territory proposed to be annexed, at an election to be held in the territory, which shall be called, canvassed and conducted in accordance with the general election laws. The board of park commissioners by resolution shall fix a time for the holding of the election to determine the question of annexation, and in addition to the notice required by RCW ((29.27.080)) 29A.52.355 shall give notice thereof by causing notice to be published once a week for two consecutive weeks in a newspaper of general circulation in the park district, and by posting notices in five public places within the territory proposed to be annexed in the district.

The ballot to be used at the election shall be in the following form:

- "For annexation to metropolitan park district."
- "Against annexation to metropolitan park district."

Sec. 46. RCW 35.95A.100 and 2002 c 248 s 11 are each amended to read as follows:

(1) Every authority has the power to impose annual regular property tax levies in an amount equal to one dollar and fifty cents or less per thousand dollars of assessed value of property in the authority area when specifically authorized to do so by a majority of the voters voting on a proposition submitted at a special election or at the regular election of the authority. A proposition authorizing the tax levies will not be submitted by an authority more than twice in any twelve-month period. Ballot propositions must conform with RCW ((~~29.30.111~~) 29A.36.210). The number of years during which the regular levy will be imposed may be limited as specified in the ballot proposition or may be unlimited in duration. In the event an authority is levying property taxes, which in combination with property taxes levied by other taxing districts subject to the limitations provided in RCW 84.52.043 and 84.52.050, exceed these limitations, the authority's property tax levy shall be reduced or eliminated consistent with RCW 84.52.010.

(2) The limitation in RCW 84.55.010 does not apply to the first levy imposed under this section following the approval of the levies by the voters under subsection (1) of this section.

Sec. 47. RCW 35A.02.025 and 1979 ex.s. c 18 s 4 are each amended to read as follows:

Upon the filing of a referendum petition in the manner provided in RCW 35A.29.170 signed by qualified electors in number equal to not less than ten percent of the votes cast in the last general municipal election, such resolution as authorized by RCW 35A.02.020 shall be referred to the voters for confirmation or rejection in the next general municipal election if one is to be held within one hundred and eighty days from the date of filing of the referendum petition, or at a special election to be called for that purpose in accordance with RCW ((~~29.13.020~~) 29A.04.330).

Sec. 48. RCW 35A.02.050 and 1994 c 223 s 25 are each amended to read as follows:

The first election of officers where required for reorganization under a different general plan of government newly adopted in a manner provided in RCW 35A.02.020, 35A.02.030, 35A.06.030, or 35A.06.060, as now or hereafter amended, shall be at the next general municipal election if one is to be held more than ninety days but not more than one hundred and eighty days after certification of a reorganization ordinance or resolution, or otherwise at a special election to be held for that purpose in accordance with RCW ((~~29.13.020~~) 29A.04.330). In the event that the first election of officers is to be held at a general municipal election, such election shall be preceded by a primary election pursuant to RCW ((~~29.21.010 and 29.13.070~~) 29A.52.210 and 29A.04.311). In the event that the first election of all officers is to be held at a special election rather than at a general election, and notwithstanding any provisions of any other law to the contrary, such special election shall be preceded by a primary election to be held on a date authorized by RCW ((~~29.13.010~~) 29A.04.321), and the persons nominated at that primary election shall be voted upon at the next

succeeding special election that is authorized by RCW (~~(29.13.010)~~) 29A.04.321: PROVIDED, That in the event the ordinances calling for reclassification or reclassification and reorganization under the provisions of Title 35A RCW have been filed with the secretary of state pursuant to RCW 35A.02.040 in an even-numbered year at least ninety days prior to a state general election then the election of new officers shall be concurrent with the state primary and general election and shall be conducted as set forth in general election law.

Upon reorganization, candidates for all offices shall file or be nominated for and successful candidates shall be elected to specific council positions. The initial terms of office for those elected at a first election of all officers shall be as follows: (1) A simple majority of the persons who are elected as councilmembers receiving the greatest numbers of votes and the mayor in a city with a mayor-council plan of government shall be elected to four-year terms of office, if the election is held in an odd-numbered year, or three-year terms of office, if the election is held in an even-numbered year; and (2) the other persons who are elected as councilmembers shall be elected to two-year terms of office, if the election is held in an odd-numbered year, or one-year terms of office, if the election is held in an even-numbered year. The newly elected officials shall take office immediately when they are elected and qualified, but the length of their terms of office shall be calculated from the first day of January in the year following the election. Thereafter, each person elected as a councilmember or mayor in a city with a mayor-council plan of government shall be elected to a four-year term of office. Each councilmember and mayor in a city with a mayor-council plan of government shall serve until a successor is elected and qualified and assumes office as provided in RCW (~~(29.04.170)~~) 29A.60.280.

The former officers shall, upon the election and qualification of new officers, deliver to the proper officers of the reorganized noncharter code city all books of record, documents and papers in their possession belonging to such municipal corporation before the reorganization thereof.

Sec. 49. RCW 35A.02.060 and 1990 c 259 s 3 are each amended to read as follows:

When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of an incorporated city or town, signed by qualified electors of such municipality in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city or town of the classification of noncharter code city and the reorganization of the city or town under one of the plans of government authorized in this title, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon, the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days after certification of the sufficiency of the petition, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days from such certification of sufficiency. Ballot titles for elections under this chapter shall be prepared by the city attorney (~~(as provided in RCW 35A.29.120)~~).

Sec. 50. RCW 35A.07.050 and 1990 c 259 s 6 are each amended to read as follows:

When a petition which is sufficient under the rules set forth in RCW 35A.01.040 is filed with the legislative body of a charter city, signed by registered voters of such city in number equal to not less than ten percent of the votes cast at the last general municipal election, seeking adoption by the city of the classification of charter code city, the county auditor shall file with the legislative body thereof a certificate of sufficiency of such petition. Thereupon the legislative body shall cause such proposal to be submitted to the voters at the next general municipal election if one is to be held within one hundred eighty days, or at a special election to be held for that purpose not less than ninety days nor more than one hundred and eighty days after the filing of such petition. Ballot titles for such election shall be prepared by the city attorney (~~as provided in RCW 35A.29.120~~).

Sec. 51. RCW 35A.08.100 and 1967 ex.s. c 119 s 35A.08.100 are each amended to read as follows:

Ballot titles for elections under this chapter shall be prepared by the city attorney (~~as provided in RCW 35A.29.120~~). The ballot statement in the election for adopting or rejecting the proposed charter shall clearly state that, upon adoption of the proposed charter, the city would be governed by its charter and by this title.

Sec. 52. RCW 35A.12.040 and 1994 c 223 s 31 are each amended to read as follows:

Officers shall be elected at biennial municipal elections to be conducted as provided in chapter 35A.29 RCW. The mayor and the councilmembers shall be elected for four-year terms of office and until their successors are elected and qualified and assume office in accordance with RCW (~~29.04.170~~)29A.60.280. At any first election upon reorganization, councilmembers shall be elected as provided in RCW 35A.02.050. Thereafter the requisite number of councilmembers shall be elected biennially as the terms of their predecessors expire and shall serve for terms of four years. The positions to be filled on the city council shall be designated by consecutive numbers and shall be dealt with as separate offices for all election purposes. Election to positions on the council shall be by majority vote from the city at large, unless provision is made by charter or ordinance for election by wards. The mayor and councilmembers shall qualify by taking an oath or affirmation of office and as may be provided by law, charter, or ordinance.

Sec. 53. RCW 35A.12.180 and 1994 c 223 s 34 are each amended to read as follows:

At any time not within three months previous to a municipal general election the council of a noncharter code city organized under this chapter may divide the city into wards or change the boundaries of existing wards. No change in the boundaries of wards shall affect the term of any councilmember, and councilmembers shall serve out their terms in the wards of their residences at the time of their elections: PROVIDED, That if this results in one ward being represented by more councilmembers than the number to which it is entitled those having the shortest unexpired terms shall be assigned by the council to wards where there is a vacancy, and the councilmembers so assigned shall be

deemed to be residents of the wards to which they are assigned for purposes of those positions being vacant. The representation of each ward in the city council shall be in proportion to the population as nearly as is practicable.

Wards shall be redrawn as provided in chapter ~~((29.70))~~ 29A.76 RCW. Wards shall be used as follows: (1) Only a resident of the ward may be a candidate for, or hold office as, a councilmember of the ward; and (2) only voters of the ward may vote at a primary to nominate candidates for a councilmember of the ward. Voters of the entire city may vote at the general election to elect a councilmember of a ward, unless the city had prior to January 1, 1994, limited the voting in the general election for any or all council positions to only voters residing within the ward associated with the council positions. If a city had so limited the voting in the general election to only voters residing within the ward, then the city shall be authorized to continue to do so.

Sec. 54. RCW 35A.14.050 and 1989 c 351 s 5 are each amended to read as follows:

After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

(1) Approval of the proposal as submitted.

(2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent. PROVIDED, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

(3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the legislative body of the city at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall indicate to the county auditor its preference for a special election date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The special election date that is so indicated shall be one of the dates for special elections provided under RCW ~~((29.13.020))~~ 29A.04.330 that is sixty or more days after the date the preference is indicated. The county legislative authority shall call the special election at the special election date so indicated by the city. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter.

Sec. 55. RCW 35A.29.120 and 1993 c 256 s 13 are each amended to read as follows:

When any question is to be submitted to the voters of a code city, or when a proposition is to be submitted to the voters of an area under provisions of this title, the question or proposition shall be advertised as provided for nominees for office, and in such cases there shall also be printed on the ballot a ballot title for the question or proposition in the form applicable under RCW (~~29.79.055, 29.27.060,~~) 82.14.036, 82.46.021, or 82.80.090 or as otherwise expressly required by state law. The ballot title shall be prepared by the attorney for the code city (~~(, or as specified in RCW 29.27.060 for elections held outside of a code city)~~).

Sec. 56. RCW 35A.29.130 and 1967 ex.s. c 119 s 35A.29.130 are each amended to read as follows:

Upon the filing of a ballot title as defined in RCW 35A.29.120, the county auditor shall forthwith notify the persons proposing the measure of the exact language of the ballot title. If the persons filing any local question covered by RCW 35A.29.120 are dissatisfied with the ballot title formulated by the attorney for the code city or by the county prosecuting attorney, they may appeal to the superior court of the county where the question is to appear on the ballot, as provided in RCW (~~29.27.067~~) 29A.36.090.

Sec. 57. RCW 35A.29.180 and 1967 ex.s. c 119 s 35A.29.180 are each amended to read as follows:

Elective officers of code cities may be recalled in the manner provided in chapter (~~29.82~~) 29A.56 RCW.

Sec. 58. RCW 35A.42.050 and 1983 c 3 s 67 are each amended to read as follows:

In addition to provisions of general law relating to public officials and others in public administration, employment or public works, the duties and conduct of such officers and other persons shall be governed by: (1) Chapter 9A.68 RCW relating to bribery of a public officer; (2) Article II, section 30 of the Constitution of the state of Washington relating to bribery or corrupt solicitation; (3) RCW 35.17.150 relating to misconduct in code cities having a commission form of government; (4) chapter 42.23 RCW in regard to interest in contracts; (5) chapter (~~29.85~~) 29A.84 RCW relating to misconduct in connection with elections; (6) RCW 49.44.060 (~~and 49.44.070~~) relating to grafting by employees; (7) RCW 49.44.020 and 49.44.030 relating to the giving or solicitation of a bribe to a labor representative; (8) chapter 42.20 RCW relating to misconduct of a public officer; (9) RCW 49.52.050 and 49.52.090 relating to rebating by employees; and (10) chapter 9.18 RCW relating to bribery and grafting.

Sec. 59. RCW 35A.56.010 and 1996 c 230 s 1605 are each amended to read as follows:

Except as otherwise provided in this title, state laws relating to special service or taxing districts shall apply to, grant powers, and impose duties upon code cities and their officers to the same extent as such laws apply to and affect other classes of cities and towns and their employees, including, without limitation, the following: (1) Chapter 70.94 RCW, relating to air pollution control; (2) chapter 68.52 RCW, relating to cemetery districts; (3) chapter

((29.68)) 29A.28 RCW, relating to congressional districts; (4) chapters 14.07 and 14.08 RCW, relating to municipal airport districts; (5) chapter 36.88 RCW, relating to county road improvement districts; (6) Title 85 RCW, relating to diking districts, drainage districts, and drainage improvement districts; (7) chapter 36.54 RCW, relating to ferry districts; (8) Title 52 RCW, relating to fire protection districts; (9) Title 86 RCW, relating to flood control districts and flood control; (10) chapter 70.46 RCW, relating to health districts; (11) chapters 87.03 through 87.84 and 89.12 RCW, relating to irrigation districts; (12) chapter 35.61 RCW, relating to metropolitan park districts; (13) chapter 35.58 RCW, relating to metropolitan municipalities; (14) chapter 17.28 RCW, relating to mosquito control districts; (15) chapter 17.12 RCW, relating to agricultural pest districts; (16) Title 53 RCW, relating to port districts; (17) chapter 70.44 RCW, relating to public hospital districts; (18) Title 54 RCW, relating to public utility districts; (19) chapter 91.08 RCW, relating to public waterway districts; (20) chapter 89.12 RCW, relating to reclamation districts; (21) chapters 57.02 through 57.36 RCW, relating to water-sewer districts; and (22) chapter 17.04 RCW, relating to weed districts.

Sec. 60. RCW 36.16.020 and 1979 ex.s. c 126 s 26 are each amended to read as follows:

The term of office of all county and precinct officers shall be four years and until their successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280: PROVIDED, That this section and RCW 36.16.010 shall not apply to county commissioners.

Sec. 61. RCW 36.16.030 and 1996 c 108 s 1 are each amended to read as follows:

Except as provided elsewhere in this section, in every county there shall be elected from among the qualified voters of the county a county assessor, a county auditor, a county clerk, a county coroner, three county commissioners, a county prosecuting attorney, a county sheriff and a county treasurer, except that in each county with a population of less than forty thousand no coroner shall be elected and the prosecuting attorney shall be ex officio coroner. Whenever the population of a county increases to forty thousand or more, the prosecuting attorney shall continue as ex officio coroner until a coroner is elected, at the next general election at which the office of prosecuting attorney normally would be elected, and assumes office as provided in RCW ((29.04.170)) 29A.60.280. In any county where the population has once attained forty thousand people and a current coroner is in office and a subsequent census indicates less than forty thousand people, the county legislative authority may maintain the office of coroner by resolution or ordinance. If the county legislative authority has not passed a resolution or enacted an ordinance to maintain the office of coroner, the elected coroner shall remain in office for the remainder of the term for which he or she was elected, but no coroner shall be elected at the next election at which that office would otherwise be filled and the prosecuting attorney shall be the ex officio coroner. In a county with a population of two hundred fifty thousand or more, the county legislative authority may replace the office of coroner with a medical examiner system and appoint a medical examiner as specified in RCW 36.24.190. A noncharter county may have five county commissioners as provided in RCW 36.32.010 and 36.32.055 through 36.32.0558.

Sec. 62. RCW 36.22.220 and 1992 c 163 s 12 are each amended to read as follows:

The county auditor of each county, as ex officio supervisor of all primaries and elections, general or special, within the county under Title 29A RCW, may appoint one or more well-qualified persons to act as assistants or deputies; however, not less than two persons of the auditor's office who conduct primaries and elections in the county shall be certified under chapter ((29.60)) 29A.04 RCW as elections administrators.

Sec. 63. RCW 36.32.030 and 1979 ex.s. c 126 s 27 are each amended to read as follows:

The terms of office of county commissioners shall be four years and until their successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280: PROVIDED, That the terms shall be staggered so that either one or two commissioners are elected at a general election held in an even-numbered year.

Sec. 64. RCW 36.32.0558 and 2003 c 238 s 2 are each amended to read as follows:

Vacancies on a board of county commissioners consisting of five members shall be filled as provided in RCW 36.32.070, except that:

(1) Whenever there are three or more vacancies, the governor shall appoint one or more commissioners until there are a total of three commissioners;

(2) Whenever there are two vacancies, the three commissioners shall fill one of the vacancies;

(3) Whenever there is one vacancy, the four commissioners shall fill the single vacancy; and

(4) Whenever there is a vacancy after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW ((29.01.135)) 29A.04.133 and shall continue through the term for which he or she was elected.

Sec. 65. RCW 36.32.070 and 2003 c 238 s 3 are each amended to read as follows:

Whenever there is a vacancy in the board of county commissioners, except as provided in RCW 36.32.0558, it shall be filled as follows:

(1) If there are three vacancies, the governor of the state shall appoint two of the officers. The two commissioners thus appointed shall then meet and select the third commissioner. If the two appointed commissioners fail to agree upon selection of the third after the expiration of five days from the day they were appointed, the governor shall appoint the remaining commissioner.

(2) Whenever there are two vacancies in the office of county commissioner, the governor shall appoint one commissioner, and the two commissioners then in office shall appoint the third commissioner. If they fail to agree upon a selection after the expiration of five days from the day of the governor's appointment, the governor shall appoint the third commissioner.

(3) Whenever there is one vacancy in the office of county commissioner, the two remaining commissioners shall fill the vacancy. If the two commissioners fail to agree upon a selection after the expiration of five days from the day the vacancy occurred, the governor shall appoint the third commissioner.

(4) Whenever there is a vacancy in the office of county commissioner after the general election in a year that the position appears on the ballot and before the start of the next term, the term of the successor who is of the same party as the incumbent may commence once he or she has qualified as defined in RCW ((29.01.135)) 29A.04.133 and shall continue through the term for which he or she was elected.

Sec. 66. RCW 36.69.070 and 1994 c 223 s 43 are each amended to read as follows:

A ballot proposition authorizing the formation of the proposed park and recreation district shall be submitted to the voters of the proposed district for their approval or rejection at the next general state election occurring sixty or more days after the county legislative authority fixes the boundaries of the proposed district. Notices of the election for the formation of the park and recreation district shall state generally and briefly the purpose thereof and shall give the boundaries of the proposed district and name the day of the election and the hours during which the polls will be open. The proposition to be submitted to the voters shall be stated in such manner that the voters may indicate yes or no upon the proposition of forming the proposed park and recreation district.

The initial park and recreation commissioners shall be elected at the same election, but this election shall be null and void if the district is not authorized to be formed. No primary shall be held to nominate candidates for the initial commissioner positions. Candidates shall run for specific commission positions. A special filing period shall be opened as provided in RCW ((29.15.170 and 29.15.180)) 29A.24.171 and 29A.24.181. The person who receives the greatest number of votes for each commission position shall be elected to that position. The three persons who are elected receiving the greatest number of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year or three-year terms of office if the election is held in an even-numbered year. The other two persons who are elected shall be elected to two-year terms of office if the election is held in an odd-numbered year or one-year terms of office if the election is held in an even-numbered year. The initial commissioners shall take office immediately upon being elected and qualified, but the length of such terms shall be computed from the first day of January in the year following this election.

Sec. 67. RCW 36.69.090 and 1996 c 324 s 2 are each amended to read as follows:

A park and recreation district shall be governed by a board of five commissioners. Except for the initial commissioners, all commissioners shall be elected to staggered four-year terms of office and shall serve until their successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280. Candidates shall run for specific commissioner positions.

Elections for park and recreation district commissioners shall be held biennially in conjunction with the general election in each odd-numbered year. Elections shall be held in accordance with the provisions of Title 29A RCW dealing with general elections, except that there shall be no primary to nominate candidates. All persons filing and qualifying shall appear on the general election

ballot and the person receiving the largest number of votes for each position shall be elected.

Sec. 68. RCW 36.105.050 and 1991 c 363 s 103 are each amended to read as follows:

The initial members of the community council shall be elected at the same election as the ballot proposition is submitted authorizing the creation of the community council. However, the election of the initial community councilmembers shall be null and void if the ballot proposition authorizing the creation of the community council is not approved.

No primary election shall be held to nominate candidates for initial council positions. The initial community council shall consist of the candidate for each council position who receives the greatest number of votes for that council position. Staggering of terms of office shall be accomplished by having the majority of the winning candidates who receive the greatest number of votes being elected to four-year terms of office, and the remaining winning candidates being elected to two-year terms of office, if the election was held in an even-numbered year, or the majority of the winning candidates who receive the greatest number of votes being elected to three-year terms of office, and the remaining winning candidates being elected to one-year terms of office, if the election was held in an odd-numbered year, with the term computed from the first day of January in the year following the election. Initial councilmembers shall take office immediately when qualified in accordance with RCW ((29.01.135)) 29A.04.133.

However, where the county operates under a charter providing for the election of members of the county legislative authority in odd-numbered years, the terms of office of the initial councilmembers shall be four years and two years, if the election of the initial councilmembers was held on an odd-numbered year, or three years and one year, if the election of the initial councilmembers was held on an even-numbered year.

Sec. 69. RCW 39.36.050 and 1984 c 186 s 3 are each amended to read as follows:

The governing body of a taxing district desiring to place a ballot proposition authorizing indebtedness before the voters may submit the proposition at any special election held on the dates authorized in ((chapter 29.13)) RCW 29A.04.330. The ballot proposition shall include the maximum amount of the indebtedness to be authorized, the maximum term any bonds may have, a description of the purpose or purposes of the bond issue, and whether excess property tax levies authorized under RCW 84.52.056 will be authorized.

When it is required that such bonds be retired by excess property tax levies, or when the governing body desires such bonds be retired by excess property tax levies, the ballot proposition shall also include authorization for such excess bond retirement property tax levies provided under RCW 84.52.056.

Notice of the proposed election shall be published as required by RCW ((29.27.080)) 29A.52.355.

Sec. 70. RCW 43.07.140 and 1991 c 72 s 55 are each amended to read as follows:

The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29A RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;
- (11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and
- (12) Rules and informational publications related to the statutory provisions set forth above.

Sec. 71. RCW 43.135.060 and 1998 c 321 s 15 are each amended to read as follows:

(1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by the state for the costs of the new programs or increases in service levels. Reimbursement by the state may be made by: (a) A specific appropriation; or (b) increases in state distributions of revenue to political subdivisions occurring after January 1, 1998.

(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state.

(4) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under RCW (~~(29.04.200)~~) 29A.12.150.

Sec. 72. RCW 46.20.205 and 1999 c 6 s 24 are each amended to read as follows:

(1) Whenever any person after applying for or receiving a driver's license or identicard moves from the address named in the application or in the license or identicard issued to him or her, the person shall within ten days thereafter notify the department of the address change. The notification must be in writing on a form provided by the department and must include the number of the person's driver's license. The written notification, or other means as designated by rule of the department, is the exclusive means by which the address of record maintained by the department concerning the licensee or identicard holder may be changed.

(a) The form must contain a place for the person to indicate that the address change is not for voting purposes. The department of licensing shall notify the secretary of state by the means described in RCW (~~(29.07.270(3))~~) 29A.08.350

of all change of address information received by means of this form except information on persons indicating that the change is not for voting purposes.

(b) Any notice regarding the cancellation, suspension, revocation, disqualification, probation, or nonrenewal of the driver's license, commercial driver's license, driving privilege, or identicard mailed to the address of record of the licensee or identicard holder is effective notwithstanding the licensee's or identicard holder's failure to receive the notice.

(2) When a licensee or holder of an identicard changes his or her name of record, the person shall notify the department of the name change. The person must make the notification within ten days of the date that the name change is effective. The notification must be in writing on a form provided by the department and must include the number of the person's driver's license. The department of licensing shall not change the name of record of a person under this section unless the person has again satisfied the department regarding his or her identity in the manner provided by RCW 46.20.035.

Sec. 73. RCW 52.04.011 and 1999 c 105 s 1 are each amended to read as follows:

(1) A territory adjacent to a fire protection district and not within the boundaries of a city, town, or other fire protection district may be annexed to the fire protection district by petition of fifteen percent of the qualified registered electors residing within the territory proposed to be annexed. Such territory may be located in a county or counties other than the county or counties within which the fire protection district is located. The petition shall be filed with the fire commissioners of the fire protection district and if the fire commissioners concur in the petition they shall file the petition with the county auditor of the county within which the territory is located. If this territory is located in more than one county, the original petition shall be filed with the auditor of the county within which the largest portion of the territory is located, who shall be designated as the lead auditor, and a copy shall be filed with the auditor of each other county within which such territory is located. Within thirty days after the date of the filing of the petition the auditor shall examine the signatures on the petition and certify to the sufficiency or insufficiency of the signatures. If this territory is located in more than one county, the auditor of each other county who receives a copy of the petition shall examine the signatures and certify to the lead auditor the number of valid signatures and the number of registered voters residing in that portion of the territory that is located within the county. The lead auditor shall certify the sufficiency or insufficiency of the signatures.

After the county auditor has certified the sufficiency of the petition, the county legislative authority or authorities, or the boundary review board or boards, of the county or counties in which such territory is located shall consider the proposal under the same basis that a proposed incorporation of a fire protection district is considered, with the same authority to act on the proposal as in a proposed incorporation, as provided under chapter 52.02 RCW. If the proposed annexation is approved by the county legislative authority or boundary review board, the board of fire commissioners shall adopt a resolution requesting the county auditor to call a special election, as specified under RCW ((29.13.020)) 29A.04.330, at which the ballot proposition is to be submitted. No annexation shall occur when the territory proposed to be annexed is located in

more than one county unless the county legislative authority or boundary review board of each county approves the proposed annexation.

(2) The county legislative authority or authorities of the county or counties within which such territory is located have the authority and duty to determine on an equitable basis, the amount of any obligation which the territory to be annexed to the district shall assume to place the property owners of the existing district on a fair and equitable relationship with the property owners of the territory to be annexed as a result of the benefits of annexing to a district previously supported by the property owners of the existing district. If a boundary review board has had its jurisdiction invoked on the proposal and approves the proposal, the county legislative authority of the county within which such territory is located may exercise the authority granted in this subsection and require such an assumption of indebtedness. This obligation may be paid to the district in yearly benefit charge installments to be fixed by the county legislative authority. This benefit charge shall be collected with the annual tax levies against the property in the annexed territory until fully paid. The amount of the obligation and the plan of payment established by the county legislative authority shall be described in general terms in the notice of election for annexation and shall be described in the ballot proposition on the proposed annexation that is presented to the voters for their approval or rejection. Such benefit charge shall be limited to an amount not to exceed a total of fifty cents per thousand dollars of assessed valuation: PROVIDED, HOWEVER, That the special election on the proposed annexation shall be held only within the boundaries of the territory proposed to be annexed to the fire protection district.

(3) On the entry of the order of the county legislative authority incorporating the territory into the existing fire protection district, the territory shall become subject to the indebtedness, bonded or otherwise, of the existing district. If the petition is signed by sixty percent of the qualified registered electors residing within the territory proposed to be annexed, and if the board of fire commissioners concur, an election in the territory and a hearing on the petition shall be dispensed with and the county legislative authority shall enter its order incorporating the territory into the existing fire protection district.

Sec. 74. RCW 52.06.030 and 1989 c 63 s 14 are each amended to read as follows:

The board of the merger district may, by resolution, reject or approve the petition as presented, or it may modify the terms and conditions of the proposed merger, and shall transmit the petition, together with a copy of its resolution to the merging district.

If the petition is approved as presented or as modified, the board of the merging district shall send an elector-signed petition, if there is one, to the auditor or auditors of the county or counties in which the merging district is located, who shall within thirty days examine the signatures and certify to the sufficiency or insufficiency of the signatures. If the merging district is located in more than one county, the auditor of the county within which the largest portion of the merging district is located shall be the lead auditor. Each other auditor shall certify to the lead auditor the number of valid signatures and the number of registered voters of the merging district who reside in the county. The lead auditor shall certify as to the sufficiency or insufficiency of the signatures. No signatures may be withdrawn from the petition after the filing. A certificate of

sufficiency shall be provided to the board of the merging district, which shall adopt a resolution requesting the county auditor or auditors to call a special election, as provided in RCW (~~(29-13-020)~~) 29A.04.330, for the purpose of presenting the question of merging the districts to the voters of the merging district.

If there is no elector-signed petition, the merging district board shall adopt a resolution requesting the county auditor or auditors to call a special election in the merging district, as specified under RCW (~~(29-13-020)~~) 29A.04.330, for the purpose of presenting the question of the merger to the electors.

Sec. 75. RCW 52.14.060 and 1994 c 223 s 53 are each amended to read as follows:

The initial three members of the board of fire commissioners shall be elected at the same election as when the ballot proposition is submitted to the voters authorizing the creation of the fire protection district. If the district is not authorized to be created, the election of the initial fire commissioners shall be null and void. If the district is authorized to be created, the initial fire commissioners shall take office immediately when qualified. Candidates shall file for each of the three separate fire commissioner positions. Elections shall be held as provided in chapter (~~(29-21)~~) 29A.52 RCW, with the county auditor opening up a special filing period as provided in RCW (~~(29-15-170 and 29-15-180)~~) 29A.24.171 and 29A.24.181, as if there were a vacancy. The person who receives the greatest number of votes for each position shall be elected to that position. The terms of office of the initial fire commissioners shall be staggered as follows: (1) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (2) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (3) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial commissioners shall take office immediately when elected and qualified and their terms of office shall be calculated from the first day of January in the year following their election.

The term of office of each subsequent commissioner shall be six years. Each commissioner shall serve until a successor is elected and qualified and assumes office in accordance with RCW (~~(29-04-170)~~) 29A.60.280.

Sec. 76. RCW 52.14.070 and 1989 c 63 s 23 are each amended to read as follows:

Before beginning the duties of office, each fire commissioner shall take and subscribe the official oath for the faithful discharge of the duties of office as required by RCW (~~(29-01-135)~~) 29A.04.133, which oath shall be filed in the office of the auditor of the county in which all, or the largest portion of, the district is located.

Sec. 77. RCW 53.04.020 and 1992 c 147 s 1 are each amended to read as follows:

At any general election or at any special election which may be called for that purpose, the county legislative authority of any county in this state may, or on petition of ten percent of the registered voters of such county based on the total vote cast in the last general county election, shall, by resolution submit to the voters of such county the proposition of creating a port district coextensive with the limits of such county. Such petition shall be filed with the county auditor, who shall within fifteen days examine the signatures thereof and certify to the sufficiency or insufficiency thereof, and for such purpose the county auditor shall have access to all registration books in the possession of the officers of any incorporated city or town in such proposed port district. If such petition be found to be insufficient, it shall be returned to the persons filing the same, who may amend or add names thereto for ten days, when the same shall be returned to the county auditor, who shall have an additional fifteen days to examine the same and attach his or her certificate thereto. No person having signed such petition shall be allowed to withdraw his or her name therefrom after the filing of the same with the county auditor. Whenever such petition shall be certified to as sufficient, the county auditor shall forthwith transmit the same, together with his or her certificate of sufficiency attached thereto, to the legislative authority of the county, who shall submit such proposition at the next general election or, if such petition so requests, the county legislative authority shall, at their first meeting after the date of such certificate, by resolution, call a special election to be held in accordance with RCW ~~((29.13.010 and 29.13.020))~~ 29A.04.321 and 29A.04.330. The notice of election shall state the boundaries of the proposed port district and the object of such election. In submitting the question to the voters for their approval or rejection, the proposition shall be expressed on the ballot substantially in the following terms:

"Port of, Yes." (giving the name of the principal seaport city within such proposed port district, or if there be more than one city of the same class within such district, such name as may be determined by the legislative authority of the county).

"Port of, No." (giving the name of the principal seaport city within such port district, or if there be more than one city of the same class within such district, such name as may be determined by the legislative authority of the county).

Sec. 78. RCW 53.04.080 and 1990 c 259 s 16 are each amended to read as follows:

At any general election or at any special election which may be called for that purpose the county legislative authority of any county in this state in which there exists a port district which is not coextensive with the limits of the county, shall on petition of the commissioners of such port district, by resolution, submit to the voters residing within the limits of any territory which the existing port district desires to annex or include in its enlarged port district, the proposition of enlarging the limits of such existing port districts so as to include therein the whole of the territory embraced within the boundaries of such county, or such territory as may be described in the petition by legal subdivisions. Such petition shall be filed with the county auditor, who shall forthwith transmit the same to the county legislative authority, who shall submit such proposition at the next general election, or, if such petition so request, the county legislative authority, shall at their first meeting after the date of filing such petition, by resolution, call

a special election to be held in accordance with RCW (~~(29.13.010 and 29.13.020)~~) 29A.04.321 and 29A.04.330. The notice of election shall state the boundaries of the proposed enlarged port district and the object of the special election. In submitting the question to the voters of the territory proposed to be annexed or included for their approval or rejection, the proposition shall be expressed on the ballots substantially in the following terms:

"Enlargement of the port of, yes." (Giving ~~(then [the])~~) the name of the port district which it is proposed to enlarge);

"Enlargement of the port of, no." (Giving the name of the port district which it is proposed to enlarge).

Such election, whether general or special, shall be held in each precinct wholly or partially embraced within the limits of the territory proposed to be annexed or included and shall be conducted and the votes cast thereat counted, canvassed, and the returns thereof made in the manner provided by law for holding general or special county elections.

Sec. 79. RCW 53.12.130 and 1994 c 223 s 88 are each amended to read as follows:

Two additional port commissioners shall be elected at the next district general election following the election at which voters authorized the increase in port commissioners to five members.

The port commissioners shall divide the port district into five commissioner districts prior to the first day of June in the year in which the two additional commissioners shall be elected, unless the voters approved the nomination of the two additional commissioners from district-wide commissioner districts as permitted in RCW 53.12.010(2). The new commissioner districts shall be numbered one through five and the three incumbent commissioners shall represent commissioner districts one through three. If, as a result of redrawing the district boundaries two or three of the incumbent commissioners reside in one of the new commissioner districts, the commissioners who reside in the same commissioner district shall determine by lot which of the first three numbered commissioner districts they shall represent for the remainder of their respective terms. A primary shall be held to nominate candidates from districts four and five where necessary and commissioners shall be elected from commissioner districts four and five at the general election. The persons elected as commissioners from commissioner districts four and five shall take office immediately after qualification as defined under RCW (~~(29.01.135)~~) 29A.04.133.

In a port district where commissioners are elected to four-year terms of office, the additional commissioner thus elected receiving the highest number of votes shall be elected to a four-year term of office and the other additional commissioner thus elected shall be elected to a term of office of two years, if the election is held in an odd-numbered year, or the additional commissioner thus elected receiving the highest number of votes shall be elected to a term of office of three years and the other shall be elected to a term of office of one year, if the election is held in an even-numbered year. In a port district where the commissioners are elected to six-year terms of office, the additional commissioner thus elected receiving the highest number of votes shall be elected to a six-year term of office and the other additional commissioner shall be elected to a four-year term of office, if the election is held in an odd-numbered

year, or the additional commissioner receiving the highest number of votes shall be elected to a term of office of five-years and the other shall be elected to a three-year term of office, if the election is held in an even-numbered year. The length of terms of office shall be computed from the first day of January in the year following this election.

Successor commissioners from districts four and five shall be elected to terms of either six or four years, depending on the length of terms of office to which commissioners of that port district are elected.

Sec. 80. RCW 53.12.172 and 1994 c 223 s 85 are each amended to read as follows:

(1) In every port district the term of office of each port commissioner shall be four years in each port district that is countywide with a population of one hundred thousand or more, or either six or four years in all other port districts as provided in RCW 53.12.175, and until a successor is elected and qualified and assumes office in accordance with RCW ((29.04.170)) 29A.60.280.

(2) The initial port commissioners shall be elected at the same election as when the ballot proposition is submitted to voters authorizing the creation of the port district. If the port district is created the persons elected at this election shall serve as the initial port commission. No primary shall be held. The person receiving the greatest number of votes for commissioner from each commissioner district shall be elected as the commissioner of that district.

(3) The terms of office of the initial port commissioners shall be staggered as follows in a port district that is countywide with a population of one hundred thousand or more: (a) The two persons who are elected receiving the two greatest numbers of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year, or three-year terms of office if the election is held in an even-numbered year, and shall hold office until successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280; and (b) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year, or a one-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW ((29.04.170)) 29A.60.280.

(4) The terms of office of the initial port commissioners in all other port districts shall be staggered as follows: (a) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or to a five-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW ((29.04.170)) 29A.60.280; (b) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or to a three-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW ((29.04.170)) 29A.60.280; and (c) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year, and shall hold office until a successor is elected and qualified and assumes office in accordance with RCW ((29.04.170)) 29A.60.280.

(5) The initial port commissioners shall take office immediately after being elected and qualified, but the length of their terms shall be calculated from the first day in January in the year following their elections.

Sec. 81. RCW 53.12.221 and 1992 c 146 s 4 are each amended to read as follows:

Port commissioners of countywide port districts with populations of one hundred thousand or more who are holding office as of June 11, 1992, shall retain their positions for the remainder of their terms until their successors are elected and qualified, and assume office in accordance with RCW ((29.04.170)) 29A.60.280. Their successors shall be elected to four-year terms of office except as otherwise provided in RCW 53.12.130.

Sec. 82. RCW 53.16.015 and 1994 c 223 s 90 are each amended to read as follows:

The port commission of a port district that uses commissioner districts may redraw the commissioner district boundaries as provided in chapter ((29.70)) 29A.76 RCW at any time and submit the redrawn boundaries to the county auditor if the port district is not coterminous with a county that has the same number of county legislative authority districts as the port has port commissioners. The new commissioner districts shall be used at the next election at which a port commissioner is regularly elected that occurs at least one hundred eighty days after the redrawn boundaries have been submitted. Each commissioner district shall encompass as nearly as possible the same population.

Sec. 83. RCW 53.36.070 and 1983 c 3 s 162 are each amended to read as follows:

Any port district organized under the laws of this state shall, in addition to the powers otherwise provided by law, have the power to raise revenue by the levy and collection of an annual tax on all taxable property within such port district of not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port district, for dredging, canal construction, or land leveling or filling purposes, the proceeds of any such levy to be used exclusively for such dredging, canal construction, or land leveling and filling purposes: PROVIDED, That no such levy for dredging, canal construction, or land leveling or filling purposes under the provisions of RCW 53.36.070 and 53.36.080 shall be made unless and until the question of authorizing the making of such additional levy shall have been submitted to a vote of the electors of the district in the manner provided by law for the submission of the question of making additional levies in school districts of the first class at an election held under the provisions of RCW ((29.13.020)) 29A.04.330 and shall have been authorized by a majority of the electors voting thereon.

Sec. 84. RCW 53.36.100 and 1994 c 278 s 1 are each amended to read as follows:

(1) A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may thereafter raise revenue, for six years only, and a second six years if the procedures are followed under subsection (2) of this section, in addition to all other revenues now authorized by law, by an annual levy not to exceed forty-five cents per thousand dollars of assessed value against the assessed valuation of the taxable property in such port

district. In addition, if voters approve a ballot proposition authorizing additional levies by a simple majority vote, a port district located in a county bordering on the Pacific Ocean having adopted a comprehensive scheme of harbor improvements and industrial developments may impose these levies for a third six-year period. Said levies shall be used exclusively for the exercise of the powers granted to port districts under chapter 53.25 RCW except as provided in RCW 53.36.110. The levy of such taxes is herein authorized notwithstanding the provisions of RCW 84.52.050 and 84.52.043. The revenues derived from levies made under RCW 53.36.100 and 53.36.110 not expended in the year in which the levies are made may be paid into a fund for future use in carrying out the powers granted under chapter 53.25 RCW, which fund may be accumulated and carried over from year to year, with the right to continue to levy the taxes provided for in RCW 53.36.100 and 53.36.110 for the purposes herein authorized.

(2) If a port district intends to levy a tax under this section for one or more years after the first six years these levies were imposed, the port commission shall publish notice of this intention, in one or more newspapers of general circulation within the district, by June 1 of the year in which the first levy of the seventh through twelfth year period is to be made. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the port district for the office of the governor at the last preceding gubernatorial election, the county auditor shall canvass the signatures in the same manner as prescribed in RCW ((29.79.200)) 29A.72.230 and certify their sufficiency to the port commission within two weeks. The proposition to make these levies in the seventh through twelfth year period shall be submitted to the voters of the port district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW ((29.43.070)) 29A.04.311. The levies may be made in the seventh through twelfth year period only if approved by a majority of the voters of the port district voting on the proposition.

Sec. 85. RCW 54.08.060 and 1994 c 223 s 55 are each amended to read as follows:

Whenever a proposition for the formation of a public utility district is to be submitted to voters in any county, the county legislative authority may by resolution call a special election, and at the request of petitioners for the formation of such district contained in the petition shall do so and shall provide for holding the same at the earliest practicable time. If the boundaries of the proposed district embrace an area less than the entire county, such election shall be confined to the area so included. The notice of such election shall state the boundaries of the proposed district and the object of such election; in other respects, such election shall be held and called in the same manner as provided by law for the holding and calling of general elections: PROVIDED, That notice thereof shall be given for not less than ten days nor more than thirty days prior to such special election. In submitting the proposition to the voters for their approval or rejection, such proposition shall be expressed on the ballots in substantially the following terms:

Public Utility District No. YES

Public Utility District No. NO

At the same special election on the proposition to form a public utility district, there shall also be an election for three public utility district commissioners. However, the election of such commissioners shall be null and void if the proposition to form the public utility district does not receive approval by a majority of the voters voting on the proposition. No primary shall be held. A special filing period shall be opened as provided in RCW ((~~29.15.170 and 29.15.180~~)) 29A.24.171 and 29A.24.181. The person receiving the greatest number of votes for the commissioner of each commissioner district shall be elected as the commissioner of that district. Commissioner districts shall be established as provided in RCW 54.12.010. The terms of the initial commissioners shall be staggered as follows: (1) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an even-numbered year or a five-year term if the election is held in an odd-numbered year; (2) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an even-numbered year or a three-year term of office if the election is held in an odd-numbered year; and (3) the other person who is elected shall be elected to a two-year term of office if the election is held in an even-numbered year or a one-year term of office if the election is held in an odd-numbered year. The commissioners first to be elected at such special election shall assume office immediately when they are elected and qualified, but the length of their terms of office shall be calculated from the first day in January in the year following their elections.

The term "general election" as used herein means biennial general elections at which state and county officers in a noncharter county are elected.

Sec. 86. RCW 54.40.070 and 1994 c 223 s 61 are each amended to read as follows:

Within thirty days after the public utility district commission divides the district into District A and District B, the county legislative authority shall call a special election, to be held at the next special election date provided for under RCW ((~~29.13.010~~)) 29A.04.321 that occurs sixty or more days after the call, at which time the initial commissioners for District A and District B shall be elected. No primary shall be held and a special filing period shall be opened as provided in RCW ((~~29.15.170 and 29.15.180~~)) 29A.24.171 and 29A.24.181. The person receiving the greatest number of votes for each position shall be elected.

The person who is elected receiving the greatest number of votes shall be elected to a four-year term of office, and the other person who is elected shall be elected to a two-year term of office, if the election is held in an even-numbered year, or the person who is elected receiving the greatest number of votes shall be elected to a three-year term of office, and the other person who is elected shall be elected to a one-year term of office, if the election is held in an odd-numbered year. The length of these terms of office shall be calculated from the first day in January in the year following their elections.

The newly elected commissioners shall assume office immediately after being elected and qualified and shall serve until their successors are elected and qualified and assume office in accordance with RCW ((~~29.04.170~~)) 29A.60.280. Each successor shall be elected to a four-year term of office.

Sec. 87. RCW 57.04.140 and 1997 c 447 s 4 are each amended to read as follows:

(1) As an alternative means to forming a water-sewer district, a county legislative authority may authorize the formation of a water-sewer district to serve a new development that at the time of formation does not have any residents, at written request of sixty percent of the owners of the area to be included in the proposed district. The county legislative authority shall review the proposed district according to the procedures and criteria in RCW 57.02.040.

(2) The county legislative authority shall appoint the initial water-sewer commissioners of the district. The commissioners shall serve until seventy-five percent of the development is sold and occupied, or until some other time as specified by the county legislative authority when the district is approved. Commissioners serving under this section are not entitled to any form of compensation from the district.

(3) New commissioners shall be elected according to the procedures in chapter 57.12 RCW at the next election held under RCW (~~(29.13.010)~~ 29A.04.321) that follows more than ninety days after the date seventy-five percent of the development is sold and occupied, or after the time specified by the county legislative authority when the district is approved.

(4) A water-sewer district created under this section may be transferred to a city or county, or dissolved if the district is inactive, by order of the county legislative authority at the written request of sixty percent of the owners of the area included in the district.

Sec. 88. RCW 57.12.030 and 1996 c 230 s 403 are each amended to read as follows:

Except as in this section otherwise provided, the term of office of each district commissioner shall be six years, such term to be computed from the first day of January following the election, and commissioners shall serve until their successors are elected and qualified and assume office in accordance with RCW (~~(29.04.170)~~ 29A.60.280).

Three initial district commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such district shall be formed. The election of initial district commissioners shall be null and void if the ballot proposition to form the district is not approved. Each candidate shall run for one of three separate commissioner positions. A special filing period shall be opened as provided in RCW (~~(29.15.170 and 29.15.180)~~ 29A.24.171 and 29A.24.181). The person receiving the greatest number of votes for each position shall be elected to that position.

The initial district commissioners shall assume office immediately when they are elected and qualified. Staggering of the terms of office for the initial district commissioners shall be accomplished as follows: (1) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (2) the person who is elected receiving the next greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (3) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is

held in an even-numbered year. The terms of office shall be calculated from the first day of January after the election.

Thereafter, commissioners shall be elected to six-year terms of office. Commissioners shall serve until their successors are elected and qualified and assume office in accordance with RCW (~~(29-04.170)~~) 29A.60.280.

Sec. 89. RCW 57.12.039 and 2001 c 63 s 4 are each amended to read as follows:

(1) Notwithstanding RCW 57.12.020 and 57.12.030, the board of commissioners may provide by majority vote that subsequent commissioners be elected from commissioner districts within the district. If the board exercises this option, it shall divide the district into three, five, or seven if the number of commissioners has been increased under RCW 57.12.015, commissioner districts of approximately equal population following current precinct and district boundaries.

(2) Commissioner districts shall be used as follows: (a) Only a registered voter who resides in a commissioner district may be a candidate for, or serve as, a commissioner of the commissioner district; and (b) only voters of a commissioner district may vote at a primary to nominate candidates for a commissioner of the commissioner district. Voters of the entire district may vote at a general election to elect a person as a commissioner of the commissioner district. Commissioner districts shall be redrawn as provided in chapter (~~(29-70)~~) 29A.76 RCW.

(3) In districts in which commissioners are nominated from commissioner districts, at the inception of a five-member or a seven-member board of commissioners, the new commissioner districts shall be numbered one through five or one through seven and the incumbent commissioners shall represent up to five commissioner districts depending on the amount of commissioners. If, as a result of redrawing the district boundaries two or three of the incumbent commissioners reside in one of the new commissioner districts, the commissioners who reside in the same commissioner district shall determine by lot which of the first three or five numbered commissioner districts they shall represent for the remainder of their respective terms. A primary shall be held to nominate candidates from the remaining districts where necessary and commissioners shall be elected at large at the general election. The persons elected as commissioners from the remaining commissioner districts shall take office immediately after qualification as defined under RCW (~~(29-01.135)~~) 29A.04.133.

Sec. 90. RCW 57.24.190 and 1996 c 230 s 910 are each amended to read as follows:

The annexation resolution under RCW 57.24.180 shall be subject to referendum for forty-five days after the passage thereof. Upon the filing of a timely and sufficient referendum petition with the board of commissioners, signed by registered voters in number equal to not less than ten percent of the registered voters in the area to be annexed who voted in the last municipal general election, the question of annexation shall be submitted to the voters of such area in a general election if one is to be held within ninety days or at a special election called for that purpose by the board of commissioners in accordance with RCW (~~(29-13.010 and 29-13.020)~~) 29A.04.321 and

29A.04.330. Notice of that election shall be given under RCW 57.24.020 and the election shall be conducted under RCW 57.24.040. The annexation shall be deemed approved by the voters unless a majority of the votes cast on the proposition are in opposition thereto.

After the expiration of the forty-fifth day from but excluding the date of passage of the annexation resolution, if no timely and sufficient referendum petition has been filed, the area annexed shall become a part of the district upon the date fixed in the resolution of annexation upon transmitting the resolution to the county legislative authority.

Sec. 91. RCW 67.38.130 and 1984 c 131 s 4 are each amended to read as follows:

The governing body of a cultural arts, stadium and convention district may levy or cause to levy the following ad valorem taxes:

(1) Regular ad valorem property tax levies in an amount equal to twenty-five cents or less per thousand dollars of the assessed value of property in the district in each year for six consecutive years when specifically authorized so to do by a majority of at least three-fifths of the electors thereof approving a proposition authorizing the levies submitted at a general or special election, at which election the number of persons voting "yes" on the proposition shall constitute three-fifths of a number equal to forty percentum of the total votes cast in such taxing district at the last preceding general election; or by a majority of at least three-fifths of the electors thereof voting on the proposition when the number of electors voting yes on the proposition exceeds forty percentum of the total votes cast in such taxing district in the last preceding general election. Ballot propositions shall conform with RCW (~~(29.30.144)~~) 29A.36.210.

In the event a cultural arts, stadium and convention district is levying property taxes, which in combination with property taxes levied by other taxing districts subject to the one percent limitation provided for in Article VII, section 2, of our state Constitution result in taxes in excess of the limitation provided for in RCW 84.52.043, the cultural arts, stadium and convention district property tax levy shall be reduced or eliminated before the property tax levies of other taxing districts are reduced: PROVIDED, That no cultural arts, stadium, and convention district may pledge anticipated revenues derived from the property tax herein authorized as security for payments of bonds issued pursuant to subsection (1) of this section: PROVIDED, FURTHER, That such limitation shall not apply to property taxes approved pursuant to subsections (2) and (3) of this section.

The limitation in RCW 84.55.010 shall apply to levies after the first levy authorized under this section following the approval of such levy by voters pursuant to this section.

(2) An annual excess ad valorem property tax for general district purposes when authorized by the district voters in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.052.

(3) Multi-year excess ad valorem property tax levies used to retire general obligation bond issues when authorized by the district voters in the manner prescribed by section 2, Article VII of the Constitution and by RCW 84.52.056.

The district shall include in its regular property tax levy for each year a sum sufficient to pay the interest and principal on all outstanding general obligation bonds issued without voter approval pursuant to RCW 67.38.110 and may

include a sum sufficient to create a sinking fund for the redemption of all outstanding bonds.

Sec. 92. RCW 68.52.250 and 1990 c 259 s 34 are each amended to read as follows:

Special elections submitting propositions to the registered voters of the district may be called at any time by resolution of the cemetery commissioners in accordance with RCW ((~~29.13.010 and 29.13.020~~) 29A.04.321 and 29A.04.330, and shall be called, noticed, held, conducted and canvassed in the same manner and by the same officials as provided for the election to determine whether the district shall be created.

Sec. 93. RCW 70.44.047 and 1997 c 99 s 6 are each amended to read as follows:

If, as the result of redrawing the boundaries of commissioner districts as permitted or required under the provisions of this chapter, chapter ((~~29.70~~) 29A.76 RCW, or any other statute, more than the correct number of commissioners who are associated with commissioner districts reside in the same commissioner district, a commissioner or commissioners residing in that redrawn commissioner district equal in number to the number of commissioners in excess of the correct number shall be assigned to the drawn commissioner district or districts in which less than the correct number of commissioners associated with commissioner districts reside. The commissioner or commissioners who are so assigned shall be those with the shortest unexpired term or terms of office, but if the number of such commissioners with the same terms of office exceeds the number that are to be assigned, the board of commissioners shall select by lot from those commissioners which one or ones are assigned. A commissioner who is so assigned shall be deemed to be a resident of the commissioner district to which he or she is assigned for purposes of determining whether a position is vacant.

Sec. 94. RCW 70.44.056 and 1997 c 99 s 5 are each amended to read as follows:

In all existing public hospital districts in which an increase in the number of district commissioners is proposed, the additional commissioner positions shall be deemed to be vacant and the board of commissioners of the public hospital district shall appoint qualified persons to fill those vacancies in accordance with RCW 42.12.070.

Each person who is appointed shall serve until a qualified person is elected at the next general election of the district occurring one hundred twenty days or more after the date of the election at which the voters of the district approved the ballot proposition authorizing the increase in the number of commissioners. If needed, special filing periods shall be authorized as provided in RCW ((~~29.15.170 and 29.15.180~~) 29A.24.171 and 29A.24.181 for qualified persons to file for the vacant office. A primary shall be held to nominate candidates if sufficient time exists to hold a primary and more than two candidates file for the vacant office. Otherwise, no primary shall be held and the candidate receiving the greatest number of votes for each position shall be elected. Except for the initial terms of office, persons elected to each of these additional commissioner positions shall be elected to a six-year term. The newly elected commissioners shall assume office as provided in RCW ((~~29.04.170~~) 29A.60.280.

The initial terms of the new commissioners shall be staggered as follows: (1) When the number of commissioners is increased from three to five, the person elected receiving the greatest number of votes shall be elected to a six-year term of office, and the other person shall be elected to a four-year term; (2) when the number of commissioners is increased from three or five to seven, the terms of the new commissioners shall be staggered over the next three district general elections so that two commissioners will be elected at the first district general election following the election where the additional commissioners are elected, two commissioners will be at the second district general election after the election of the additional commissioners, and three commissioners will be elected at the third district general election following the election of the additional commissioners, with the persons elected receiving the greatest number of votes elected to serve the longest terms.

Sec. 95. RCW 80.36.390 and 1987 c 229 s 13 are each amended to read as follows:

(1) As used in this section, "telephone solicitation" means the unsolicited initiation of a telephone call by a commercial or nonprofit company or organization to a residential telephone customer and conversation for the purpose of encouraging a person to purchase property, goods, or services or soliciting donations of money, property, goods, or services. "Telephone solicitation" does not include:

(a) Calls made in response to a request or inquiry by the called party. This includes calls regarding an item that has been purchased by the called party from the company or organization during a period not longer than twelve months prior to the telephone contact;

(b) Calls made by a not-for-profit organization to its own list of bona fide or active members of the organization;

(c) Calls limited to polling or soliciting the expression of ideas, opinions, or votes; or

(d) Business-to-business contacts.

For purposes of this section, each individual real estate agent or insurance agent who maintains a separate list from other individual real estate or insurance agents shall be treated as a company or organization. For purposes of this section, an organization as defined in RCW ((29.01.090 or 29.01.100)) 29A.04.086 or 29A.04.097 and organized pursuant to chapter 29A.80 RCW ((29.42.010)) shall not be considered a commercial or nonprofit company or organization.

(2) A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first thirty seconds of the telephone call.

(3) If, at any time during the telephone contact, the called party states or indicates that he or she does not wish to be called again by the company or organization or wants to have his or her name and individual telephone number removed from the telephone lists used by the company or organization making the telephone solicitation, then:

(a) The company or organization shall not make any additional telephone solicitation of the called party at that telephone number within a period of at least one year; and

(b) The company or organization shall not sell or give the called party's name and telephone number to another company or organization: PROVIDED, That the company or organization may return the list, including the called party's name and telephone number, to the company or organization from which it received the list.

(4) A violation of subsection (2) or (3) of this section is punishable by a fine of up to one thousand dollars for each violation.

(5) The attorney general may bring actions to enforce compliance with this section. For the first violation by any company or organization of this section, the attorney general shall notify the company with a letter of warning that the section has been violated.

(6) A person aggrieved by repeated violations of this section may bring a civil action in superior court to enjoin future violations, to recover damages, or both. The court shall award damages of at least one hundred dollars for each individual violation of this section. If the aggrieved person prevails in a civil action under this subsection, the court shall award the aggrieved person reasonable attorneys' fees and cost of the suit.

(7) The utilities and transportation commission shall by rule ensure that telecommunications companies inform their residential customers of the provisions of this section. The notification may be made by (a) annual inserts in the billing statements mailed to residential customers, or (b) conspicuous publication of the notice in the consumer information pages of local telephone directories.

Sec. 96. RCW 80.52.050 and 1982 c 88 s 1 are each amended to read as follows:

The election required under RCW 80.52.040 shall be conducted in the manner provided in this section.

(1)(a) If the applicant is a public utility district, joint operating agency, city, or county, the election shall be among the voters of the public utility district, city, or county, or among the voters of the local governmental entities comprising the membership of the joint operating agency.

(b) If the applicant is any public agency other than those described in subsection (1)(a) of this section, or is an assignee of a joint operating agency and not itself a joint operating agency, the election shall be conducted statewide in the manner provided in Title 29A RCW for statewide elections.

(2) The election shall be held at the next statewide general election occurring more than ninety days after submission of a request by an applicant to the secretary of state unless a special election is requested by the applicant as provided in this section.

(3) If no statewide election can be held under subsection (2) of this section within one hundred twenty days of the submission to the secretary of state of a request by an applicant for financing authority under this chapter, the applicant may request that a special election be held if such election is necessary to avoid significant delay in construction or acquisition of the energy project. Within ten days of receipt of such a request for a special election, the secretary of state shall designate a date for the election pursuant to RCW ((29.13.010)) 29A.04.321 and certify the date to the county auditor of each county in which an election is to be held under this section.

(4) Prior to an election under this section, the applicant shall submit to the secretary of state a cost-effectiveness study, prepared by an independent consultant approved by the state finance committee, pertaining to the major public energy project under consideration. The study shall be available for public review and comment for thirty days. At the end of the thirty-day period, the applicant shall prepare a final draft of the study which includes the public comment, if any.

(5) The secretary of state shall certify the ballot issue for the election to be held under this section to the county auditor of each county in which an election is to be held. The certification shall include the statement of the proposition as provided in RCW 80.52.060. The costs of the election shall be relieved by the applicant in the manner provided by RCW ((29.13.045)) 29A.04.410. In addition, the applicant shall reimburse the secretary of state for the applicant's share of the costs related to the preparation and distribution of the voters' pamphlet required by subsection (6) of this section and such other costs as are attributable to any election held pursuant to this section.

(6) Prior to an election under this section, the secretary of state shall provide an opportunity for supporters and opponents of the requested financing authority to present their respective views in a voters' pamphlet which shall be distributed to the voters of the local governmental entities participating in the election. Upon submission of an applicant's request for an election pursuant to this section, the applicant shall provide the secretary of state with the following information regarding each major public energy project for which the applicant seeks financing authority at such election, which information shall be included in the voters' pamphlet:

(a) The name, location, and type of major public energy project, expressed in common terms;

(b) The dollar amount and type of bonds being requested;

(c) If the bond issuance is intended to finance the acquisition of all or a portion of the project, the anticipated total cost of the acquisition of the project;

(d) If the bond issuance is intended to finance the planning or construction of all or a portion of the project, the anticipated total cost of construction of the project;

(e) The projected average rate increase for consumers of the electricity to be generated by the project. The rate increase shall be that which will be necessary to repay the total indebtedness incurred for the project, including estimated interest;

(f) A summary of the final cost-effectiveness study conducted under subsection (4) of this section;

(g) The anticipated functional life of the project;

(h) The anticipated decommissioning costs of the project; and

(i) If a special election is requested by the applicant, the reasons for requesting a special election.

Sec. 97. RCW 82.14.036 and 1983 c 99 s 2 are each amended to read as follows:

Any referendum petition to repeal a county or city ordinance imposing a tax or altering the rate of the tax authorized under RCW 82.14.030(2) shall be filed with a filing officer, as identified in the ordinance, within seven days of passage of the ordinance. Within ten days, the filing officer shall confer with the

petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or tax rate increase being imposed and a negative answer to the question and a negative vote on the measure results in the tax or tax rate increase not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the county for county measures, or not less than fifteen percent of the registered voters of the city for city measures, and to file the signed petitions with the filing officer. Each petition form shall contain the ballot title and the full text of the measure to be referred. The filing officer shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the filing officer shall submit the referendum measure to the county or city voters at a general or special election held on one of the dates provided in RCW ((~~29.13.010~~)) 29A.04.321 as determined by the county legislative authority or city council, which election shall not take place later than one hundred twenty days after the signed petition has been filed with the filing officer.

After April 22, 1983, the referendum procedure provided in this section shall be the exclusive method for subjecting any county or city ordinance imposing a tax or altering the rate under RCW 82.14.030(2) to a referendum vote.

Any county or city tax authorized under RCW 82.14.030(2) that has been imposed prior to April 22, 1983, is not subject to the referendum procedure provided for in this section.

Sec. 98. RCW 82.46.021 and 2000 c 103 s 16 are each amended to read as follows:

Any referendum petition to repeal a county or city ordinance imposing a tax or altering the rate of the tax authorized under RCW 82.46.010(3) shall be filed with a filing officer, as identified in the ordinance, within seven days of passage of the ordinance. Within ten days, the filing officer shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or tax rate increase being imposed and a negative answer to the question and a negative vote on the measure results in the tax or tax rate increase not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the county for county measures, or not less than fifteen percent of the registered voters of the city for city measures, and to file the signed petitions with the filing officer. Each petition form shall contain the ballot title and the full text of the measure to be referred. The filing officer shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are

properly submitted, the filing officer shall submit the referendum measure to the county or city voters at a general or special election held on one of the dates provided in RCW ((~~29.13.010~~) 29A.04.321) as determined by the county legislative authority or city council, which election shall not take place later than one hundred twenty days after the signed petition has been filed with the filing officer.

After April 22, 1983, the referendum procedure provided for in this section shall be the exclusive method for subjecting any county or city ordinance imposing a tax or increasing the rate under RCW 82.46.010(3) to a referendum vote.

Any county or city tax authorized under RCW 82.46.010(3) that has been imposed prior to April 22, 1983, is not subject to the referendum procedure provided for in this section.

Sec. 99. RCW 82.80.090 and 1990 c 42 s 214 are each amended to read as follows:

A referendum petition to repeal a county or city ordinance imposing a tax or fee authorized under RCW ((~~82.80.020 and~~) 82.80.030) must be filed with a filing officer, as identified in the ordinance, within seven days of passage of the ordinance. Within ten days, the filing officer shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or fee being imposed and a negative answer to the question and a negative vote on the measure results in the tax or fee not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner has thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the county for county measures, or not less than fifteen percent of the registered voters of the city for city measures, and to file the signed petitions with the filing officer. Each petition form must contain the ballot title and the full text of the measure to be referred. The filing officer shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the filing officer shall submit the referendum measure to the county or city voters at a general or special election held on one of the dates provided in RCW ((~~29.13.010~~) 29A.04.321) as determined by the county or city legislative authority, which election shall not take place later than one hundred twenty days after the signed petition has been filed with the filing officer.

The referendum procedure provided in this section is the exclusive method for subjecting any county or city ordinance imposing a tax or fee under RCW ((~~82.80.020 and~~) 82.80.030) to a referendum vote.

Sec. 100. RCW 85.38.060 and 1991 c 349 s 10 are each amended to read as follows:

The county legislative authority or authorities shall cause an election on the question of creating the special district to be held if findings as provided in RCW 85.38.050 are made. The county legislative authority or authorities shall designate a time and date for such election, which shall be one of the special election dates provided for in RCW ((~~29.13.020~~) 29A.04.330), together with the

site or sites at which votes may be cast. The persons allowed to vote on the creation of a special district shall be those persons who, if the special district were created, would be qualified voters of the special district as described in RCW 85.38.010. The county auditor or auditors of the counties within which the proposed special district is located shall conduct the election and prepare a list of presumed eligible voters.

Notices for the election shall be published as provided in RCW 85.38.040. The special district shall be created if the proposition to create the special district is approved by a simple majority vote of the voters voting on the proposition and the special district may assume operations whenever the initial members of the governing body are appointed as provided in RCW 85.38.070.

Any special district created after July 28, 1985, may only have special assessments measured and imposed, and budgets adopted, as provided in RCW 85.38.140 through 85.38.170.

If the special district is created, the county or counties may charge the special district for the costs incurred by the county engineer or engineers pursuant to RCW 85.38.030 and the costs of the auditor or auditors related to the election to authorize the creation of the special district pursuant to this section. Such county actions shall be deemed to be special benefits of the property located within the special district that are paid through the imposition of special assessments.

Sec. 101. RCW 85.38.070 and 1991 c 349 s 11 are each amended to read as follows:

(1) Except as provided in RCW 85.38.090, each special district shall be governed by a three-member governing body. The term of office for each member of a special district governing body shall be six years and until his or her successor is elected and qualified. One member of the governing body shall be elected at the time of special district general elections in each even-numbered year for a term of six years beginning as soon as the election returns have been certified for assumption of office by elected officials of cities.

(2) The terms of office of members of the governing bodies of special districts, who are holding office on July 28, 1985, shall be altered to provide staggered six-year terms as provided in this subsection. The member who on July 28, 1985, has the longest term remaining shall have his or her term altered so that the position will be filled at the February 1992, special district general election; the member with the second longest term remaining shall have his or her term altered so that the position will be filled at the December, 1989, special district general election; and the member with the third longest term of office shall have his or her term altered so that the position will be filled at the December, 1987, special district general election.

(3) The initial members of the governing body of a newly created special district shall be appointed by the legislative authority of the county within which the special district, or the largest portion of the special district, is located. These initial governing body members shall serve until their successors are elected and qualified at the next special district general election held at least ninety days after the special district is established. At that election the first elected members of the governing body shall be elected. No primary elections may be held. Any voter of a special district may become a candidate for such a position by filing written notice of this intention with the county auditor at least thirty, but not

more than sixty, days before a special district general election. The county auditor in consultation with the special district shall establish the filing period. The names of all candidates for such positions shall be listed alphabetically. At this first election, the candidate receiving the greatest number of votes shall have a six-year term, the candidate receiving the second greatest number of votes shall have a four-year term, and the candidate receiving the third greatest number of votes shall have a two-year term of office. The initially elected members of a governing body shall take office immediately when qualified as defined in RCW ((29-01-135)) 29A.04.133. Thereafter the candidate receiving the greatest number of votes shall be elected for a six-year term of office. Members of a governing body shall hold their office until their successors are elected and qualified, and assume office as soon as the election returns have been certified.

(4) The requirements for the filing period and method for filing declarations of candidacy for the governing body of the district and the arrangement of candidate names on the ballot for all special district elections conducted after the initial election in the district shall be the same as the requirements for the initial election in the district. No primary elections may be held for the governing body of a special district.

(5) Whenever a vacancy occurs in the governing body of a special district, the legislative authority of the county within which the special district, or the largest portion of the special district, is located, shall appoint a district voter to serve until a person is elected, at the next special district general election occurring sixty or more days after the vacancy has occurred, to serve the remainder of the unexpired term. The person so elected shall take office immediately when qualified as defined in RCW ((29-01-135)) 29A.04.133.

If an election for the position which became vacant would otherwise have been held at this special district election, only one election shall be held and the person elected to fill the succeeding term for that position shall take office immediately when qualified as defined in RCW ((29-01-135)) 29A.04.133 and shall serve both the remainder of the unexpired term and the succeeding term. A vacancy occurs upon the death, resignation, or incapacity of a governing body member or whenever the governing body member ceases being a qualified voter of the special district.

(6) An elected or appointed member of a special district governing body, or a candidate for a special district governing body, must be a qualified voter of the special district: PROVIDED, That the state, its agencies and political subdivisions, or their designees under RCW 85.38.010(3) shall not be eligible for election or appointment.

Sec. 102. RCW 86.15.050 and 2003 c 304 s 1 are each amended to read as follows:

(1) The board of county commissioners of each county shall be ex officio, by virtue of their office, supervisors of the zones created in each county. In any zone with more than two thousand residents, an election of supervisors other than the board of county commissioners may be held as provided in this section.

(2) When proposed by citizen petition or by resolution of the board of county commissioners, a ballot proposition authorizing election of the supervisors of a zone shall be submitted by ordinance to the voters residing in

the zone at any general election, or at any special election which may be called for that purpose.

(3) The ballot proposition shall be submitted (a) if the board of county supervisors enacts an ordinance submitting the proposition after adopting a resolution proposing the election of supervisors of a zone; or (b) if a petition proposing the election of supervisors of a zone is submitted to the county auditor of the county in which the zone is located that is signed by registered voters within the zone, numbering at least fifteen percent of the votes cast in the last county general election by registered voters within the zone.

(4) Upon receipt of a citizen petition under subsection (3)(b) of this section, the county auditor shall determine whether the petition is signed by a sufficient number of registered voters, using the registration records and returns of the preceding general election, and, no later than forty-five days after receipt of the petition, shall attach to the petition the auditor's certificate stating whether or not sufficient signatures have been obtained. If the signatures are found by the auditor to be insufficient, the petition shall be returned to the person filing it.

(5) The ballot proposition authorizing election of supervisors of zones shall appear on the ballot of the next general election or at the next special election date specified under RCW ((29-13.020)) 29A.04.330 occurring sixty or more days after the last resolution proposing election of supervisors or the date the county auditor certifies that the petition proposing such election contains sufficient valid signatures.

(6) The petition proposing the election of zone supervisors, or the ordinance submitting the question to the voters, shall describe the proposed election process. The ballot proposition shall include the following:

- "For the direct election of flood control zone district supervisors."
- "Against the direct election of flood control zone district supervisors."

(7) The ordinance or petition submitting the ballot proposition shall designate the proposed composition of the supervisors of zones, which shall be clearly described in the ballot proposition. The ballot proposition shall state that the zone supervisors shall thereafter be selected by election, and, at the same election at which the proposition is submitted to the voters as to whether to elect zone supervisors, three zone supervisors shall be elected. The election of zone supervisors is null and void if the voters, by a simple majority, do not approve the direct election of the zone supervisors. Candidates shall run for specific supervisor positions. No primary may be held to nominate candidates. The person receiving the greatest number of votes for each position shall be elected as a supervisor. The staggering of the terms of office shall occur as follows: (a) The person who is elected receiving the greatest number of votes shall be elected to a six-year term of office if the election is held in an odd-numbered year or a five-year term of office if the election is held in an even-numbered year; (b) the person who is elected receiving the second greatest number of votes shall be elected to a four-year term of office if the election is held in an odd-numbered year or a three-year term of office if the election is held in an even-numbered year; and (c) the other person who is elected shall be elected to a two-year term of office if the election is held in an odd-numbered year or a one-year term of office if the election is held in an even-numbered year. The initial supervisors shall take office immediately when they are elected and qualified, and for

purposes of computing their terms of office the terms shall be assumed to commence on the first day of January in the year after they are elected. Thereafter, all supervisors shall be elected to six-year terms of office. All supervisors shall serve until their respective successors are elected and qualified and assume office in accordance with RCW ((29.04.170)) 29A.60.280. Vacancies may occur and shall be filled as provided in chapter 42.12 RCW.

(8) The costs and expenses directly related to the election of zone supervisors shall be borne by the zone.

Sec. 103. RCW 87.03.083 and 1979 ex.s. c 185 s 15 are each amended to read as follows:

Every member of an irrigation district board of directors is subject to recall and discharge by the legal voters of such district pursuant to the provisions of chapter ((29.82)) 29A.56 RCW.

Passed by the House March 3, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 54

[House Bill 1819]

POLITICAL AND CANDIDATE COMMITTEES--BOOKS OF ACCOUNTS--INSPECTION

AN ACT Relating to making an appointment to inspect the books of account of a political committee or a candidate committee; and amending RCW 42.17A.235.

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

Sec. 1. RCW 42.17A.235 and 2011 c 60 s 23 are each amended to read as follows:

(1) In addition to the information required under RCW 42.17A.205 and 42.17A.210, on the day the treasurer is designated, each candidate or political committee must file with the commission a report of all contributions received and expenditures made prior to that date, if any.

(2) Each treasurer shall file with the commission a report containing the information required by RCW 42.17A.240 at the following intervals:

(a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held;

(b) On the tenth day of the first month after the election; and

(c) On the tenth day of each month in which no other reports are required to be filed under this section only if the committee has received a contribution or made an expenditure in the preceding calendar month and either the total contributions received or total expenditures made since the last such report exceed two hundred dollars.

The report filed twenty-one days before the election shall report all contributions received and expenditures made as of the end of one business day before the date of the report. The report filed seven days before the election shall report all contributions received and expenditures made as of the end of one business day before the date of the report. Reports filed on the tenth day of the month shall report all contributions received and expenditures made from the

closing date of the last report filed through the last day of the month preceding the date of the current report.

(3) For the period beginning the first day of the fourth month preceding the date of the special election, or for the period beginning the first day of the fifth month before the date of the general election, and ending on the date of that special or general election, each Monday the treasurer shall file with the commission a report of each bank deposit made during the previous seven calendar days. The report shall contain the name of each person contributing the funds and the amount contributed by each person. However, persons who contribute no more than twenty-five dollars in the aggregate are not required to be identified in the report. A copy of the report shall be retained by the treasurer for his or her records. In the event of deposits made by a deputy treasurer, the copy shall be forwarded to the treasurer for his or her records. Each report shall be certified as correct by the treasurer or deputy treasurer making the deposit.

(4)(a) The treasurer or candidate shall maintain books of account accurately reflecting all contributions and expenditures on a current basis within five business days of receipt or expenditure. During the eight days immediately preceding the date of the election the books of account shall be kept current within one business day. As specified in the committee's statement of organization filed under RCW 42.17A.205, the books of account must be open for public inspection by appointment at the designated place for inspections between 8:00 a.m. and 8:00 p.m. on any day from the eighth day immediately before the election through the day immediately before the election, other than Saturday, Sunday, or a legal holiday. It is a violation of this chapter for a candidate or political committee to refuse to allow and keep an appointment for an inspection to be conducted during these authorized times and days. The appointment must be allowed at an authorized time and day for such inspections that is within twenty-four hours of the time and day that is requested for the inspection.

(b) At the time of making the appointment, a person wishing to inspect the books of account must provide the treasurer the name and telephone number of the person wishing to inspect the books of account. The person inspecting the books of account must show photo identification before the inspection begins.

(c) A treasurer may refuse to show the books of account to any person who does not make an appointment or provide the required identification.

(5) Copies of all reports filed pursuant to this section shall be readily available for public inspection by appointment, pursuant to subsection (4) of this section, at the principal headquarters or, if there is no headquarters, at the address of the treasurer or such other place as may be authorized by the commission.

(6) The treasurer or candidate shall preserve books of account, bills, receipts, and all other financial records of the campaign or political committee for not less than five calendar years following the year during which the transaction occurred.

(7) All reports filed pursuant to subsection (1) or (2) of this section shall be certified as correct by the candidate and the treasurer.

(8) When there is no outstanding debt or obligation, the campaign fund is closed, and the campaign is concluded in all respects or in the case of a political committee, the committee has ceased to function and has dissolved, the treasurer

shall file a final report. Upon submitting a final report, the duties of the treasurer shall cease and there is no obligation to make any further reports.

Passed by the House March 11, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 55

[House Bill 1961]

COMMUNITY AND TECHNICAL COLLEGES--TECHNICAL CHANGES

AN ACT Relating to decodifying, expiring, and making nonsubstantive changes to community and technical college provisions; amending RCW 28B.15.546, 28B.50.1401, 28B.50.1402, 28B.50.1403, 28B.50.1404, 28B.50.1405, 28B.50.1406, 28B.50.256, 28B.50.285, 28B.50.327, 28B.50.482, 28B.50.534, 28B.10.025, 28B.10.280, 28B.10.570, 28B.10.571, 28B.10.650, 28B.10.679, 28B.15.012, 28B.15.014, 28B.15.025, 28B.15.041, 28B.15.067, 28B.15.069, 28B.15.100, 28B.15.385, 28B.15.395, 28B.15.520, 28B.15.522, 28B.15.543, 28B.15.545, 28B.15.558, 28B.15.621, 28B.15.740, 28B.15.910, 28B.15.915, 28B.50.030, 28B.50.455, 28B.50.850, 28B.50.851, and 28B.50.862; reenacting and amending RCW 28B.15.515; adding a new section to chapter 28B.04 RCW; adding a new section to chapter 28B.06 RCW; decodifying RCW 28B.56.010, 28B.56.020, 28B.56.040, 28B.56.050, 28B.56.070, 28B.56.080, 28B.56.090, 28B.56.100, 28B.56.110, 28B.56.120, 28B.57.010, 28B.57.020, 28B.57.030, 28B.57.040, 28B.57.060, 28B.57.070, 28B.57.080, 28B.57.090, 28B.57.100, 28B.58.010, 28B.58.020, 28B.58.030, 28B.58.040, 28B.58.050, 28B.58.060, 28B.58.070, 28B.58.080, 28B.58.090, 28B.59.010, 28B.59.020, 28B.59.030, 28B.59.040, 28B.59.050, 28B.59.060, 28B.59.070, 28B.59.080, 28B.59.090, 28B.59B.010, 28B.59B.020, 28B.59B.030, 28B.59B.040, 28B.59B.050, 28B.59B.060, 28B.59B.070, 28B.59B.080, 28B.59B.090, 28B.59C.010, 28B.59C.020, 28B.59C.030, 28B.59C.040, 28B.59C.050, 28B.59C.060, 28B.59C.070, 28B.59C.080, 28B.59D.010, 28B.59D.020, 28B.59D.030, 28B.59D.040, 28B.59D.050, 28B.59D.060, 28B.59D.070, 28B.50.301, 28B.50.302, 28B.50.914, 28B.50.915, and 28B.50.917; and providing expiration dates.

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

PART I

NEW SECTION. Sec. 101. A new section is added to chapter 28B.04 RCW to read as follows:

DISPLACED HOMEMAKER ACT. This chapter expires August 1, 2015.

NEW SECTION. Sec. 102. A new section is added to chapter 28B.06 RCW to read as follows:

PROJECT EVEN START. This chapter expires August 1, 2015.

NEW SECTION. Sec. 103. 1972 COMMUNITY COLLEGES FACILITIES AID—BOND ISSUE. RCW 28B.56.010, 28B.56.020, 28B.56.040, 28B.56.050, 28B.56.070, 28B.56.080, 28B.56.090, 28B.56.100, 28B.56.110, and 28B.56.120 are each decodified.

NEW SECTION. Sec. 104. 1975 COMMUNITY COLLEGE SPECIAL CAPITAL PROJECTS BOND ACT. RCW 28B.57.010, 28B.57.020, 28B.57.030, 28B.57.040, 28B.57.060, 28B.57.070, 28B.57.080, 28B.57.090, and 28B.57.100 are each decodified.

NEW SECTION. Sec. 105. 1975 COMMUNITY COLLEGE GENERAL CAPITAL PROJECTS BOND ACT. RCW 28B.58.010, 28B.58.020,

28B.58.030, 28B.58.040, 28B.58.050, 28B.58.060, 28B.58.070, 28B.58.080, and 28B.58.090 are each decodified.

NEW SECTION. Sec. 106. 1976 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT. RCW 28B.59.010, 28B.59.020, 28B.59.030, 28B.59.040, 28B.59.050, 28B.59.060, 28B.59.070, 28B.59.080, and 28B.59.090 are each decodified.

NEW SECTION. Sec. 107. 1977 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT. RCW 28B.59B.010, 28B.59B.020, 28B.59B.030, 28B.59B.040, 28B.59B.050, 28B.59B.060, 28B.59B.070, 28B.59B.080, and 28B.59B.090 are each decodified.

NEW SECTION. Sec. 108. 1979 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT. RCW 28B.59C.010, 28B.59C.020, 28B.59C.030, 28B.59C.040, 28B.59C.050, 28B.59C.060, 28B.59C.070, and 28B.59C.080 are each decodified.

NEW SECTION. Sec. 109. 1981 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT. RCW 28B.59D.010, 28B.59D.020, 28B.59D.030, 28B.59D.040, 28B.59D.050, 28B.59D.060, and 28B.59D.070 are each decodified.

Sec. 110. RCW 28B.15.546 and 1987 c 231 s 5 are each amended to read as follows:

(1) Students receiving the Washington award for vocational excellence in 1987 and thereafter are eligible for a second-year waiver.

(2) This section expires August 1, 2015.

Sec. 111. RCW 28B.50.1401 and 2011 c 118 s 1 are each amended to read as follows:

(1) There is hereby created a board of trustees for district twenty-six and Lake Washington Vocational-Technical Institute, hereafter known as Lake Washington Institute of Technology. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

(2) This section expires August 1, 2015.

Sec. 112. RCW 28B.50.1402 and 1991 c 238 s 25 are each amended to read as follows:

(1) There is hereby created a board of trustees for district twenty-seven and Renton Vocational-Technical Institute, hereafter known as Renton Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

(2) This section expires August 1, 2015.

Sec. 113. RCW 28B.50.1403 and 1991 c 238 s 26 are each amended to read as follows:

(1) There is hereby created a board of trustees for district twenty-five and Bellingham Vocational-Technical Institute, hereafter known as Bellingham Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

(2) This section expires August 1, 2015.

Sec. 114. RCW 28B.50.1404 and 1991 c 238 s 27 are each amended to read as follows:

(1) There is hereby created a new board of trustees for district twenty-eight and Bates Vocational-Technical Institute, hereafter known as Bates Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

(2) This section expires August 1, 2015.

Sec. 115. RCW 28B.50.1405 and 1991 c 238 s 28 are each amended to read as follows:

(1) There is hereby created a new board of trustees for district twenty-nine and Clover Park Vocational-Technical Institute, hereafter known as Clover Park Technical College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

(2) This section expires August 1, 2015.

Sec. 116. RCW 28B.50.1406 and 1994 c 217 s 4 are each amended to read as follows:

(1) There is hereby created a board of trustees for district thirty and Cascadia Community College. The members of the board shall be appointed pursuant to the provisions of RCW 28B.50.100.

(2) This section expires August 1, 2015.

Sec. 117. RCW 28B.50.256 and 1991 c 238 s 132 are each amended to read as follows:

If, before September 1, 1991, the use of a single building facility is being shared between an existing vocational-technical institute program and a K12 program, the respective boards shall continue to share the use of the facility until such time as it is convenient to remove one of the two programs to another facility. The determination of convenience shall be based solely upon the best interests of the students involved.

If a vocational-technical institute district board and a common school district board are sharing the use of a single facility, the program occupying the majority of the space of such facility, exclusive of space utilized equally by both, shall determine which board will be charged with the administration and control of such facility. The determination of occupancy shall be based upon the space occupied as of January 1, 1990.

The board charged with the administration and control of such facility may share expenses with the other board for the use of the facility.

In the event that the two boards are unable to agree upon which board is to administer and control the facility or upon a fair share of expenses for the use of the facility, the governor shall appoint an arbitrator to settle the matter. The decisions of the arbitrator shall be final and binding upon both boards. The expenses of the arbitration shall be divided equally by each board.

This section expires August 1, 2015.

Sec. 118. RCW 28B.50.285 and 2010 1st sp.s. c 24 s 3 are each amended to read as follows:

(1) By July 1, 2010, and within existing resources, the college board may create a single web site for the purpose of advertising the availability of opportunity express funding to Washington citizens; explaining that opportunity express helps people who want to pursue college and apprenticeship for certain targeted industries; and explaining that opportunity express includes the following tracks: Worker retraining for unemployed adults; training programs

approved by the commissioner of the employment security department, training programs administered by labor and management partnerships, and training programs prioritized by industry, for unemployed adults and incumbent workers; opportunity internships for high school students; and opportunity grants for low-income adults. The web site may also direct interested individuals to the appropriate local intake office. The web site may also include a link to the Washington state department of labor and industries apprenticeship program.

(2) This section expires August 1, 2015.

NEW SECTION. Sec. 119. TITLE TO OR ALL INTEREST IN REAL ESTATE AND ASSETS OBTAINED FOR VOCATIONAL-TECHNICAL INSTITUTE PURPOSES. RCW 28B.50.301 and 28B.50.302 are each decodified.

Sec. 120. RCW 28B.50.327 and 1991 c 238 s 84 are each amended to read as follows:

Notwithstanding the provisions of chapter 28B.15 RCW, technical colleges and the Seattle Vocational Institute may continue to collect student tuition and fees per their standard operating procedures in effect on September 1, 1991. The applicability of existing community college rules and statutes pursuant to chapter 28B.15 RCW regarding tuition and fees shall be determined by the state board for community and technical colleges within two years of September 1, 1991.

This section expires August 1, 2015.

Sec. 121. RCW 28B.50.482 and 1991 c 238 s 136 are each amended to read as follows:

Sick leave accumulated by employees of vocational-technical institutes shall be transferred to the college districts without loss of time subject to the provisions of RCW 28B.50.551 and the further provisions of any negotiated agreements then in force.

This section expires August 1, 2015.

Sec. 122. RCW 28B.50.534 and 2007 c 355 s 3 are each amended to read as follows:

(1) A pilot program is created for two community or technical colleges to make available courses or a program of study, on the college campus, designed to enable students under the age of twentyone who have completed all state and local high school graduation requirements except the certificate of academic achievement or certificate of individual achievement to complete their high school education and obtain a high school diploma.

(a) The colleges participating in the pilot program in this section may make courses or programs under this section available by entering into contracts with local school districts to deliver the courses or programs. Colleges participating in the pilot program that offer courses or programs under contract shall be reimbursed for each enrolled eligible student as provided in the contract, and the high school diploma shall be issued by the local school district;

(b) Colleges participating in the pilot program may deliver courses or programs under this section directly. Colleges that deliver courses or programs directly shall be reimbursed for each enrolled eligible student as provided in RCW 28A.600.405, and the high school diploma shall be issued by the college;

(c) Colleges participating in the pilot program may make courses or programs under this section available through a combination of contracts with local school districts, collaboration with educational service districts, and direct service delivery. Colleges participating in the pilot program may also make courses or programs under this section available for students at locations in addition to the college campus; or

(d) Colleges participating in the pilot program may enter into regional partnerships to carry out the provisions of this subsection (1).

(2) Regardless of the service delivery method chosen, colleges participating in the pilot program shall ensure that all eligible students located in school districts within their college district as defined in RCW 28B.50.040 have an opportunity to enroll in a course or program under this section.

(3) Colleges participating in the pilot program shall not require students enrolled under this section to pay tuition or services and activities fees; however this waiver of tuition and services and activities fees shall be in effect only for those courses that lead to a high school diploma.

(4) Nothing in this section or RCW 28A.600.405 precludes a community or technical college from offering courses or a program of study for students other than eligible students as defined by RCW 28A.600.405 to obtain a high school diploma, nor is this section or RCW 28A.600.405 intended to restrict diploma completion programs offered by school districts or educational service districts. Community and technical colleges and school districts are encouraged to consult with educational service districts in the development and delivery of programs and courses required under this section.

(5) Community and technical colleges participating in the pilot program shall not be required to administer the ((Washington)) statewide student assessment ((of student learning)).

(6) This section expires August 1, 2015.

NEW SECTION. Sec. 123. TRANSFERS OF POWERS. RCW 28B.50.914 and 28B.50.915 are each decodified.

NEW SECTION. Sec. 124. EFFECTIVE DATES. RCW 28B.50.917 is decodified.

PART II

Sec. 201. RCW 28B.10.025 and 2005 c 36 s 2 are each amended to read as follows:

The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the regional universities, The Evergreen State College, and the community and technical college districts, determine the amount to be made available for the purchases of art under RCW 28B.10.027, and payment therefor shall be made in accordance with law. The designation of projects and sites, the selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees.

Sec. 202. RCW 28B.10.280 and 1977 ex.s. c 169 s 11 are each amended to read as follows:

The boards of regents of the state universities and the boards of trustees of regional universities, The Evergreen State College, and community and technical college districts may each create student loan funds, and qualify and participate in the National Defense Education Act of 1958 and such other similar federal student aid programs as are or may be enacted from time to time, and to that end may comply with all of the laws of the United States, and all of the rules, regulations and requirements promulgated pursuant thereto.

Sec. 203. RCW 28B.10.570 and 2003 c 53 s 171 are each amended to read as follows:

(1) It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, faculty member, or student of any university, college, or community or technical college who is in the peaceful discharge or conduct of his or her duties or studies.

(2) A person violating this section is guilty of a gross misdemeanor and shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months, or both such fine and imprisonment.

Sec. 204. RCW 28B.10.571 and 2003 c 53 s 172 are each amended to read as follows:

(1) It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, faculty member, or student of any university, college, or community or technical college who is in the peaceful discharge or conduct of his or her duties or studies.

(2) A person violating this section is guilty of a gross misdemeanor and shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months, or both such fine and imprisonment.

Sec. 205. RCW 28B.10.650 and 2004 c 275 s 45 are each amended to read as follows:

It is the intent of the legislature that when the state and regional universities, The Evergreen State College, and community and technical colleges grant professional leaves to faculty and exempt staff, such leaves be for the purpose of providing opportunities for study, research, and creative activities for the enhancement of the institution's instructional and research programs.

The boards of regents of the state universities, the boards of trustees of the regional universities and of The Evergreen State College and the board of trustees of each community or technical college district may grant remunerated professional leaves to faculty members and exempt staff, as defined in RCW 41.06.070, in accordance with regulations adopted by the respective governing boards for periods not to exceed twelve consecutive months in accordance with the following provisions:

(1) The remuneration from state general funds and general local funds for any such leave granted for any academic year shall not exceed the average of the highest quartile of a rank order of salaries of all full time teaching faculty holding academic year contracts or appointments at the institution or in the district.

(2) Remunerated professional leaves for a period of more or less than an academic year shall be compensated at rates not to exceed a proportional amount

of the average salary as otherwise calculated for the purposes of subsection (1) of this section.

(3) The grant of any such professional leave shall be contingent upon a signed contractual agreement between the respective governing board and the recipient providing that the recipient shall return to the granting institution or district following his or her completion of such leave and serve in a professional status for a period commensurate with the amount of leave so granted. Failure to comply with the provisions of such signed agreement shall constitute an obligation of the recipient to repay to the institution any remuneration received from the institution during the leave.

(4) The aggregate cost of remunerated professional leaves awarded at the institution or district during any year, including the cost of replacement personnel, shall not exceed the cost of salaries which otherwise would have been paid to personnel on leaves: PROVIDED, That for community or technical college districts the aggregate cost shall not exceed one hundred fifty percent of the cost of salaries which would have otherwise been paid to personnel on leaves: PROVIDED FURTHER, That this subsection shall not apply to any community or technical college district with fewer than seventy-five full time faculty members and granting fewer than three individuals such leaves in any given year.

(5) The average number of annual remunerated professional leaves awarded at any such institution or district shall not exceed four percent of the total number of full time equivalent faculty, as defined by the office of financial management, who are engaged in instruction, and exempt staff as defined in RCW 41.06.070.

(6) Negotiated agreements made in accordance with chapter 28B.52 RCW and entered into after July 1, 1977, shall be in conformance with the provisions of this section.

(7) The respective institutions and districts shall maintain such information which will ensure compliance with the provisions of this section.

Sec. 206. RCW 28B.10.679 and 2007 c 396 s 10 are each amended to read as follows:

~~((1) By September 1, 2008, the state board for community and technical colleges, the council of presidents, the higher education coordinating board, and the office of the superintendent of public instruction, under the leadership of the transition math project and in collaboration with representatives of public two and four-year institutions of higher education, shall jointly revise the Washington mathematics placement test to serve as a common college readiness test for all two and four-year institutions of higher education.~~

~~(2) The revised mathematics college readiness test shall be implemented by all public two and four-year institutions of higher education by September 1, 2009.)~~ All public two and four-year institutions of higher education must use a common performance standard on the mathematics placement test for purposes of determining college readiness in mathematics. The performance standard must be publicized to all high schools in the state.

Sec. 207. RCW 28B.15.012 and 2014 c 183 s 1 are each amended to read as follows:

Whenever used in this chapter:

(1) The term "institution" shall mean a public university, college, or community or technical college within the state of Washington.

(2) The term "resident student" shall mean:

(a) A financially independent student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which the student has registered at any institution and has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(b) A dependent student, if one or both of the student's parents or legal guardians have maintained a bona fide domicile in the state of Washington for at least one year immediately prior to commencement of the semester or quarter for which the student has registered at any institution;

(c) A student classified as a resident based upon domicile by an institution on or before May 31, 1982, who was enrolled at a state institution during any term of the 1982-1983 academic year, so long as such student's enrollment (excepting summer sessions) at an institution in this state is continuous;

(d) Any student who has spent at least seventy-five percent of both his or her junior and senior years in high schools in this state, whose parents or legal guardians have been domiciled in the state for a period of at least one year within the five-year period before the student graduates from high school, and who enrolls in a public institution of higher education within six months of leaving high school, for as long as the student remains continuously enrolled for three quarters or two semesters in any calendar year;

(e) Any person who has completed the full senior year of high school and obtained a high school diploma, both at a Washington public high school or private high school approved under chapter 28A.195 RCW, or a person who has received the equivalent of a diploma; who has lived in Washington for at least three years immediately prior to receiving the diploma or its equivalent; who has continuously lived in the state of Washington after receiving the diploma or its equivalent and until such time as the individual is admitted to an institution of higher education under subsection (1) of this section; and who provides to the institution an affidavit indicating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so and a willingness to engage in any other activities necessary to acquire citizenship, including but not limited to citizenship or civics review courses;

(f) Any person who has lived in Washington, primarily for purposes other than educational, for at least one year immediately before the date on which the person has enrolled in an institution, and who holds lawful nonimmigrant status pursuant to 8 U.S.C. Sec. (a)(15) (E)(iii), (H)(i), or (L), or who holds lawful nonimmigrant status as the spouse or child of a person having nonimmigrant status under one of those subsections, or who, holding or having previously held such lawful nonimmigrant status as a principal or derivative, has filed an application for adjustment of status pursuant to 8 U.S.C. Sec. 1255(a);

(g) A student who is on active military duty stationed in the state or who is a member of the Washington national guard;

(h) A student who is on active military duty or a member of the national guard who entered service as a Washington resident and who has maintained Washington as his or her domicile but is not stationed in the state;

(i) A student who is the spouse or a dependent of a person who is on active military duty or a member of the national guard who entered service as a Washington resident and who has maintained Washington as his or her domicile but is not stationed in the state. If the person on active military duty is reassigned out-of-state, the student maintains the status as a resident student so long as the student is continuously enrolled in a degree program;

(j) A student who resides in the state of Washington and is the spouse or a dependent of a person who is a member of the Washington national guard;

(k) A student who has separated from the military under honorable conditions after at least two years of service, and who enters an institution of higher education in Washington within one year of the date of separation who:

(i) At the time of separation designated Washington as his or her intended domicile; or

(ii) Has Washington as his or her official home of record; or

(iii) Moves to Washington and establishes a domicile as determined in RCW 28B.15.013;

(l) A student who is the spouse or a dependent of an individual who has separated from the military under honorable conditions after at least two years of service who:

(i) At the time of discharge designates Washington as his or her intended domicile; and

(ii) Has Washington as his or her primary domicile as determined in RCW 28B.15.013; and

(iii) Enters an institution of higher education in Washington within one year of the date of discharge;

(m) A student of an out-of-state institution of higher education who is attending a Washington state institution of higher education pursuant to a home tuition agreement as described in RCW 28B.15.725;

(n) A student who meets the requirements of RCW 28B.15.0131: PROVIDED, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for primarily educational purposes, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that the student has in fact established a bona fide domicile in this state primarily for purposes other than educational;

(o) A student who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington; or

(p) A student who resides in Washington and is the spouse or a dependent of a person who resides in Washington and is on active military duty stationed in the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington. If the person on active military duty moves from Washington or is reassigned out of the Oregon counties of Columbia, Gilliam, Hood River, Multnomah, Clatsop, Clackamas, Morrow, Sherman, Umatilla, Union, Wallowa, Wasco, or Washington, the student maintains the status as a resident student so

long as the student resides in Washington and is continuously enrolled in a degree program.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of this section and RCW 28B.15.013. Except for students qualifying under subsection (2)(e) or (m) of this section, a nonresident student shall include:

(a) A student attending an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof, such nonresidency continuing for one year after the completion of such semester or quarter.

(b) A person who is not a citizen of the United States of America who does not have permanent or temporary resident status or does not hold "Refugee-Parolee" or "Conditional Entrant" status with the United States citizenship immigration services or is not otherwise permanently residing in the United States under color of law and who does not also meet and comply with all the applicable requirements in this section and RCW 28B.15.013.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where the student intends to remain, and to which the student expects to return when the student leaves without intending to establish a new domicile elsewhere. The burden of proof that a student, parent or guardian has established a domicile in the state of Washington primarily for purposes other than educational lies with the student.

(5) The term "dependent" shall mean a person who is not financially independent. Factors to be considered in determining whether a person is financially independent shall be set forth in rules adopted by the student achievement council and shall include, but not be limited to, the state and federal income tax returns of the person and/or the student's parents or legal guardian filed for the calendar year prior to the year in which application is made and such other evidence as the council may require.

(6) The term "active military duty" means the person is serving on active duty in:

(a) The armed forces of the United States government; or

(b) The Washington national guard; or

(c) The coast guard, merchant mariners, or other nonmilitary organization when such service is recognized by the United States government as equivalent to service in the armed forces.

Sec. 208. RCW 28B.15.014 and 2000 c 117 s 3 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges may exempt the following nonresidents from paying all or a portion of the nonresident tuition fees differential:

(1) Any person who resides in the state of Washington and who holds a graduate service appointment designated as such by a public institution of higher education or is employed for an academic department in support of the instructional or research programs involving not less than twenty hours per week during the term such person shall hold such appointment.

(2) Any faculty member, classified staff member or administratively exempt employee holding not less than a half time appointment at an institution who

resides in the state of Washington, and the dependent children and spouse of such persons.

(3) Any immigrant refugee and the spouse and dependent children of such refugee, if the refugee (a) is on parole status, or (b) has received an immigrant visa, or (c) has applied for United States citizenship.

(4) Any dependent of a member of the United States congress representing the state of Washington.

Sec. 209. RCW 28B.15.025 and 1985 c 390 s 12 are each amended to read as follows:

The term "building fees" means the fees charged students registering at the state's colleges and universities, which fees are to be used as follows: At the University of Washington, solely for the purposes provided in RCW 28B.15.210; at Washington State University, solely for the purposes provided in RCW 28B.15.310; at each of the regional universities and at The Evergreen State College, solely for the purposes provided in RCW 28B.35.370; and at the community and technical colleges, for the purposes provided in RCW 28B.50.320, 28B.50.360 and 28B.50.370. The term "building fees" is a renaming of the "general tuition fee," and shall not be construed to affect otherwise moneys pledged to, or used for bond retirement purposes.

Sec. 210. RCW 28B.15.041 and 1985 c 390 s 14 are each amended to read as follows:

The term "services and activities fees" as used in this chapter is defined to mean fees, other than tuition fees, charged to all students registering at the state's community colleges, technical colleges, regional universities, The Evergreen State College, and state universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's community colleges, technical colleges, The Evergreen State College, the regional universities, or the state universities for the express purpose of funding student activities and programs of their particular institution. Student activity fees, student use fees, student building use fees, special student fees, or other similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges or universities and pledged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 as now or hereafter amended, shall be included within and deemed to be services and activities fees.

Sec. 211. RCW 28B.15.067 and 2013 2nd sp.s. c 4 s 958 are each amended to read as follows:

(1) Tuition fees shall be established under the provisions of this chapter.

(2) Beginning in the 2011-12 academic year, reductions or increases in full-time tuition fees shall be as provided in the omnibus appropriations act for resident undergraduate students at community and technical colleges. The governing boards of the state universities, regional universities, and The Evergreen State College; and the state board for community and technical colleges may reduce or increase full-time tuition fees for all students other than resident undergraduates, including nonresident students, summer school students, and students in other self-supporting degree programs. Percentage

increases in full-time tuition may exceed the fiscal growth factor. Except during the 2013-2015 fiscal biennium, the state board for community and technical colleges may pilot or institute differential tuition models. The board may define scale, scope, and rationale for the models.

(3)(a) Beginning with the 2011-12 academic year and through the end of the 2014-15 academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College may reduce or increase full-time tuition fees for all students, including summer school students and students in other self-supporting degree programs. Percentage increases in full-time tuition fees may exceed the fiscal growth factor. Reductions or increases may be made for all or portions of an institution's programs, campuses, courses, or students; however, during the 2013-2015 fiscal biennium, reductions or increases in tuition must be uniform among resident undergraduate students.

(b) Prior to reducing or increasing tuition for each academic year, the governing boards of the state universities, the regional universities, and The Evergreen State College shall consult with existing student associations or organizations with student undergraduate and graduate representatives regarding the impacts of potential tuition increases. Each governing board shall make public its proposal for tuition and fee increases twenty-one days before the governing board of the institution considers adoption and allow opportunity for public comment. However, the requirement to make public a proposal for tuition and fee increases twenty-one days before the governing board considers adoption shall not apply if the omnibus appropriations act has not passed the legislature by May 15th. Governing boards shall be required to provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(c) Prior to reducing or increasing tuition for each academic year, the state board for community and technical college system shall consult with existing student associations or organizations with undergraduate student representation regarding the impacts of potential tuition increases. The state board for community and technical colleges shall provide data regarding the percentage of students receiving financial aid, the sources of aid, and the percentage of total costs of attendance paid for by aid.

(4) Beginning with the 2015-16 academic year through the 2018-19 academic year, the governing boards of the state universities, regional universities, and The Evergreen State College may set tuition for resident undergraduates as follows:

(a) If state funding for a college or university falls below the state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection, reduce enrollments, or both;

(b) If state funding for a college or university is at least at the level of state funding provided in the operating budget for fiscal year 2011, the governing board may increase tuition up to the limits set in (d) of this subsection and shall continue to at least maintain the actual enrollment levels for fiscal year 2011 or increase enrollments as required in the omnibus appropriations act;

(c) If state funding is increased so that combined with resident undergraduate tuition the sixtieth percentile of the total per-student funding at similar public institutions of higher education in the global challenge states

under RCW 28B.15.068 is exceeded, the governing board shall decrease tuition by the amount needed for the total per-student funding to be at the sixtieth percentile under RCW 28B.15.068; and

(d) The amount of tuition set by the governing board for an institution under this subsection (4) may not exceed the sixtieth percentile of the resident undergraduate tuition of similar public institutions of higher education in the global challenge states.

(5) The tuition fees established under this chapter shall not apply to high school students enrolling in participating institutions of higher education under RCW 28A.600.300 through 28A.600.400.

(6) The tuition fees established under this chapter shall not apply to eligible students enrolling in a dropout reengagement program through an interlocal agreement between a school district and a community or technical college under RCW 28A.175.100 through 28A.175.110.

~~(7) ((The tuition fees established under this chapter shall not apply to eligible students enrolling in a community or technical college participating in the pilot program under RCW 28B.50.534 for the purpose of obtaining a high school diploma.~~

~~(8))~~ Beginning in the 2019-20 academic year, reductions or increases in full-time tuition fees for resident undergraduates at four-year institutions of higher education shall be as provided in the omnibus appropriations act.

~~((9))~~ (8) The legislative advisory committee to the committee on advanced tuition payment established in RCW 28B.95.170 shall:

(a) Review the impact of differential tuition rates on the funded status and future unit price of the Washington advanced college tuition payment program; and

(b) No later than January 14, 2013, make a recommendation to the appropriate policy and fiscal committees of the legislature regarding how differential tuition should be addressed in order to maintain the ongoing solvency of the Washington advanced college tuition payment program.

Sec. 212. RCW 28B.15.069 and 2013 2nd sp.s. c 4 s 959 are each amended to read as follows:

(1) The building fee for each academic year shall be a percentage of total tuition fees. This percentage shall be calculated by the office of financial management and be based on the actual percentage the building fee is of total tuition for each tuition category in the 1994-95 academic year, rounded up to the nearest half percent.

(2) The governing boards of each institution of higher education, ~~((except for the technical colleges,))~~ shall charge to and collect from each student a services and activities fee. A governing board may increase the existing fee annually, consistent with budgeting procedures set forth in RCW 28B.15.045, by a percentage not to exceed the annual percentage increase in student tuition fees for resident undergraduate students: PROVIDED, That such percentage increase shall not apply to that portion of the services and activities fee previously committed to the repayment of bonded debt. These rate adjustments may exceed the fiscal growth factor. For the 2013-2015 fiscal biennium, each governing board is authorized to increase the services and activities fees by amounts judged reasonable and necessary by the services and activities fee committee and the governing board consistent with the budgeting procedures set forth in RCW

28B.15.045. The services and activities fee committee provided for in RCW 28B.15.045 may initiate a request to the governing board for a fee increase.

(3) Tuition and services and activities fees consistent with subsection (2) of this section shall be set by the state board for community and technical colleges for community and technical college summer school students unless the ~~((community))~~ college charges fees in accordance with RCW 28B.15.515.

(4) Subject to the limitations of RCW 28B.15.910, each governing board of a community or technical college may charge such fees for ungraded courses, noncredit courses, community services courses, and self-supporting courses as it, in its discretion, may determine, consistent with the rules of the state board for community and technical colleges.

(5) The governing board of a college offering an applied baccalaureate degree program under RCW 28B.50.810 may charge tuition fees for those courses above the associate degree level at rates consistent with rules adopted by the state board for community and technical colleges, not to exceed tuition fee rates at the regional universities.

Sec. 213. RCW 28B.15.100 and 2011 1st sp.s. c 11 s 151 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges shall charge to and collect from each of the students registering at the particular institution for any quarter or semester such tuition fees and services and activities fees, and other fees as such board shall in its discretion determine. For the governing boards of the state universities, the regional universities, and The Evergreen State College, the total of all fees shall be rounded to the nearest whole dollar amount: PROVIDED, That such tuition fees shall be established in accordance with RCW 28B.15.067.

(2) Part-time students shall be charged tuition and services and activities fees proportionate to full-time student rates established for residents and nonresidents: PROVIDED, That except for students registered at community and technical colleges, students registered for fewer than two credit hours shall be charged tuition and services and activities fees at the rate established for two credit hours: PROVIDED FURTHER, That, subject to the limitations of RCW 28B.15.910, residents of Idaho or Oregon who are enrolled in community college district number twenty for six or fewer credits during any quarter or semester may be exempted from payment of all or a portion of the nonresident tuition fees differential upon a declaration by the office of student financial assistance that it finds Washington residents from the community college district are afforded substantially equivalent treatment by such other states.

(3) Full-time students registered for more than eighteen credit hours shall be charged an additional operating fee for each credit hour in excess of eighteen hours at the applicable established per credit hour tuition fee rate for part-time students: PROVIDED, That, subject to the limitations of RCW 28B.15.910, the governing boards of the state universities and the community and technical colleges may exempt all or a portion of the additional charge, for students who are registered exclusively in first professional programs in medicine, dental medicine, veterinary medicine, doctor of pharmacy, or law, or who are registered exclusively in required courses in vocational preparatory programs.

Sec. 214. RCW 28B.15.385 and 2008 c 188 s 2 are each amended to read as follows:

For the purposes of RCW 28B.15.380 (~~and 28B.15.520~~), the phrase "totally disabled" means a person who has become totally and permanently disabled for life by bodily injury or disease, and is thereby prevented from performing any occupation or gainful pursuit.

Sec. 215. RCW 28B.15.395 and 2013 c 175 s 11 are each amended to read as follows:

(1) Subject to the conditions in subsection (2) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, must waive all tuition and fees for the following persons:

(a) A wrongly convicted person; and

(b) Any child or stepchild of a wrongly convicted person who was born or became the stepchild of, or was adopted by, the wrongly convicted person before compensation is awarded under RCW 4.100.060.

(2) The following conditions apply to waivers under subsection (1) of this section:

(a) A wrongly convicted person must be a Washington domiciliary to be eligible for the tuition waiver.

(b) A child must be a Washington domiciliary ages seventeen through twenty-six years to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (1) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (1) of this section may attend full time or part time. Total credits earned using the waiver may not exceed two hundred quarter credits, or the equivalent of semester credits.

(3) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms of this section.

(4) For the purposes of this section:

(a) "Child" means a biological child, stepchild, or adopted child who was born of, became the stepchild of, or was adopted by a wrongly convicted person before compensation is awarded under RCW 4.100.060.

(b) "Fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(c) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. In ascertaining whether a wrongly convicted person or child is domiciled in the state of Washington, public institutions of higher education must, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(d) "Wrongly convicted person" means a Washington domiciliary who was awarded damages under RCW 4.100.060.

Sec. 216. RCW 28B.15.515 and 1993 sp.s. c 18 s 13 and 1993 sp.s. c 15 s 8 are each reenacted and amended to read as follows:

(1) The boards of trustees of the community and technical college districts may operate summer schools on either a self-supporting or a state-funded basis.

If summer school is operated on a self-supporting basis, the fees charged shall be retained by the colleges, and shall be sufficient to cover the direct costs, which are instructional salaries and related benefits, supplies, publications, and records.

Community and technical colleges that have self-supporting summer schools shall continue to receive general fund state support for vocational programs that require that students enroll in a four quarter sequence of courses that includes summer quarter due to clinical or laboratory requirements and for ungraded courses limited to adult basic education, vocational apprenticeship, aging and retirement, small business management, industrial first aid, and parent education.

(2) The board of trustees of a community or technical college district may permit the district's state-funded, full-time equivalent enrollment level, as provided in the omnibus state appropriations act, to vary. If the variance is above the state-funded level, the district may charge those students above the state-funded level a fee equivalent to the amount of tuition and fees that are charged students enrolled in state-funded courses. These fees shall be retained by the colleges.

(3) The state board for community and technical colleges shall ensure compliance with this section.

Sec. 217. RCW 28B.15.520 and 2010 c 261 s 5 are each amended to read as follows:

Subject to the limitations of RCW 28B.15.910, the governing boards of the community and technical colleges (~~(may)~~):

(1)(~~(a)~~) May waive all or a portion of tuition fees and services and activities fees for(~~:~~

(~~(i)~~)students nineteen years of age or older who are eligible for resident tuition and fee rates as defined in RCW 28B.15.012 through 28B.15.015, who enroll in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, but who are not eligible students as defined by RCW 28A.600.405; (~~(and)~~)

(2)(a) Shall waive all of tuition fees and services and activities fees for:

(~~(i)~~) (i) Children of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state: PROVIDED, That such persons may receive the waiver only if they begin their course of study at a community or technical college within ten years of their graduation from high school; and

(~~(ii)~~) (ii) Surviving spouses of any law enforcement officer as defined in chapter 41.26 RCW, firefighter as defined in chapter 41.26 or 41.24 RCW, or Washington state patrol officer who lost his or her life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state.

(b) For the purposes of this section, "totally disabled" means a person who has become totally and permanently disabled for life by bodily injury or disease, and is thereby prevented from performing any occupation or gainful pursuit.

(c) The governing boards of the community and technical colleges shall report to the state board for community and technical colleges on the annual cost of tuition fees and services and activities fees waived for surviving spouses and children under ~~((parts (a)(ii) and (iii)))~~ (a) of this subsection. The state board for community and technical colleges shall consolidate the reports of the waived fees and annually report to the appropriate fiscal and policy committees of the legislature; and

~~((2))~~ (3) May waive all or a portion of the nonresident tuition fees differential for:

(a) Nonresident students enrolled in a community or technical college course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate but who are not eligible students as defined by RCW 28A.600.405. The waiver shall be in effect only for those courses which lead to a high school diploma or certificate; and

(b) Up to forty percent of the students enrolled in the regional education program for deaf students, subject to federal funding of such program.

Sec. 218. RCW 28B.15.522 and 1993 sp.s. c 18 s 17 are each amended to read as follows:

(1) The governing boards of the community and technical colleges may waive all or a portion of the tuition and services and activities fees for persons under subsection (2) of this section pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and new course sections shall not be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics which would affect budgetary determinations; and

(c) Persons who enroll under this section shall have the same access to support services as do all other students and shall be subject to all course prerequisite requirements.

(2) A person is eligible for the waiver under subsection (1) of this section if the person:

(a) Meets the requirements for a resident student under RCW 28B.15.011 through 28B.15.015;

(b) Is twenty-one years of age or older;

(c) At the time of initial enrollment under subsection (1) of this section, has not attended an institution of higher education for the previous six months;

(d) Is not receiving or is not entitled to receive unemployment compensation of any nature under Title 50 RCW; and

(e) Has an income at or below the need standard established under chapter 74.04 RCW by the department of social and health services.

(3) The state board for community and technical colleges shall adopt rules to carry out this section.

Sec. 219. RCW 28B.15.543 and 2011 1st sp.s. c 11 s 152 are each amended to read as follows:

~~((1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and~~

~~the community colleges shall waive tuition and service and activities fees for students named by the office of student financial assistance on or before June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150. The waivers shall be used only for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible to receive a maximum of twelve quarters or eight semesters of waivers and may transfer among state supported institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state supported institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the office of student financial assistance which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.~~

(2)) Students named by the office of student financial assistance after June 30, 1994, as recipients of the Washington scholars award under RCW 28A.600.100 through 28A.600.150 shall be eligible to receive a grant for undergraduate coursework as authorized under RCW 28B.76.660.

Sec. 220. RCW 28B.15.545 and 2004 c 275 s 50 are each amended to read as follows:

~~((1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community colleges shall waive tuition and services and activities fees for a maximum of two years for those recipients of the Washington award for vocational excellence established under RCW 28C.04.520 through 28C.04.540 who received their awards before June 30, 1994. Each recipient shall not receive a waiver for more than six quarters or four semesters. To qualify for the waiver, recipients shall enter the college or university within three years of receiving the award. A minimum grade point average at the college or university equivalent to 3.00, or an above average rating at a technical college, shall be required in the first year to qualify for the second year waiver. The tuition waiver shall be granted for undergraduate studies only.~~

(2)) Students named by the workforce training and education coordinating board after June 30, 1994, as recipients of the Washington award for vocational excellence under RCW 28C.04.520 through 28C.04.550 shall be eligible to receive a grant for undergraduate coursework as authorized under RCW 28B.76.670.

Sec. 221. RCW 28B.15.558 and 2007 c 461 s 1 are each amended to read as follows:

(1) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges may waive all or a portion of the tuition and services and activities fees for state employees as defined under subsection (2) of this section and teachers and other certificated instructional staff under subsection (3) of this section. The enrollment of these persons is pursuant to the following conditions:

(a) Such persons shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on persons registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such persons be considered in any enrollment statistics that would affect budgetary determinations; and

(c) Persons registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means persons employed half-time or more in one or more of the following employee classifications:

(a) Permanent employees in classified service under chapter 41.06 RCW;

(b) Permanent employees governed by chapter 41.56 RCW pursuant to the exercise of the option under RCW 41.56.201;

(c) Permanent classified employees and exempt paraprofessional employees of technical colleges; and

(d) Faculty, counselors, librarians, and exempt professional and administrative employees at institutions of higher education as defined in RCW 28B.10.016.

(3) The waivers available to state employees under this section shall also be available to teachers and other certificated instructional staff employed at public common and vocational schools, holding or seeking a valid endorsement and assignment in a state-identified shortage area.

(4) In awarding waivers, an institution of higher education may award waivers to eligible persons employed by the institution before considering waivers for eligible persons who are not employed by the institution.

(5) If an institution of higher education exercises the authority granted under this section, it shall include all eligible state employees in the pool of persons eligible to participate in the program.

(6) In establishing eligibility to receive waivers, institutions of higher education may not discriminate between full-time employees and employees who are employed half-time or more.

Sec. 222. RCW 28B.15.621 and 2009 c 316 s 1 are each amended to read as follows:

(1) The legislature finds that active military and naval veterans, reserve military and naval veterans, and national guard members called to active duty have served their country and have risked their lives to defend the lives of all Americans and the freedoms that define and distinguish our nation. The legislature intends to honor active military and naval veterans, reserve military and naval veterans, and national guard members who have served on active military or naval duty for the public service they have provided to this country.

(2) Subject to the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for an eligible veteran or national guard member.

(3) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, may waive all or a portion of tuition and fees for a military or naval veteran who is a

Washington domiciliary, but who did not serve on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters and who does not qualify as an eligible veteran or national guard member under subsection (8) of this section. However, there shall be no state general fund support for waivers granted under this subsection.

(4) Subject to the conditions in subsection (5) of this section and the limitations in RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, shall waive all tuition and fees for the following persons:

(a) A child and the spouse or the domestic partner or surviving spouse or surviving domestic partner of an eligible veteran or national guard member who became totally disabled as a result of serving in active federal military or naval service, or who is determined by the federal government to be a prisoner of war or missing in action; and

(b) A child and the surviving spouse or surviving domestic partner of an eligible veteran or national guard member who lost his or her life as a result of serving in active federal military or naval service.

(5) The conditions in this subsection (5) apply to waivers under subsection (4) of this section.

(a) A child must be a Washington domiciliary between the age of seventeen and twenty-six to be eligible for the tuition waiver. A child's marital status does not affect eligibility.

(b)(i) A surviving spouse or surviving domestic partner must be a Washington domiciliary.

(ii) Except as provided in (b)(iii) of this subsection, a surviving spouse or surviving domestic partner has ten years from the date of the death, total disability, or federal determination of prisoner of war or missing in action status of the eligible veteran or national guard member to receive benefits under the waiver. Upon remarriage or registration in a subsequent domestic partnership, the surviving spouse or surviving domestic partner is ineligible for the waiver of all tuition and fees.

(iii) If a death results from total disability, the surviving spouse has ten years from the date of death in which to receive benefits under the waiver.

(c) Each recipient's continued participation is subject to the school's satisfactory progress policy.

(d) Tuition waivers for graduate students are not required for those who qualify under subsection (4) of this section but are encouraged.

(e) Recipients who receive a waiver under subsection (4) of this section may attend full-time or part-time. Total credits earned using the waiver may not exceed two hundred quarter credits, or the equivalent of semester credits.

(6) Required waivers of all tuition and fees under subsection (4) of this section shall not affect permissive waivers of tuition and fees under subsection (3) of this section.

(7) Private vocational schools and private higher education institutions are encouraged to provide waivers consistent with the terms in subsections (2) through (5) of this section.

(8) The definitions in this subsection apply throughout this section.

(a) "Child" means a biological child, adopted child, or stepchild.

(b) "Eligible veteran or national guard member" means a Washington domiciliary who was an active or reserve member of the United States military or naval forces, or a national guard member called to active duty, who served in active federal service, under either Title 10 or Title 32 of the United States Code, in a war or conflict fought on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters, and if discharged from service, has received an honorable discharge.

(c) "Totally disabled" means a person who has been determined to be one hundred percent disabled by the federal department of veterans affairs.

(d) "Washington domiciliary" means a person whose true, fixed, and permanent house and place of habitation is the state of Washington. "Washington domiciliary" includes a person who is residing in rental housing or residing in base housing. In ascertaining whether a child or surviving spouse or surviving domestic partner is domiciled in the state of Washington, public institutions of higher education shall, to the fullest extent possible, rely upon the standards provided in RCW 28B.15.013.

(9) As used in subsection (4) of this section, "fees" includes all assessments for costs incurred as a condition to a student's full participation in coursework and related activities at an institution of higher education.

(10) The governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges shall report to the higher education committees of the legislature by November 15, 2010, and every two years thereafter, regarding the status of implementation of the waivers under subsection (4) of this section. The reports shall include the following data and information:

- (a) Total number of waivers;
- (b) Total amount of tuition waived;
- (c) Total amount of fees waived;
- (d) Average amount of tuition and fees waived per recipient;
- (e) Recipient demographic data that is disaggregated by distinct ethnic categories within racial subgroups; and
- (f) Recipient income level, to the extent possible.

Sec. 223. RCW 28B.15.740 and 1997 c 207 s 1 are each amended to read as follows:

(1) Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges may waive all or a portion of tuition and fees for needy students who are eligible for resident tuition and fee rates pursuant to RCW 28B.15.012 and 28B.15.013. Subject to the limitations of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges may waive all or a portion of tuition and fees for other students at the discretion of the governing boards, except on the basis of participation in intercollegiate athletic programs, not to exceed three-fourths of one percent of gross authorized operating fees revenue under RCW 28B.15.910 for the community and technical colleges considered as a whole and not to exceed two percent of gross authorized operating fees revenue for the other institutions of higher education.

(2) In addition to the tuition and fee waivers provided in subsection (1) of this section and subject to the provisions of RCW 28B.15.455, 28B.15.460, and 28B.15.910, a total dollar amount of tuition and fee waivers awarded by any state university, regional university, or state college under this chapter, not to exceed one percent, as calculated in subsection (1) of this section, may be used for the purpose of achieving or maintaining gender equity in intercollegiate athletic programs. At any institution that has an underrepresented gender class in intercollegiate athletics, any such waivers shall be awarded:

(a) First, to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; and

(b) Second, (i) to nonmembers of the underrepresented gender class who participate in intercollegiate athletics, where such waivers result in saved or displaced money that can be used for athletic programs for members of the underrepresented gender class. Such saved or displaced money shall be used for programs for the underrepresented gender class; or (ii) to members of the underrepresented gender class who participate in intercollegiate athletics, where such waivers do not result in any saved or displaced money that can be used for athletic programs for members of the underrepresented gender class.

Sec. 224. RCW 28B.15.910 and 2008 c 188 s 3 are each amended to read as follows:

(1) For the purpose of providing state general fund support to public institutions of higher education, except for revenue waived under programs listed in subsections (3) and (4) of this section, and unless otherwise expressly provided in the omnibus state appropriations act, the total amount of operating fees revenue waived, exempted, or reduced by a state university, a regional university, The Evergreen State College, or the community and technical colleges as a whole, shall not exceed the percentage of total gross authorized operating fees revenue in this subsection. As used in this section, "gross authorized operating fees revenue" means the estimated gross operating fees revenue as estimated under RCW 82.33.020 or as revised by the office of financial management, before granting any waivers. This limitation applies to all tuition waiver programs established before or after July 1, 1992.

- (a) University of Washington 21 percent
- (b) Washington State University 20 percent
- (c) Eastern Washington University 11 percent
- (d) Central Washington University 10 percent
- (e) Western Washington University 10 percent
- (f) The Evergreen State College 10 percent
- (g) Community and technical colleges as a whole 35 percent

(2) The limitations in subsection (1) of this section apply to waivers, exemptions, or reductions in operating fees contained in the following:

- (a) RCW 28B.15.014;
- (b) RCW 28B.15.100;
- (c) RCW 28B.15.225;
- (d) RCW 28B.15.380;
- (e) RCW 28B.15.520;

- (f) RCW 28B.15.526;
- (g) RCW 28B.15.527;
- (h) ~~((RCW 28B.15.543;~~
- ~~(i) RCW 28B.15.545;~~
- ~~(j)) RCW 28B.15.555;~~
- ~~((k)) (i) RCW 28B.15.556;~~
- ~~((l)) (j) RCW 28B.15.615;~~
- ~~((m)) (k) RCW 28B.15.621 (2) and (4);~~
- ~~((n)) (l) RCW 28B.15.730;~~
- ~~((o)) (m) RCW 28B.15.740;~~
- ~~((p)) (n) RCW 28B.15.750;~~
- ~~((q)) (o) RCW 28B.15.756;~~
- ~~((r)) (p) RCW 28B.50.259; and~~
- ~~((s)) (q) RCW 28B.70.050.~~

(3) The limitations in subsection (1) of this section do not apply to waivers, exemptions, or reductions in services and activities fees contained in the following:

- (a) RCW 28B.15.522;
- (b) RCW 28B.15.540;
- (c) RCW 28B.15.558; and
- (d) RCW 28B.15.621(3).

(4) The total amount of operating fees revenue waived, exempted, or reduced by institutions of higher education participating in the western interstate commission for higher education western undergraduate exchange program under RCW 28B.15.544 shall not exceed the percentage of total gross authorized operating fees revenue in this subsection.

- (a) Washington State University 1 percent
- (b) Eastern Washington University 3 percent
- (c) Central Washington University 3 percent

(5) The institutions of higher education will participate in outreach activities to increase the number of veterans who receive tuition waivers. Colleges and universities shall revise the application for admissions so that all applicants shall have the opportunity to advise the institution that they are veterans who need assistance. If a person indicates on the application for admissions that the person is a veteran who is in need of assistance, then the institution of higher education shall ask the person whether they have any funds disbursed in accordance with the Montgomery GI Bill available to them. Each institution shall encourage veterans to utilize funds available to them in accordance with the Montgomery GI Bill prior to providing the veteran a tuition waiver.

Sec. 225. RCW 28B.15.915 and 2000 c 152 s 1 are each amended to read as follows:

In addition to waivers granted under the authority of RCW 28B.15.910, the governing boards of the state universities, the regional universities, The Evergreen State College, and the community and technical colleges, subject to state board policy, may waive all or a portion of the operating fees for any student. There shall be no state general fund support for waivers granted under this section.

By January 31st of each odd-numbered year, the institutions of higher education shall prepare a report of the costs and benefits of waivers granted

under chapter 152, Laws of 2000 and shall transmit copies of their report to the appropriate policy and fiscal committees of the legislature.

Sec. 226. RCW 28B.50.030 and 2012 c 229 s 536 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Adult education" means all education or instruction, including academic, vocational education or training, basic skills and literacy training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate. However, "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate, nor shall "adult education" include education or instruction provided by any four-year public institution of higher education.

(2) "Applied baccalaureate degree" means a baccalaureate degree awarded by a college under RCW 28B.50.810 for successful completion of a program of study that is:

(a) Specifically designed for individuals who hold an associate of applied science degree, or its equivalent, in order to maximize application of their technical course credits toward the baccalaureate degree; and

(b) Based on a curriculum that incorporates both theoretical and applied knowledge and skills in a specific technical field.

(3) "Board" means the workforce training and education coordinating board.

(4) "Board of trustees" means the local community and technical college board of trustees established for each college district within the state.

(5) "Center of excellence" means a community or technical college designated by the college board as a statewide leader in industryspecific, community and technical college workforce education and training.

(6) "College board" means the state board for community and technical colleges created by this chapter.

(7) "Common school board" means a public school district board of directors.

(8) "Community college" includes those higher education institutions that conduct education programs under RCW 28B.50.020.

(9) "Director" means the administrative director for the state system of community and technical colleges.

(10) "Dislocated forest product worker" means a forest products worker who: (a)(i) Has been terminated or received notice of termination from employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business' services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(11) "Dislocated salmon fishing worker" means a finfish products worker who: (a)(i) Has been terminated or received notice of termination from

employment and is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for his or her skills in that occupation or industry; or (ii) is self-employed and has been displaced from his or her business because of the diminishing demand for the business's services or goods; and (b) at the time of last separation from employment, resided in or was employed in a rural natural resources impact area.

(12) "District" means any one of the community and technical college districts created by this chapter.

(13) "Forest products worker" means a worker in the forest products industries affected by the reduction of forest fiber enhancement, transportation, or production. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries assigned the major group standard industrial classification codes "24" and "26" and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment. The commissioner may adopt rules further interpreting these definitions. For the purposes of this subsection, "standard industrial classification code" means the code identified in RCW 50.29.025(3).

(14) "High employer demand program of study" means an apprenticeship, or an undergraduate or graduate certificate or degree program in which the number of students prepared for employment per year from in-state institutions is substantially less than the number of projected job openings per year in that field, statewide or in a substate region.

(15) "K-12 system" means the public school program including kindergarten through the twelfth grade.

(16) "Occupational education" means education or training that will prepare a student for employment that does not require a baccalaureate degree, and education and training that will prepare a student for transfer to bachelor's degrees in professional fields, subject to rules adopted by the college board.

(17) "Qualified institutions of higher education" means:

(a) Washington public community and technical colleges;

(b) Private career schools that are members of an accrediting association recognized by rule of the student achievement council for the purposes of chapter 28B.92 RCW; and

(c) Washington state apprenticeship and training council-approved apprenticeship programs.

(18) "Rural natural resources impact area" means:

(a) A nonmetropolitan county, as defined by the 1990 decennial census, that meets three of the five criteria set forth in subsection (19) of this section;

(b) A nonmetropolitan county with a population of less than forty thousand in the 1990 decennial census, that meets two of the five criteria as set forth in subsection (19) of this section; or

(c) A nonurbanized area, as defined by the 1990 decennial census, that is located in a metropolitan county that meets three of the five criteria set forth in subsection (19) of this section.

(19) For the purposes of designating rural natural resources impact areas, the following criteria shall be considered:

(a) A lumber and wood products employment location quotient at or above the state average;

(b) A commercial salmon fishing employment location quotient at or above the state average;

(c) Projected or actual direct lumber and wood products job losses of one hundred positions or more;

(d) Projected or actual direct commercial salmon fishing job losses of one hundred positions or more; and

(e) An unemployment rate twenty percent or more above the state average. The counties that meet these criteria shall be determined by the employment security department for the most recent year for which data is available. For the purposes of administration of programs under this chapter, the United States post office five-digit zip code delivery areas will be used to determine residence status for eligibility purposes. For the purpose of this definition, a zip code delivery area of which any part is ten miles or more from an urbanized area is considered nonurbanized. A zip code totally surrounded by zip codes qualifying as nonurbanized under this definition is also considered nonurbanized. The office of financial management shall make available a zip code listing of the areas to all agencies and organizations providing services under this chapter.

(20) "Salmon fishing worker" means a worker in the finfish industry affected by 1994 or future salmon disasters. The workers included within this definition shall be determined by the employment security department, but shall include workers employed in the industries involved in the commercial and recreational harvesting of finfish including buying and processing finfish. The commissioner may adopt rules further interpreting these definitions.

(21) "System" means the state system of community and technical colleges, which shall be a system of higher education.

(22) "Technical college" includes those higher education institutions with the mission of conducting occupational education, basic skills, literacy programs, and offering on short notice, when appropriate, programs that meet specific industry needs. For purposes of this chapter, technical colleges shall include (~~Lake Washington Vocational-Technical Institute, Renton Vocational-Technical Institute, Bates Vocational-Technical Institute, Clover Park Vocational Institute, and Bellingham Vocational-Technical Institute~~) the following college districts as created in RCW 28B.50.040: The twenty-fifth college district, the twenty-sixth college district, the twenty-seventh college district, the twenty-eighth college district, and the twenty-ninth college district.

Sec. 227. RCW 28B.50.455 and 1991 c 238 s 158 are each amended to read as follows:

Each community and technical college shall (~~have written procedures which include provisions for the vocational education of individuals with disabilities. These written procedures shall include a plan to provide services to individuals with disabilities, a written plan of how the technical college will~~) comply with relevant (~~state and~~) federal requirements for (~~providing vocational education to individuals with disabilities, a written plan of how the technical college will provide on-site appropriate instructional support staff in compliance with P.L. 94142, and as since amended, and~~) implementing section 504 of the rehabilitation act of 1973, and as thereafter amended, Title VI of the

civil rights act of 1964, and as thereafter amended, and Title IX of education amendments of 1972, and as thereafter amended.

Sec. 228. RCW 28B.50.850 and 1991 c 238 s 67 are each amended to read as follows:

It shall be the purpose of RCW 28B.50.850 through 28B.50.869 to establish a system of faculty tenure which protects the concepts of faculty employment rights and faculty involvement in the protection of those rights in the state system of community and technical colleges. RCW 28B.50.850 through 28B.50.869 shall define a reasonable and orderly process for appointment of faculty members to tenure status and the dismissal of the tenured faculty member.

~~(Employees of the Seattle Vocational Institute are exempt from this section until July 1, 1993.)~~

Sec. 229. RCW 28B.50.851 and 1993 c 188 s 1 are each amended to read as follows:

As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2)(a) "Faculty appointment", except as otherwise provided in (b) of this subsection, shall mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian; faculty appointment shall also mean employment on a reduced work load basis when a faculty member has retained tenure under RCW 28B.50.859;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in (a) of this subsection, when such employment results from special funds provided to a community or technical college district from federal moneys or other special funds which other funds are designated as "special funds" by the college board: PROVIDED, That such "special funds" so designated by the college board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: PROVIDED FURTHER, That "faculty appointees" holding faculty appointments pursuant to subsections (1) or (2)(a) of this section who have been subsequently transferred to positions financed from "special funds" pursuant to (b) of this subsection and who thereafter lose their positions upon reduction or elimination of such "special funding" shall be entitled to be returned to previous status as faculty appointees pursuant to subsection (1) or (2)(a) of this section depending upon their status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or

reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers, a student representative, and the administrative staff of the community or technical college: PROVIDED, That the majority of the committee shall consist of the probationer's faculty peers.

Sec. 230. RCW 28B.50.862 and 1969 ex.s. c 283 s 40 are each amended to read as follows:

Sufficient cause shall also include aiding and abetting or participating in: (1) Any unlawful act of violence; (2) Any unlawful act resulting in destruction of community or technical college property; or (3) Any unlawful interference with the orderly conduct of the educational process.

Passed by the House March 2, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 56

[House Bill 1962]

COUNTY AUDITORS--PROCESS SERVERS--SOCIAL SECURITY NUMBERS

AN ACT Relating to disclosure of process server social security numbers; and adding a new section to chapter 36.22 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 36.22 RCW to read as follows:

(1) The legislature finds that the dissemination of social security numbers of process servers is not in the public interest.

(2) A county auditor collecting social security numbers from process servers required to register under RCW 18.180.010 shall not display or release a process server's social security number on any document or web site issued or maintained by the auditor. Social security numbers of process servers required to register under RCW 18.180.010 are confidential, are exempt from public inspection and copying, and shall not be disclosed except as otherwise explicitly required to be disclosed under federal law.

Passed by the House March 11, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 57

[Second Substitute House Bill 2040]

VETERANS--EMPLOYMENT

AN ACT Relating to increasing employment for veterans; adding a new section to chapter 73.16 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that veterans are national heroes who have made great sacrifices in their lives for the protection of our nation. The legislature recognizes that many of these veterans reside in Washington where there are a high number of military installations.

Over six hundred thousand veterans reside in Washington. The legislature finds that the unemployment rate among these veterans is of great concern, particularly among young veterans. In 2014, the unemployment rate for veterans between the ages of eighteen and twenty-five was approximately twenty-one percent, despite having such diverse and valued skill sets, including expertise in fields such as health care or technology, and strong discipline and leadership abilities.

The legislature recognizes the importance of facilitating and focusing on the hiring of our veterans.

For these reasons, the legislature intends to create a statewide campaign to increase veteran employment in Washington by engaging state agencies, local governments, and businesses.

NEW SECTION. Sec. 2. A new section is added to chapter 73.16 RCW to read as follows:

(1) The department of veterans affairs, employment security department, and department of commerce shall consult local chambers of commerce, associate development organizations, and businesses to initiate a demonstration campaign to increase veteran employment. This campaign may include partnerships with chambers of commerce that result in business owners sharing, with the local chamber of commerce, information on the number of veterans employed and the local chambers of commerce providing this information to the department of veterans affairs.

(2) Participants in the campaign are encouraged to work with the Washington state military transition council and county veterans' advisory boards as defined in RCW 73.08.035.

(3) Funding for the campaign shall be established from existing resources.

(4) For the purposes of this section, "veteran" means any veteran discharged under honorable conditions.

Passed by the House March 5, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015.

Filed in Office of Secretary of State April 22, 2015.

CHAPTER 58

[House Bill 2181]

HIGHWAYS--MAXIMUM SPEED LIMITS

AN ACT Relating to the maximum speed limit on highways; amending RCW 46.61.410; and creating a new section.

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

***NEW SECTION. Sec. 1.** *The legislature finds that there are portions of Interstate 90, and possibly other portions of the state highway system, upon which the current maximum speed limit could be increased from seventy miles per hour to seventy-five miles per hour, thereby decreasing the amount of travel time for the motoring public, without compromising safety. The legislature intends that the department of transportation conduct further investigation to determine the locations on Interstate 90 and potentially elsewhere upon which such greater speed is reasonable and safe and to modify the maximum speed limit accordingly.*

Sec. 1 was vetoed. See message at end of chapter.

Sec. 2. RCW 46.61.410 and 1996 c 52 s 1 are each amended to read as follows:

(1)(a) Subject to subsection (2) of this section the secretary may increase the maximum speed limit on any highway or portion thereof to not more than ((seventy)) seventy-five miles per hour in accordance with the design speed thereof (taking into account all safety elements included therein), or whenever the secretary determines upon the basis of an engineering and traffic investigation that such greater speed is reasonable and safe under the circumstances existing on such part of the highway.

(b) The greater maximum limit established under (a) of this subsection shall be effective when appropriate signs giving notice thereof are erected, or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(c) Such maximum speed limit may be declared to be effective at all times or at such times as are indicated upon said signs or in the case of auto stages, as indicated in said written notice; and differing limits may be established for different times of day, different types of vehicles, varying weather conditions, and other factors bearing on safe speeds, which shall be effective when posted upon appropriate fixed or variable signs or if a maximum limit is established for auto stages which is lower than the limit for automobiles, the auto stage speed limit shall become effective thirty days after written notice thereof is mailed in the manner provided in subsection (4) of this section.

(2) The maximum speed limit for vehicles over ten thousand pounds gross weight and vehicles in combination except auto stages shall not exceed sixty miles per hour and may be established at a lower limit by the secretary as provided in RCW 46.61.405.

(3) The word "trucks" used by the department on signs giving notice of maximum speed limits means vehicles over ten thousand pounds gross weight and all vehicles in combination except auto stages.

(4) Whenever the secretary establishes maximum speed limits for auto stages lower than the maximum limits for automobiles, the secretary shall cause to be mailed notice thereof to each auto transportation company holding a certificate of public convenience and necessity issued by the Washington utilities and transportation commission. The notice shall be mailed to the chief place of business within the state of Washington of each auto transportation company or if none then its chief place of business without the state of Washington.

Passed by the House March 9, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 22, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 22, 2015.

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

"I am returning herewith, without my approval as to Section 1, House Bill No. 2181 entitled:

"AN ACT Relating to the maximum speed limit on highways."

This bill presumes that there are portions of Interstate 90—and other portions of the state highway system—where the speed limit could be increased to 75 mph without compromising safety.

According to the Washington Traffic Safety Commission, speeding or driving too fast for conditions accounts for more than one-third of all deadly crashes in Washington. It's a fact that as vehicle speed increases, the amount of energy generated increases exponentially, and the risk of death and injury increases substantially as collision speed increases. Our state's Target Zero Plan aims to reduce traffic death and serious injuries to zero by 2030. Although the number of speeding-involved crashes is declining due to the Target Zero program, there are still far too many people dying on our roadways. An increase in allowable speeds *before* a thorough safety assessment is performed is simply premature.

Therefore, I am vetoing Section 1 of House Bill 2181.

However, I am directing the Department of Transportation to consult with the Traffic Safety Commission and the State Patrol to assess whether the speed limit could be increased without any compromise in safety.

Moreover, I strongly encourage the Legislature to reconsider the Traffic Safety Commission's distracted driving bill in the upcoming session as a way to further reduce traffic fatalities. It's vital that we make progress improving safety this year.

For these reasons I have vetoed Section 1 of House Bill No. 2181.

With the exception of Section 1, House Bill No. 2181 is approved."

CHAPTER 59

[House Bill 1004]

ALCOHOL TASTING--STUDENTS UNDER TWENTY-ONE

AN ACT Relating to alcohol tasting by students under twenty-one years of age; and amending RCW 66.20.010 and 66.44.270.

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

Sec. 1. RCW 66.20.010 and 2013 c 59 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to

potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030, a regional university, or a state university;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, sommelier, wine business, enology, viticulture, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) shall be waived by the board.

Sec. 2. RCW 66.44.270 and 2013 c 112 s 2 are each amended to read as follows:

(1) It is unlawful for any person to sell, give, or otherwise supply liquor to any person under the age of twenty-one years or permit any person under that age to consume liquor on his or her premises or on any premises under his or her control. For the purposes of this subsection, "premises" includes real property, houses, buildings, and other structures, and motor vehicles and watercraft. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(2)(a) It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor. A violation of this subsection is a gross misdemeanor punishable as provided for in chapter 9A.20 RCW.

(b) It is unlawful for a person under the age of twenty-one years to be in a public place, or to be in a motor vehicle in a public place, while exhibiting the effects of having consumed liquor. For purposes of this subsection, exhibiting the effects of having consumed liquor means that a person has the odor of liquor on his or her breath and either: (i) Is in possession of or close proximity to a container that has or recently had liquor in it; or (ii) by speech, manner, appearance, behavior, lack of coordination, or otherwise, exhibits that he or she is under the influence of liquor. This subsection (2)(b) does not apply if the person is in the presence of a parent or guardian or has consumed or is consuming liquor under circumstances described in subsection (4), (5), or ~~((6))~~ (7) of this section.

(3) Subsections (1) and (2)(a) of this section do not apply to liquor given or permitted to be given to a person under the age of twenty-one years by a parent or guardian and consumed in the presence of the parent or guardian. This subsection shall not authorize consumption or possession of liquor by a person under the age of twenty-one years on any premises licensed under chapter 66.24 RCW.

(4) This section does not apply to liquor given for medicinal purposes to a person under the age of twenty-one years by a parent, guardian, physician, or dentist.

(5) This section does not apply to liquor given to a person under the age of twenty-one years when such liquor is being used in connection with religious services and the amount consumed is the minimal amount necessary for the religious service.

(6) This section does not apply to liquor provided to students under twenty-one years of age in accordance with a special permit issued under RCW 66.20.010(12).

(7)(a) A person under the age of twentyone years acting in good faith who seeks medical assistance for someone experiencing alcohol poisoning shall not be charged or prosecuted under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the person seeking medical assistance.

(b) A person under the age of twentyone years who experiences alcohol poisoning and is in need of medical assistance shall not be charged or prosecuted

under subsection (2)(a) of this section, if the evidence for the charge was obtained as a result of the poisoning and need for medical assistance.

(c) The protection in this subsection shall not be grounds for suppression of evidence in other criminal charges.

~~((7))~~ (8) Conviction or forfeiture of bail for a violation of this section by a person under the age of twenty-one years at the time of such conviction or forfeiture shall not be a disqualification of that person to acquire a license to sell or dispense any liquor after that person has attained the age of twenty-one years.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 60

[Substitute House Bill 1045]

EAST ASIAN MEDICINE--ADVISORY COMMITTEE--EMERGENCY PROCEDURES

AN ACT Relating to the practice of East Asian medicine; amending RCW 18.06.140; and adding a new section to chapter 18.06 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.06 RCW to read as follows:

The Washington state East Asian medicine advisory committee is established.

(1) The committee consists of five members, each of whom must be a resident of the state of Washington. Four committee members must be East Asian medicine practitioners licensed under this chapter who have not less than five years' experience in the practice of East Asian medicine and who have been actively engaged in practice within two years of appointment. The fifth committee member must be appointed from the public at large and must have an interest in the rights of consumers of health services.

(2) The secretary shall appoint the committee members. Committee members serve at the pleasure of the secretary. The secretary may appoint members of the initial committee to staggered terms of one to three years, and thereafter all terms are for three years. No member may serve more than two consecutive full terms.

(3) The committee shall meet as necessary, but no less often than once per year. The committee shall elect a chair and a vice chair. A majority of the members currently serving constitutes a quorum.

(4) The committee shall advise and make recommendations to the secretary on standards for the practice of East Asian medicine.

(5) Committee members must be compensated in accordance with RCW 43.03.240, including travel expenses in carrying out his or her authorized duties in accordance with RCW 43.03.050 and 43.03.060.

(6) Committee members are immune from suit in an action, civil or criminal, based on the department's disciplinary proceedings or other official acts performed in good faith.

Sec. 2. RCW 18.06.140 and 2010 c 286 s 9 are each amended to read as follows:

~~(1) (Every person licensed under this chapter shall develop a written plan for consultation, emergency transfer, and referral to other health care practitioners operating within the scope of their authorized practices. The written plan shall be submitted with the initial application for licensure as well as annually thereafter with the license renewal fee to the department. The department may withhold licensure or renewal of licensure if the plan fails to meet the standards contained in rules adopted by the secretary.~~

(2)) When a person licensed under this chapter sees patients with potentially serious disorders such as cardiac conditions, acute abdominal symptoms, and such other conditions, the practitioner shall immediately request a consultation or recent written diagnosis from a primary health care provider licensed under chapter 18.71, 18.57, 18.57A, 18.36A, or 18.71A RCW or RCW 18.79.050. In the event that the patient with the disorder refuses to authorize such consultation or provide a recent diagnosis from such primary health care provider, East Asian medical treatments, including acupuncture, may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an East Asian medicine practitioner's scope of practice, including the services and techniques East Asian medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an East Asian medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder. The requirements of the waiver shall be established by the secretary in rule.

(2) In an emergency, a person licensed under this chapter shall: (a) Initiate the emergency medical system by calling 911; (b) request an ambulance; and (c) provide patient support until emergency response arrives.

(3) A person violating this section is guilty of a misdemeanor.

Passed by the House February 9, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 61

[House Bill 1047]

STATE AGENCIES--CONTINUITY OF OPERATIONS PLAN

AN ACT Relating to the state agencies continuity of operations planning requirements; and amending RCW 38.52.010, 38.52.020, and 38.52.030.

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

Sec. 1. RCW 38.52.010 and 2007 c 292 s 1 are each amended to read as follows:

As used in this chapter:

(1) "Emergency management" or "comprehensive emergency management" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to

mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage, resulting from disasters caused by all hazards, whether natural, technological, or human caused, and to provide support for search and rescue operations for persons and property in distress. However, "emergency management" or "comprehensive emergency management" does not mean preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack.

(2) "Local organization for emergency services or management" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency management functions.

(3) "Political subdivision" means any county, city or town.

(4) "Emergency worker" means any person who is registered with a local emergency management organization or the department and holds an identification card issued by the local emergency management director or the department for the purpose of engaging in authorized emergency management activities or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency management activities.

(5) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency management activities.

(6)(a) "Emergency or disaster" as used in all sections of this chapter except RCW 38.52.430 shall mean an event or set of circumstances which: (i) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken community overtaken by such occurrences, or (ii) reaches such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010.

(b) "Emergency" as used in RCW 38.52.430 means an incident that requires a normal police, coroner, fire, rescue, emergency medical services, or utility response as a result of a violation of one of the statutes enumerated in RCW 38.52.430.

(7) "Search and rescue" means the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity any person who becomes lost, injured, or is killed while outdoors or as a result of a natural, technological, or human caused disaster, including instances involving searches for downed aircraft when ground personnel are used. Nothing in this section shall affect appropriate activity by the department of transportation under chapter 47.68 RCW.

(8) "Executive head" and "executive heads" means the county executive in those charter counties with an elective office of county executive, however designated, and, in the case of other counties, the county legislative authority. In the case of cities and towns, it means the mayor in those cities and towns with mayor-council or commission forms of government, where the mayor is directly elected, and it means the city manager in those cities and towns with council manager forms of government. Cities and towns may also designate an executive head for the purposes of this chapter by ordinance.

(9) "Director" means the adjutant general.

(10) "Local director" means the director of a local organization of emergency management or emergency services.

(11) "Department" means the state military department.

(12) "Emergency response" as used in RCW 38.52.430 means a public agency's use of emergency services during an emergency or disaster as defined in subsection (6)(b) of this section.

(13) "Expense of an emergency response" as used in RCW 38.52.430 means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising from the response to the particular incident. Reasonable costs shall include the costs of providing police, coroner, firefighting, rescue, emergency medical services, or utility response at the scene of the incident, as well as the salaries of the personnel responding to the incident.

(14) "Public agency" means the state, and a city, county, municipal corporation, district, town, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

(15) "Incident command system" means: (a) An all-hazards, on-scene functional management system that establishes common standards in organization, terminology, and procedures; provides a means (unified command) for the establishment of a common set of incident objectives and strategies during multiagency/multijurisdiction operations while maintaining individual agency/jurisdiction authority, responsibility, and accountability; and is a component of the national interagency incident management system; or (b) an equivalent and compatible all-hazards, on-scene functional management system.

(16) "Radio communications service company" has the meaning ascribed to it in RCW 82.14B.020.

(17) "Continuity of operations planning" means the internal effort of an organization to assure that the capability exists to continue essential functions and services in response to a comprehensive array of potential emergencies or disasters.

Sec. 2. RCW 38.52.020 and 1986 c 266 s 24 are each amended to read as follows:

(1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness as defined in RCW 38.52.010(6), and in order to insure that preparations of this state will be adequate to deal with such disasters, to insure the administration of state and federal programs providing disaster relief to individuals, and further to insure adequate support for search and rescue operations, and generally to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To provide for emergency management by the state, and to authorize the creation of local organizations for emergency management in the political subdivisions of the state;

(b) To confer upon the governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency management functions;

(d) To provide a means of compensating emergency management workers who may suffer any injury, as herein defined, or death; who suffer economic harm including personal property damage or loss; or who incur expenses for transportation, telephone or other methods of communication, and the use of personal supplies as a result of participation in emergency management activities; ~~((and))~~

(e) To provide programs, with intergovernmental cooperation, to educate and train the public to be prepared for emergencies; and

(f) To provide for the prioritization, development, and exercise of continuity of operations plans by the state.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency management functions of this state and its political subdivisions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

Sec. 3. RCW 38.52.030 and 1997 c 49 s 2 are each amended to read as follows:

(1) The director may employ such personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency management, as may be necessary to carry out the purposes of this chapter.

(2) The director, subject to the direction and control of the governor, shall be responsible to the governor for carrying out the program for emergency management of this state. The director shall coordinate the activities of all organizations for emergency management within the state, and shall maintain liaison with and cooperate with emergency management agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(3) The director shall develop and maintain a comprehensive, all-hazard emergency plan for the state which shall include an analysis of the natural, technological, or human caused hazards which could affect the state of Washington, and shall include the procedures to be used during emergencies for coordinating local resources, as necessary, and the resources of all state agencies, departments, commissions, and boards. The comprehensive emergency management plan shall direct the department in times of state emergency to administer and manage the state's emergency operations center. This will include representation from all appropriate state agencies and be available as a single point of contact for the authorizing of state resources or actions, including emergency permits. The comprehensive emergency management plan must specify the use of the incident command system for multiagency/multijurisdiction operations. The comprehensive, all-hazard emergency plan authorized under this subsection may not include preparation for emergency evacuation or relocation of residents in anticipation of nuclear attack. This plan shall be known as the comprehensive emergency management plan.

(4) In accordance with the comprehensive emergency management plans and the programs for the emergency management of this state, the director shall

procure supplies and equipment, institute training programs and public information programs, and shall take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(5) The director shall make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for emergency management, and shall plan for the most efficient emergency use thereof.

(6) The emergency management council shall advise the director on all aspects of the communications and warning systems and facilities operated or controlled under the provisions of this chapter.

(7) The director, through the state enhanced 911 coordinator, shall coordinate and facilitate implementation and operation of a statewide enhanced 911 emergency communications network.

(8) The director shall appoint a state coordinator of search and rescue operations to coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and on request to maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(9) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a natural, technological, or human caused disaster, as defined by RCW 38.52.010(6). Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: PROVIDED, HOWEVER, That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution.

(10) The director shall appoint a state coordinator for radioactive and hazardous waste emergency response programs. The coordinator shall consult with the state radiation control officer in matters relating to radioactive materials. The duties of the state coordinator for radioactive and hazardous waste emergency response programs shall include:

(a) Assessing the current needs and capabilities of state and local radioactive and hazardous waste emergency response teams on an ongoing basis;

(b) Coordinating training programs for state and local officials for the purpose of updating skills relating to emergency mitigation, preparedness, response, and recovery;

(c) Utilizing appropriate training programs such as those offered by the federal emergency management agency, the department of transportation and the environmental protection agency; and

(d) Undertaking other duties in this area that are deemed appropriate by the director.

(11) The director is responsible to the governor to lead the development and management of a program for interagency coordination and prioritization of continuity of operations planning by state agencies. Each state agency is responsible for developing an organizational continuity of operations plan that is updated and exercised annually in compliance with the program for interagency coordination of continuity of operations planning.

Passed by the House March 2, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 62

[Substitute House Bill 1063]

HAIR DESIGN--REGULATION

AN ACT Relating to cosmetology, hair design, barbering, esthetics, and manicuring; amending RCW 18.16.030, 18.16.050, 18.16.060, 18.16.130, 18.16.170, 18.16.175, 18.16.180, 18.16.190, 18.16.200, 18.16.290, 18.16.900, and 18.16.010; and reenacting and amending RCW 18.16.020.

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

Sec. 1. RCW 18.16.020 and 2013 c 187 s 1 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "Apprentice" means a person who is engaged in a state-approved apprenticeship program and who must receive a wage or compensation while engaged in the program.

(2) "Apprentice monthly report" means the apprentice record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the approved apprenticeship program and provided to the apprentice, audited annually by the department, and kept on file by the approved apprenticeship program for three years.

(3) "Apprentice trainer" means a person who gives training to an apprentice in an approved apprenticeship program and who is approved under RCW 18.16.280.

(4) "Apprenticeship program" means a state-approved apprenticeship program pursuant to chapter 49.04 RCW and approved under RCW 18.16.280 for the training of cosmetology, hair design, barbering, esthetics, master esthetics, and manicuring.

(5) "Apprenticeship training committee" means a committee approved by the Washington apprenticeship and training council established in chapter 49.04 RCW.

(6) "Approved apprenticeship shop" means a salon/shop that has been approved under RCW 18.16.280 and chapter 49.04 RCW to participate in an apprenticeship program.

(7) "Approved security" means surety bond.

(8) "Barber" means a person licensed under this chapter to engage in the practice of barbering.

(9) "Board" means the cosmetology, hair design, barbering, esthetics, and manicuring advisory board.

(10) "Cosmetologist" means a person licensed under this chapter to engage in the practice of cosmetology.

(11) "Crossover training" means training approved by the director as training hours that may be credited to current licensees for similar training received in another profession licensed under this chapter.

(12) "Curriculum" means the courses of study taught at a school, ~~((or))~~ online training by a school, in an approved apprenticeship program established by the Washington state apprenticeship and training council and conducted in an approved salon/shop, or online training by an approved apprenticeship program, set by rule under this chapter, and approved by the department. After consulting with the board, the director may set by rule a percentage of hours in a curriculum, up to a maximum of ten percent, that could include hours a student receives while training in a salon/shop under a contract approved by the department. Each curriculum must include at least the following required hours:

(a) School curriculum:

(i) Cosmetologist, one thousand six hundred hours;

(ii) Hair design, one thousand four hundred hours;

~~(iii)~~ Barber, one thousand hours;

~~((iii))~~ (iv) Manicurist, six hundred hours;

~~((iv))~~ (v) Esthetician, seven hundred fifty hours;

~~((v))~~ (vi) Master esthetician either:

(A) One thousand two hundred hours; or

(B) Esthetician licensure plus four hundred fifty hours of training;

(vi) Instructor-trainee, five hundred hours, except that an instructor-trainee may submit documentation that provides evidence of experience as a licensed cosmetologist, hair designer, barber, manicurist, esthetician, or master esthetician for competency evaluation toward credit of not more than three hundred hours of instructor training.

(b) Apprentice training curriculum:

(i) Cosmetologist, two thousand hours;

(ii) Hair design, one thousand seven hundred fifty hours;

~~(iii)~~ Barber, one thousand two hundred hours;

~~((iii))~~ (iv) Manicurist, eight hundred hours;

~~((iv))~~ (v) Esthetician, eight hundred hours;

~~((v))~~ (vi) Master esthetician, one thousand four hundred hours.

(13) "Department" means the department of licensing.

(14) "Director" means the director of the department of licensing or the director's designee.

(15) "Esthetician" means a person licensed under this chapter to engage in the practice of esthetics.

(16) "Hair design" means the practice of arranging, dressing, cutting, trimming, styling, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, mustache and beard design, and superficial skin stimulation of the scalp.

(17) "Hair designer" means a person licensed under this chapter to engage in the practice of hair design.

(18) "Individual license" means a cosmetology, hair design, barber, manicurist, esthetician, master esthetician, or instructor license issued under this chapter.

~~((17))~~ (19) "Instructor" means a person who gives instruction in a school, or who provides classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter, has completed at least five hundred hours of instruction in teaching techniques and lesson planning in a school, or who has documented experience as an instructor for more than five hundred hours in another state in the curriculum of study, and has passed a licensing examination approved or administered by the director. An applicant who holds a degree in education from an accredited postsecondary institution shall upon application be licensed as an instructor to give instruction in a school, or to provide classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter. An applicant who holds an instructional credential from an accredited community or technical college and who has passed a licensing examination approved or administered by the director shall upon application be licensed as an instructor to give instruction in a school, or to provide classroom theory training to apprentices in locations other than in a school, in a curriculum in which he or she holds a license under this chapter. To be approved as an "instructor" in an approved apprenticeship program, the instructor must be a competent instructor as defined in rules adopted under chapter 49.04 RCW.

~~((18))~~ (20) "Instructor-trainee" means a person who is currently licensed in this state as a cosmetologist, hair designer, barber, manicurist, esthetician, or master esthetician, and is enrolled in an instructor-trainee curriculum in a school licensed under this chapter.

~~((19))~~ (21) "Location license" means a license issued under this chapter for a salon/shop, school, personal services, or mobile unit.

~~((20))~~ (22) "Manicurist" means a person licensed under this chapter to engage in the practice of manicuring.

~~((21))~~ (23) "Master esthetician" means a person licensed under this chapter to engage in the practice of master esthetics.

~~((22))~~ (24) "Mobile unit" is a location license under this chapter where the practice of cosmetology, barbering, esthetics, master esthetics, or manicuring is conducted in a mobile structure. Mobile units must conform to the health and safety standards set by rule under this chapter.

~~((23))~~ (25) "Online training" means theory training provided online, by a school licensed under this chapter or an approved apprenticeship program established by the Washington state apprenticeship and training council, in the areas of cosmetology, hair design, master esthetics, manicuring, barbering, esthetics, and instructor-training.

(26) "Person" means any individual, partnership, professional service corporation, joint stock association, joint venture, or any other entity authorized to do business in this state.

~~((24))~~ (27) "Personal services" means a location licensed under this chapter where the practice of cosmetology, hair design, barbering, manicuring, esthetics, or master esthetics is performed for clients in the client's home, office, or other location that is convenient for the client.

~~((25))~~ (28) "~~(The)~~ Practice of barbering" means the cutting, trimming, arranging, dressing, curling, shampooing, shaving, and mustache and beard design of the hair of the face, neck, and scalp.

~~((26))~~ (29) "~~(The)~~ Practice of cosmetology" means arranging, dressing, cutting, trimming, styling, shampooing, permanent waving, chemical relaxing, straightening, curling, bleaching, lightening, coloring, waxing, tweezing, shaving, and mustache and beard design of the hair of the face, neck, and scalp; temporary removal of superfluous hair by use of depilatories, waxing, or tweezing; manicuring and pedicuring, limited to cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and nails of the hands and feet, excluding the application and removal of sculptured or otherwise artificial nails; esthetics limited to toning the skin of the scalp, stimulating the skin of the body by the use of preparations, tonics, lotions, or creams; and tinting eyelashes and eyebrows.

~~((27))~~ (30) "Practice of esthetics" means the care of the skin for compensation by application, use of preparations, antiseptics, tonics, essential oils, exfoliants, superficial and light peels, or by any device, except laser, or equipment, electrical or otherwise, or by wraps, compresses, cleansing, conditioning, stimulation, superficial skin stimulation, pore extraction, or product application and removal; temporary removal of superfluous hair by means of lotions, creams, appliance, waxing, threading, tweezing, or depilatories, including chemical means; and application of product to the eyelashes and eyebrows, including extensions, design and treatment, tinting and lightening of the hair, excluding the scalp. Under no circumstances does the practice of esthetics include the administration of injections.

~~((28))~~ (31) "Practice of manicuring" means the cleaning, shaping, polishing, decorating, and caring for and treatment of the cuticles and the nails of the hands or feet, and the application and removal of sculptured or otherwise artificial nails by hand or with mechanical or electrical apparatus or appliances.

~~((29))~~ (32) "Practice of master esthetics" means the care of the skin for compensation including all of the methods allowed in the definition of the practice of esthetics. It also includes the performance of medium depth peels and the use of medical devices for care of the skin and permanent hair reduction. The medical devices include, but are not limited to, lasers, light, radio frequency, plasma, intense pulsed light, and ultrasound. The use of a medical device must comply with state law and rules, including any laws or rules that require delegation or supervision by a licensed health professional acting within the scope of practice of that health profession.

~~((30))~~ (33) "Salon/shop" means any building, structure, or any part thereof, other than a school, where the commercial practice of cosmetology, barbering, hair design, esthetics, master esthetics, or manicuring is conducted; provided that any person, except employees of a salon/shop, who operates from

a salon/shop is required to meet all salon/shop licensing requirements and may participate in the apprenticeship program when certified as established by the Washington state apprenticeship and training council established in chapter 49.04 RCW.

~~((31))~~ (34) "School" means any establishment that offers curriculum of instruction in the practice of cosmetology, hair design, barbering, esthetics, master esthetics, manicuring, or instructor-trainee to students and is licensed under this chapter.

~~((32))~~ (35) "Student" means a person sixteen years of age or older who is enrolled in a school licensed under this chapter and receives instruction in any of the curricula of cosmetology, barbering, hair design, esthetics, master esthetics, manicuring, or instructor-training with or without tuition, fee, or cost, and who does not receive any wage or commission.

~~((33))~~ (36) "Student monthly report" means the student record of daily activities and the number of hours completed in each course of a curriculum that is prepared monthly by the school and provided to the student, audited annually by the department, and kept on file by the school for three years.

Sec. 2. RCW 18.16.030 and 2013 c 187 s 2 are each amended to read as follows:

In addition to any other duties imposed by law, including RCW 18.235.030 and 18.235.040, the director shall have the following powers and duties:

(1) To set all license, examination, and renewal fees in accordance with RCW 43.24.086;

(2) To adopt rules necessary to implement this chapter;

(3) To prepare and administer or approve the preparation and administration of licensing examinations;

(4) To establish minimum safety and sanitation standards for schools, instructors, cosmetologists, barbers, hair designers, manicurists, estheticians, master estheticians, salons/shops, personal services, and mobile units;

(5) To establish curricula for the training of students and apprentices under this chapter;

(6) To maintain the official department record of applicants and licensees;

(7) To establish by rule the procedures for an appeal of an examination failure;

(8) To set license expiration dates and renewal periods for all licenses consistent with this chapter;

(9) To ensure that all informational notices produced and mailed by the department regarding statutory and regulatory changes affecting any particular class of licensees are mailed to each licensee in good standing or on inactive status in the affected class whose mailing address on record with the department has not resulted in mail being returned as undeliverable for any reason; and

(10) To make information available to the department of revenue to assist in collecting taxes from persons required to be licensed under this chapter.

Sec. 3. RCW 18.16.050 and 2013 c 187 s 3 are each amended to read as follows:

(1) There is created a state cosmetology, hair design, barbering, esthetics, and manicuring advisory board consisting of a maximum of ten members appointed by the director. These members of the board shall include: A

representative of private schools licensed under this chapter; a representative from an approved apprenticeship program conducted in an approved salon/shop; a representative of public vocational technical schools licensed under this chapter; a consumer who is unaffiliated with the cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring industry; and six members who are currently practicing licensees who have been engaged in the practice of manicuring, esthetics, master esthetics, barbering, hair design, or cosmetology for at least three years. Members shall serve a term of three years. Any board member may be removed for just cause. The director may appoint a new member to fill any vacancy on the board for the remainder of the unexpired term.

(2) Board members shall be entitled to compensation pursuant to RCW 43.03.240 for each day spent conducting official business and to reimbursement for travel expenses as provided by RCW 43.03.050 and 43.03.060.

(3) The board may seek the advice and input of officials from the following state agencies: (a) The workforce training and education coordinating board; (b) the employment security department; (c) the department of labor and industries; (d) the department of health; (e) the department of licensing; and (f) the department of revenue.

Sec. 4. RCW 18.16.060 and 2013 c 187 s 4 are each amended to read as follows:

(1) It is unlawful for any person to engage in a practice listed in subsection (2) of this section unless the person has a license in good standing as required by this chapter. A license issued under this chapter shall be considered to be "in good standing" except when:

(a) The license has expired or has been canceled and has not been renewed in accordance with RCW 18.16.110;

(b) The license has been denied, revoked, or suspended under RCW 18.16.210, 18.16.230, or 18.16.240, and has not been reinstated;

(c) The license is held by a person who has not fully complied with an order of the director issued under RCW 18.16.210 requiring the licensee to pay restitution or a fine, or to acquire additional training; or

(d) The license has been placed on inactive status at the request of the licensee, and has not been reinstated in accordance with RCW 18.16.110(3).

(2) The director may take action under RCW 18.235.150 and 18.235.160 against any person who does any of the following without first obtaining, and maintaining in good standing, the license required by this chapter:

(a) Except as provided in subsections (3) and (4) of this section, engages in the commercial practice of cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring;

(b) Instructs in a school;

(c) Operates a school; or

(d) Operates a salon/shop, personal services, or mobile unit.

(3) A person who receives a license as an instructor may engage in the commercial practice for which he or she held a license when applying for the instructor license without also renewing the previously held license. However, a person licensed as an instructor whose license to engage in a commercial practice is not or at any time was not renewed may not engage in the commercial practice previously permitted under that license unless that person renews the previously held license.

(4) An apprentice actively enrolled in an apprenticeship program for cosmetology, barbering, hair design, esthetics, master esthetics, or manicuring may engage in the commercial practice as required for the apprenticeship program.

Sec. 5. RCW 18.16.130 and 2013 c 187 s 5 are each amended to read as follows:

(1) Any person who is properly licensed in any state, territory, or possession of the United States, or foreign country shall be eligible for examination if the applicant submits the approved application and fee and provides proof to the director that he or she is currently licensed in good standing as a cosmetologist, hair designer, barber, manicurist, esthetician, master esthetician, instructor, or the equivalent in that jurisdiction. Upon passage of the required examinations the appropriate license will be issued.

(2)(a) The director shall, upon passage of the required examinations, issue a license as master esthetician to an applicant who submits the approved application and fee and provides proof to the director that the applicant is currently licensed in good standing in esthetics in any state, territory, or possession of the United States, or foreign country and holds a diplomate of the comite international d'esthetique et de cosmetologie diploma, or an international therapy examination council diploma, or a certified credential awarded by the national coalition of estheticians, manufacturers/distributors & associations.

(b) The director may upon passage of the required examinations, issue a master esthetician license to an applicant that is currently licensed in esthetics in any other state, territory, or possession of the United States, or foreign country and submits an approved application and fee and provides proof to the director that he or she is licensed in good standing and:

(i) The licensing state, territory, or possession of the United States, or foreign country has licensure requirements that the director determines are substantially equivalent to a master esthetician license in this state; or

(ii) The applicant has certification or a diploma or other credentials that the director determines has licensure requirements that are substantially equivalent to the degree listed in (a) of this subsection.

Sec. 6. RCW 18.16.170 and 2013 c 187 s 6 are each amended to read as follows:

(1) Subject to subsection (2) of this section, licenses issued under this chapter expire as follows:

(a) A salon/shop, personal services, or mobile unit license expires one year from issuance or when the insurance required by RCW 18.16.175(1)(g) expires, whichever occurs first;

(b) A school license expires one year from issuance; and

(c) Cosmetologist, hair designer, barber, manicurist, esthetician, master esthetician, and instructor licenses expire two years from issuance.

(2) The director may provide for expiration dates other than those set forth in subsection (1) of this section for the purpose of establishing staggered renewal periods.

Sec. 7. RCW 18.16.175 and 2013 c 187 s 7 are each amended to read as follows:

(1) A salon/shop or mobile unit shall meet the following minimum requirements:

(a) Maintain an outside entrance separate from any rooms used for sleeping or residential purposes;

(b) Provide and maintain for the use of its customers adequate toilet facilities located within or adjacent to the salon/shop or mobile unit;

(c) Any room used wholly or in part as a salon/shop or mobile unit shall not be used for residential purposes, except that toilet facilities may be used for both residential and business purposes;

(d) Meet the zoning requirements of the county, city, or town, as appropriate;

(e) Provide for safe storage and labeling of chemicals used in the practices under this chapter;

(f) Meet all applicable local and state fire codes; and

(g) Certify that the salon/shop or mobile unit is covered by a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.

(2) The director may by rule determine other requirements that are necessary for safety and sanitation of salons/shops, personal services, or mobile units. The director may consult with the state board of health and the department of labor and industries in establishing minimum salon/shop, personal services, and mobile unit safety requirements.

(3) Personal services license holders shall certify coverage of a public liability insurance policy in an amount not less than one hundred thousand dollars for combined bodily injury and property damage liability.

(4) Upon receipt of a written complaint that a salon/shop or mobile unit has violated any provisions of this chapter, chapter 18.235 RCW, or the rules adopted under either chapter, or at least once every two years for an existing salon/shop or mobile unit, the director or the director's designee shall inspect each salon/shop or mobile unit. If the director determines that any salon/shop or mobile unit is not in compliance with this chapter, the director shall send written notice to the salon/shop or mobile unit. A salon/shop or mobile unit which fails to correct the conditions to the satisfaction of the director within a reasonable time shall, upon due notice, be subject to the penalties imposed by the director under RCW 18.235.110. The director may enter any salon/shop or mobile unit during business hours for the purpose of inspection. The director may contract with health authorities of local governments to conduct the inspections under this subsection.

(5) A salon/shop, personal services, or mobile unit shall obtain a certificate of registration from the department of revenue.

(6) This section does not prohibit the use of motor homes as mobile units if the motor home meets the health and safety standards of this section.

(7) Salon/shop or mobile unit licenses issued by the department must be posted in the salon/shop or mobile unit's reception area.

(8) Cosmetology, hair design, barbering, esthetics, master esthetics, and manicuring licenses issued by the department must be posted at the licensed person's work station.

Sec. 8. RCW 18.16.180 and 2013 c 187 s 8 are each amended to read as follows:

(1) The director shall prepare and provide to all licensed salons/shops a notice to consumers. At a minimum, the notice shall state that cosmetology, hair design, barber, esthetics, master esthetics, and manicure salons/shops are required to be licensed, that salons/shops are required to maintain minimum safety and sanitation standards, that customer complaints regarding salons/shops may be reported to the department, and a telephone number and address where complaints may be made.

(2) An approved apprenticeship shop must post a notice to consumers in the reception area of the salon/shop stating that services may be provided by an apprentice. At a minimum, the notice must state: "This shop is a participant in a state-approved apprenticeship program. Apprentices in this program are in training and have not yet received a license."

Sec. 9. RCW 18.16.190 and 2013 c 187 s 9 are each amended to read as follows:

It is a violation of this chapter for any person to engage in the commercial practice of cosmetology, hair design, barbering, esthetics, master esthetics, or manicuring, except in a licensed salon/shop or the home, office, or other location selected by the client for obtaining the services of a personal service operator, or with the appropriate individual license when delivering services to placebound clients. Placebound clients are defined as persons who are ill, disabled, or otherwise unable to travel to a salon/shop.

Sec. 10. RCW 18.16.200 and 2013 c 187 s 10 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the director may take disciplinary action against any applicant or licensee under this chapter if the licensee or applicant:

- (1) Has been found to have violated any provisions of chapter 19.86 RCW;
- (2) Has engaged in a practice prohibited under RCW 18.16.060 without first obtaining, and maintaining in good standing, the license required by this chapter;
- (3) Has engaged in the commercial practice of cosmetology, hair design, barbering, manicuring, esthetics, or master esthetics in a school;
- (4) Has not provided a safe, sanitary, and good moral environment for students in a school or the public;
- (5) Has failed to display licenses required in this chapter; or
- (6) Has violated any provision of this chapter or any rule adopted under it.

Sec. 11. RCW 18.16.290 and 2013 c 187 s 12 are each amended to read as follows:

(1) If the holder of an individual license in good standing submits a written and notarized request that the licensee's cosmetology, hair design, barber, manicurist, esthetician and master esthetician, or instructor license be placed on inactive status, together with a fee equivalent to that established by rule for a duplicate license, the department shall place the license on inactive status until the expiration date of the license. If the date of the request is no more than six months before the expiration date of the license, a request for a two-year extension of the inactive status, as provided under subsection (2) of this section, may be submitted at the same time as the request under this subsection.

(2) If the holder of a license placed on inactive status under this section submits, by the expiration date of the license, a written and notarized request to

extend that status for an additional two years, the department shall, without additional fee, extend the expiration date of: (a) The licensee's individual license; and (b) the inactive status for two years from the expiration date of the license.

(3) A license placed on inactive status under this section may not be extended more frequently than once in any twenty-four month period or for more than six consecutive years.

(4) If, by the expiration date of a license placed on inactive status under this section, a licensee is unable, or fails, to request that the status be extended and the license is not renewed, the license shall be canceled.

Sec. 12. RCW 18.16.900 and 2002 c 111 s 17 are each amended to read as follows:

This ((aet)) chapter shall be known and may be cited as the "Washington cosmetologists, hair designers, barbers, manicurists, and estheticians act."

Sec. 13. RCW 18.16.010 and 2002 c 111 s 1 are each amended to read as follows:

The legislature recognizes that the practices of cosmetology, hair design, barbering, manicuring, and esthetics involve the use of tools and chemicals which may be dangerous when mixed or applied improperly, and therefore finds it necessary in the interest of the public health, safety, and welfare to regulate those practices in this state.

Passed by the House February 11, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 63

[House Bill 1077]

REINSURANCE--CREDIT

AN ACT Relating to credit for reinsurance; adding new sections to chapter 48.12 RCW; recodifying RCW 48.12.164 and 48.12.166; and repealing RCW 48.12.154, 48.12.156, 48.12.158, 48.12.160, 48.12.162, and 48.12.168.

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

NEW SECTION. Sec. 1. The purpose of this subchapter is to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The legislature intends to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. Therefore, the legislature provides a mandate that upon the insolvency of a non-United States insurer or reinsurer that provides security to fund its United States obligations in accordance with this subchapter, the assets representing the security must be maintained in the United States and claims must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets distributed, in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurance companies. The legislature declares that the matters contained in this subchapter are fundamental to the business of insurance in accordance with 15 U.S.C. Secs. 1011-1012.

NEW SECTION. Sec. 2. Credit for reinsurance is allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of section 3, 4, 5, 6, 7, or 8 of this act. Credit is allowed under section 3, 4, or 5 of this act only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a United States branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit is allowed under section 5 or 6 of this act only if the applicable requirements of section 9 of this act have been satisfied.

NEW SECTION. Sec. 3. Credit is allowed when the reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in this state.

NEW SECTION. Sec. 4. Credit is allowed when the reinsurance is ceded to an assuming insurer that is accredited by the commissioner as a reinsurer in this state. In order to be eligible for accreditation, a reinsurer must:

(1) File with the commissioner evidence of its submission to this state's jurisdiction;

(2) Submit to this state's authority to examine its books and records;

(3) Be licensed to transact insurance or reinsurance in at least one state, or in the case of a United States branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state;

(4) File annually with the commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement; and

(5) Demonstrate to the satisfaction of the commissioner that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer meets this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than twenty million dollars and its accreditation has not been denied by the commissioner within ninety days after submission of its application.

NEW SECTION. Sec. 5. (1) Credit is allowed when the reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a United States branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

(a) Maintains a surplus as regards policyholders in an amount not less than twenty million dollars; and

(b) Submits to the authority of this state to examine its books and records.

(2) Subsection (1)(a) of this section does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

NEW SECTION. Sec. 6. (1) Credit is allowed when the reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified United States financial institution, as defined in section 14(2) of this act, for the payment of the valid claims of its United States ceding insurers, their assigns,

and successors in interest. To enable the commissioner to determine the sufficiency of the trust fund, the assuming insurer must report annually to the commissioner information substantially the same as that required to be reported on the national association of insurance commissioners annual statement form by licensed insurers. The assuming insurer must submit to examination of its books and records by the commissioner and bear the expense of examination.

(2)(a) Credit for reinsurance shall not be granted under this section unless the form of the trust and any amendments to the trust have been approved by:

(i) The commissioner of the state where the trust is domiciled; or

(ii) The commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(b) The form of the trust and any trust amendments also must be filed with the commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims are valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to its assets in its trustees for the benefit of the assuming insurer's United States ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer are subject to examination as determined by the commissioner.

(c) The trust remains in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust. By February 28th of each year the trustee of the trust must report to the commissioner in writing the balance of the trust and listing the trust's investments at the preceding year-end and certify the date of termination of the trust, if so planned, or certify that the trust will not expire prior to the following December 31st.

(3) The following requirements apply to the following categories of assuming insurer:

(a) The trust fund for a single assuming insurer consists of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers, and, in addition, the assuming insurer must maintain a trustee surplus of not less than twenty million dollars, except as provided in (b) of this subsection.

(b) At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates, and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than thirty percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

(c)(i) In the case of a group including incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment, or renewal date on or after January 1, 1993, the trust must consist of a trustee account in an amount not less than the respective underwriters' several liabilities attributable to business ceded by United States domiciled ceding insurers to any underwriter of the group;

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this subchapter, the trust must consist of a trustee account in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and

(C) In addition to these trusts, the group must maintain in trust a trustee surplus of which one hundred million dollars is held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(ii) The incorporated members of the group shall not be engaged in any business other than underwriting as a member of the group and are subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(iii) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, the group must provide to the commissioner an annual certification by the group's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the group.

(d) In the case of a group of incorporated underwriters under common administration, the group must:

(i) Have continuously transacted an insurance business outside the United States for at least three years immediately prior to making application for accreditation;

(ii) Maintain aggregate policyholders' surplus of at least ten billion dollars;

(iii) Maintain a trust fund in an amount not less than the group's several liabilities attributable to business ceded by United States domiciled ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group;

(iv) In addition, maintain a joint trustee surplus of which one hundred million dollars is held jointly for the benefit of United States domiciled ceding insurers of any member of the group as additional security for these liabilities; and

(v) Within ninety days after its financial statements are due to be filed with the group's domiciliary regulator, make available to the commissioner an annual certification of each underwriter member's solvency by the member's domiciliary regulator and financial statements of each underwriter member of the group prepared by its independent public accountant.

NEW SECTION. Sec. 7. Credit is allowed when the reinsurance is ceded to an assuming insurer that has been certified by the commissioner as a reinsurer

in this state and secures its obligations in accordance with the requirements of this section.

(1) In order to be eligible for certification, the assuming insurer must meet the following requirements:

(a) The assuming insurer must be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the commissioner pursuant to subsection (3) of this section;

(b) The assuming insurer must maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the commissioner by rule;

(c) The assuming insurer must maintain financial strength ratings from two or more rating agencies deemed acceptable by the commissioner by rule;

(d) The assuming insurer must agree to submit to the jurisdiction of this state, appoint the commissioner as its agent for service of process in this state, and agree to provide security for one hundred percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

(e) The assuming insurer must agree to meet applicable information filing requirements as determined by the commissioner, both with respect to an initial application for certification and on an ongoing basis; and

(f) The assuming insurer must satisfy any other requirements for certification deemed relevant by the commissioner.

(2) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying the requirements of subsection (1) of this section:

(a) The association must satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which includes a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the commissioner to provide adequate protection;

(b) The incorporated members of the association must not be engaged in any business other than underwriting as a member of the association and must be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(c) Within ninety days after its financial statements are due to be filed with the association's domiciliary regulator, the association must provide to the commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(3) The commissioner must create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such a jurisdiction is eligible to be considered for certification by the commissioner as a certified reinsurer.

(a) In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the commissioner must evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to

reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the commissioner has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the commissioner.

(b) A list of qualified jurisdictions shall be published through the national association of insurance commissioners' committee process. The commissioner must consider this list in determining qualified jurisdictions. If the commissioner approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the commissioner must provide thoroughly documented justification in accordance with criteria to be developed by rule.

(c) United States jurisdictions that meet the requirement for accreditation under the national association of insurance commissioners' financial standards and accreditation program must be recognized as qualified jurisdictions.

(d) If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the commissioner has the discretion to suspend the reinsurer's certification indefinitely in lieu of revocation.

(4) The commissioner must assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the commissioner by rule. The commissioner must publish a list of all certified reinsurers and their ratings.

(5) A certified reinsurer must secure obligations assumed from United States ceding insurers under this section at a level consistent with its rating, as specified in rules adopted by the commissioner.

(a) In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer must maintain security in a form acceptable to the commissioner and consistent with the provisions of section 13 of this act, or in a multibeneficiary trust in accordance with section 6 of this act, except as otherwise provided in this section.

(b) If a certified reinsurer maintains a trust to fully secure its obligations under section 6 of this act, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer must maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this section or comparable laws of other United States jurisdictions and for its obligations under section 6 of this act. It is a condition to the grant of certification under this section that the certified reinsurer must have bound itself, by the language of the trust and agreement with the commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any trust account, out of the remaining surplus of the trust any deficiency of any other trust account.

(c) The minimum trustee surplus requirements provided in section 6 of this act are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this section, except that the trust must maintain a minimum trustee surplus of ten million dollars.

(d) With respect to obligations incurred by a certified reinsurer under this section, if the security is insufficient, the commissioner must reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(e) For purposes of this section, a certified reinsurer whose certification has been terminated for any reason must be treated as a certified reinsurer required to secure one hundred percent of its obligations.

(i) As used in this section, "terminated" means revocation, suspension, voluntary surrender, and inactive status.

(ii) If the commissioner continues to assign a higher rating as permitted by this section, this subsection (5)(e) does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

(6) If an applicant for certification has been certified as a reinsurer in a national association of insurance commissioners accredited jurisdiction, the commissioner has the discretion to defer to that jurisdiction's certification, and has the discretion to defer to the rating assigned by that jurisdiction, and the assuming insurer must be considered to be a certified reinsurer in this state.

(7) A certified reinsurer that ceases to assume new business in this state may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer must continue to comply with all applicable requirements of this section, and the commissioner must assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

NEW SECTION. Sec. 8. Credit is allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of section 3, 4, 5, 6, or 7 of this act, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

NEW SECTION. Sec. 9. If the assuming insurer is not licensed, accredited, or certified to transact insurance or reinsurance in this state, the credit permitted by sections 5 and 6 of this act must not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1)(a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, must submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

(b) To designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

(2) This section is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

NEW SECTION. Sec. 10. If the assuming insurer does not meet the requirements of section 3, 4, or 5 of this act, the credit permitted by section 6 or

7 of this act must not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(1) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount required by section 6(3) of this act, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee must comply with an order of the commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the commissioner with regulatory oversight all of the assets of the trust fund.

(2) The assets must be distributed by and claims must be filed with and valued by the commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(3) If the commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the assets or part thereof must be returned by the commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(4) The grantor must waive any right otherwise available to it under United States law that is inconsistent with this provision.

NEW SECTION. Sec. 11. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the commissioner may suspend or revoke the reinsurer's accreditation or certification.

(1) The commissioner must give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the commissioner's order on hearing, unless:

(a) The reinsurer waives its right to hearing;

(b) The commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under section 7(6) of this act; or

(c) The commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the commissioner's action.

(2) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with section 13 of this act. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with section 7(5) or 13 of this act.

NEW SECTION. Sec. 12. (1) A ceding insurer must take steps to manage its reinsurance recoverable proportionate to its own book of business. A domestic ceding insurer must notify the commissioner within thirty days after reinsurance recoverables from any single assuming insurer, or group of affiliated

assuming insurers, exceeds fifty percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

(2) A ceding insurer must take steps to diversify its reinsurance program. A domestic ceding insurer must notify the commissioner within thirty days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than twenty percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification must demonstrate that the exposure is safely managed by the domestic ceding insurer.

NEW SECTION. Sec. 13. An asset or a reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of sections 2 through 12 of this act must be allowed in an amount not exceeding the liabilities carried by the ceding insurer. The reduction must be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or, in the case of a trust, held in a qualified United States financial institution, as defined in section 14(2) of this act. This security may be in the form of:

(1) Cash;

(2) Securities listed by the securities valuation office of the national association of insurance commissioners, including those deemed exempt from filing as defined by the purposes and procedures manual of the securities valuation office, and qualifying as admitted assets;

(3)(a) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, as defined in section 14(1) of this act, effective no later than December 31st of the year for which the filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

(b) Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) must, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(4) Any other form of security acceptable to the commissioner.

NEW SECTION. Sec. 14. (1) For the purposes of section 13(3) of this act, a "qualified United States financial institution" means an institution that:

(a) Is organized or (in the case of a United States office of a foreign banking organization) licensed, under the laws of the United States or any state thereof;

(b) Is regulated, supervised, and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the commissioner or the securities valuation office of the national association of insurance commissioners to meet

the standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(2) A "qualified United States financial institution" means, for the purposes of those provisions of this subchapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(a) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

(b) Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

NEW SECTION. Sec. 15. The commissioner may adopt rules and regulations implementing the provisions of this subchapter.

NEW SECTION. Sec. 16. This act applies to all cessions after the effective date of this act under reinsurance agreements that have an inception, anniversary, or renewal date not less than six months after the effective date of this act.

NEW SECTION. Sec. 17. RCW 48.12.164 and 48.12.166 are each recodified as new sections in chapter 48.12 RCW under the subchapter heading "credit for reinsurance" created in section 18 of this act.

NEW SECTION. Sec. 18. Sections 1 through 16 of this act are each added to chapter 48.12 RCW and codified with the subchapter heading "credit for reinsurance."

NEW SECTION. Sec. 19. The following acts or parts of acts are each repealed:

(1) RCW 48.12.154 (Rules) and 1997 c 379 s 9;

(2) RCW 48.12.156 (Qualified United States financial institution—Definition) and 1997 c 379 s 2;

(3) RCW 48.12.158 (Insolvency of non-United States insurer or reinsurer—Maintenance of assets—Claims) and 1997 c 379 s 3;

(4) RCW 48.12.160 (Credit for reinsurance—Trust fund—Regulatory oversight) and 1997 c 379 s 6, 1996 c 297 s 1, 1994 c 86 s 1, 1993 c 91 s 2, 1977 ex.s. c 180 s 3, & 1947 c 79 s .12.16;

(5) RCW 48.12.162 (Credit for reinsurance—Contract provisions—After December 31, 1996—Payment—Rights of original insured or policyholder) and 1997 c 379 s 4; and

(6) RCW 48.12.168 (Credit for reinsurance—Foreign ceding insurer) and 1997 c 379 s 8.

Passed by the House March 2, 2015.

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CHAPTER 64

[Engrossed Substitute House Bill 1078]

CONSUMER FINANCIAL INFORMATION--DATA BREACHES--NOTICE

AN ACT Relating to enhancing the protection of consumer financial information; amending RCW 19.255.010 and 42.56.590; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes that data breaches of personal information can compromise financial security and be costly to consumers. The legislature intends to strengthen the data breach notification requirements to better safeguard personal information, prevent identity theft, and ensure that the attorney general receives notification when breaches occur so that appropriate action may be taken to protect consumers. The legislature also intends to provide consumers whose personal information has been jeopardized due to a data breach with the information needed to secure financial accounts and make the necessary reports in a timely manner to minimize harm from identity theft.

Sec. 2. RCW 19.255.010 and 2005 c 368 s 2 are each amended to read as follows:

(1) Any person or business that conducts business in this state and that owns or licenses (~~computerized~~) data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose (~~unencrypted~~) personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. (~~The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.~~) Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(2) Any person or business that maintains (~~computerized~~) data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of (~~computerized~~) data that compromises the security, confidentiality, or integrity of personal information maintained by the

person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements(~~(-when either the name or the data elements are not encrypted)~~):

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (c) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology (NIST) standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

~~(8) For purposes of this section and except under subsections ((8)) (9) and (10)~~ of this section, "notice" may be provided by one of the following methods:

- (a) Written notice;
- (b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or
- (c) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (i) E-mail notice when the person or business has an e-mail address for the subject persons;

- (ii) Conspicuous posting of the notice on the web site page of the person or business, if the person or business maintains one; and

- (iii) Notification to major statewide media.

~~((8)) (9)~~ A person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

~~((9)) (10)~~ A covered entity under the federal health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this section with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on the effective date of this section. Covered entities shall notify the attorney general pursuant to subsection (15) of this section in compliance with the timeliness of notification requirements of section 13402 of the federal health

information technology for economic and clinical health act, Public Law 111-5 as it existed on the effective date of this section, notwithstanding the notification requirement in subsection (16) of this section.

(11) A financial institution under the authority of the office of the comptroller of the currency, the federal deposit insurance corporation, the national credit union administration, or the federal reserve system is deemed to have complied with the requirements of this section with respect to "sensitive customer information" as defined in the interagency guidelines establishing information security standards, 12 C.F.R. Part 30, Appendix B, 12 C.F.R. Part 208, Appendix D-2, 12 C.F.R. Part 225, Appendix F, and 12 C.F.R. Part 364, Appendix B, and 12 C.F.R. Part 748, Appendices A and B, as they existed on the effective date of this section, if the financial institution provides notice to affected consumers pursuant to the interagency guidelines and the notice complies with the customer notice provisions of the interagency guidelines establishing information security standards and the interagency guidance on response programs for unauthorized access to customer information and customer notice under 12 C.F.R. Part 364 as it existed on the effective date of this section. The entity shall notify the attorney general pursuant to subsection (15) of this section in addition to providing notice to its primary federal regulator.

(12) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

~~((40))~~ (13)(a) Any (customer) consumer injured by a violation of this section may institute a civil action to recover damages.

(b) Any person or business that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

~~((d) A person or business under this section shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.))~~

(14) Any person or business that is required to issue notification pursuant to this section shall meet all of the following requirements:

(a) The notification must be written in plain language; and

(b) The notification must include, at a minimum, the following information:

(i) The name and contact information of the reporting person or business subject to this section;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach; and

(iii) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.

(15) Any person or business that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall, by the time notice is provided to affected consumers, electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the attorney general. The person or business shall also provide to the attorney general the number of Washington consumers affected by the breach, or an estimate if the exact number is not known.

(16) Notification to affected consumers and to the attorney general under this section must be made in the most expedient time possible and without unreasonable delay, no more than forty-five calendar days after the breach was discovered, unless at the request of law enforcement as provided in subsection (3) of this section, or due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(17) The attorney general may bring an action in the name of the state, or as parens patriae on behalf of persons residing in the state, to enforce this section. For actions brought by the attorney general to enforce this section, the legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. For actions brought by the attorney general to enforce this section, a violation of this section is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW. An action to enforce this section may not be brought under RCW 19.86.090.

Sec. 3. RCW 42.56.590 and 2007 c 197 s 9 are each amended to read as follows:

(1)(a) Any agency that owns or licenses (~~(computerized)~~) data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of this state whose (~~(unencrypted)~~) personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the personal information was not secured. (~~(The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection (3) of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.)~~) Notice is not required if the breach of the security of the system is not reasonably likely to subject consumers to a risk of harm. The breach of secured personal information must be disclosed if the information acquired and accessed is not secured during a security breach or if the confidential process, encryption key, or other means to decipher the secured information was acquired by an unauthorized person.

(b) For purposes of this section, "agency" means the same as in RCW 42.56.010.

(2) Any agency that maintains (~~(computerized)~~) data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(3) The notification required by this section may be delayed if the data owner or licensee contacts a law enforcement agency after discovery of a breach of the security of the system and a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(4) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of (~~(computerized)~~) data that compromises the

security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system when the personal information is not used or subject to further unauthorized disclosure.

(5) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements ~~((, when either the name or the data elements are not encrypted))~~:

- (a) Social security number;
- (b) Driver's license number or Washington identification card number; or
- (c) Full account number ~~((or)),~~ credit or debit card number, ~~((in combination with))~~ or any required security code, access code, or password that would permit access to an individual's financial account.

(6) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(7) For purposes of this section, "secured" means encrypted in a manner that meets or exceeds the national institute of standards and technology (NIST) standard or is otherwise modified so that the personal information is rendered unreadable, unusable, or undecipherable by an unauthorized person.

~~((8))~~ (9) and (10) of this section, notice may be provided by one of the following methods:

- (a) Written notice;
- (b) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in 15 U.S.C. Sec. 7001; or
- (c) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars, or that the affected class of subject persons to be notified exceeds five hundred thousand, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

- (i) E-mail notice when the agency has an e-mail address for the subject persons;

- (ii) Conspicuous posting of the notice on the agency's web site page, if the agency maintains one; and

- (iii) Notification to major statewide media.

~~((8))~~ (9) An agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this section is in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

~~((9))~~ (10) A covered entity under the federal health insurance portability and accountability act of 1996, 42 U.S.C. Sec. 1320d et seq., is deemed to have complied with the requirements of this section with respect to protected health information if it has complied with section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on the effective date of this section. Covered entities shall notify the attorney general pursuant to subsection (14) of this section in compliance with

the timeliness of notification requirements of section 13402 of the federal health information technology for economic and clinical health act, Public Law 111-5 as it existed on the effective date of this section, notwithstanding the notification requirement in subsection (15) of this section.

(11) Any waiver of the provisions of this section is contrary to public policy, and is void and unenforceable.

~~((40))~~ (12)(a) Any ~~((customer))~~ individual injured by a violation of this section may institute a civil action to recover damages.

(b) Any ~~((business))~~ agency that violates, proposes to violate, or has violated this section may be enjoined.

(c) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

~~((d) An agency shall not be required to disclose a technical breach of the security system that does not seem reasonably likely to subject customers to a risk of criminal activity.)~~

(13) Any agency that is required to issue notification pursuant to this section shall meet all of the following requirements:

(a) The notification must be written in plain language; and

(b) The notification must include, at a minimum, the following information:

(i) The name and contact information of the reporting agency subject to this section;

(ii) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach;

(iii) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed personal information.

(14) Any agency that is required to issue a notification pursuant to this section to more than five hundred Washington residents as a result of a single breach shall, by the time notice is provided to affected individuals, electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the attorney general. The agency shall also provide to the attorney general the number of Washington residents affected by the breach, or an estimate if the exact number is not known.

(15) Notification to affected individuals and to the attorney general must be made in the most expedient time possible and without unreasonable delay, no more than forty-five calendar days after the breach was discovered, unless at the request of law enforcement as provided in subsection (3) of this section, or due to any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 65

[House Bill 1090]

FINANCIAL FRAUD AND IDENTITY THEFT CRIMES INVESTIGATION AND PROSECUTION PROGRAM

AN ACT Relating to reauthorizing and expanding the financial fraud and identity theft crimes investigation and prosecution program; amending RCW 43.330.300 and 62A.9A-525; amending 2009 c 565 s 57 and 2008 c 290 s 4 (uncodified); providing an effective date; and declaring an emergency.

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

Sec. 1. RCW 43.330.300 and 2009 c 565 s 16 are each amended to read as follows:

(1) The financial fraud and identity theft crimes investigation and prosecution program is created in the department of commerce. The department shall:

(a) Appoint members of the financial fraud task forces created in subsection (2) of this section;

(b) Administer the account created in subsection (3) of this section; and

(c) By December 31st of each year submit a report to the appropriate committees of the legislature and the governor regarding the progress of the program and task forces. The report must include recommendations on changes to the program, including expansion.

(2)(a) The department shall establish two regional financial fraud and identity theft crime task forces that include a central Puget Sound task force that includes King (~~and~~), Pierce, and Snohomish counties, and a Spokane county task force. Each task force must be comprised of local law enforcement, county prosecutors, representatives of the office of the attorney general, financial institutions, and other state and local law enforcement.

(b) The department shall appoint: (i) Representatives of local law enforcement from a list provided by the Washington association of sheriffs and police chiefs; (ii) representatives of county prosecutors from a list provided by the Washington association of prosecuting attorneys; and (iii) representatives of financial institutions.

(c) Each task force shall:

(i) Hold regular meetings to discuss emerging trends and threats of local financial fraud and identity theft crimes;

(ii) Set priorities for the activities for the task force;

(iii) Apply to the department for funding to (A) hire prosecutors and/or law enforcement personnel dedicated to investigating and prosecuting financial fraud and identity theft crimes; and (B) acquire other needed resources to conduct the work of the task force;

(iv) Establish outcome-based performance measures; and

(v) Twice annually report to the department regarding the activities and performance of the task force.

(3) The financial fraud and identity theft crimes investigation and prosecution account is created in the state treasury. Moneys in the account may be spent only after appropriation. Revenue to the account may include appropriations, revenues generated by the surcharge imposed in RCW 62A.9A-525, federal funds, and any other gifts or grants. Expenditures from the account may be used only to support the activities of the financial fraud and identity theft

crime investigation and prosecution task forces and the program administrative expenses of the department, which may not exceed ten percent of the amount appropriated.

(4) For purposes of this section, "financial fraud and identity theft crimes" includes those that involve: Check fraud, chronic unlawful issuance of bank checks, embezzlement, credit/debit card fraud, identity theft, forgery, counterfeit instruments such as checks or documents, organized counterfeit check rings, and organized identification theft rings.

Sec. 2. RCW 62A.9A-525 and 2008 c 290 s 2 are each amended to read as follows:

(a) **Filing with department of licensing.** Except as otherwise provided in subsection (b) or (e) of this section, the fee for filing and indexing a record under this part is the fee set by department of licensing rule pursuant to subsection (f) of this section. Without limitation, different fees may be charged for:

(1) A record that is communicated in writing and consists of one or two pages;

(2) A record that is communicated in writing and consists of more than two pages, which fee may be a multiple of the fee described in (1) of this subsection; and

(3) A record that is communicated by another medium authorized by department of licensing rule, which fee may be a fraction of the fee described in (1) of this subsection.

(b) **Filing with other filing offices.** Except as otherwise provided in subsection (e) of this section, the fee for filing and indexing a record under this part that is filed in a filing office described in RCW 62A.9A501(a)(1) is the fee that would otherwise be applicable to the recording of a mortgage in that filing office, as set forth in RCW 36.18.010.

(c) **Number of names.** The number of names required to be indexed does not affect the amount of the fee in subsections (a) and (b) of this section.

(d) **Response to information request.** The fee for responding to a request for information from a filing office, including for issuing a certificate showing, or otherwise communicating, whether there is on file any financing statement naming a particular debtor, is the fee set by department of licensing rule pursuant to subsection (f) of this section; provided however, if the request is to a filing office described in RCW 62A.9A501(a)(1) and that office charges a different fee, then that different fee shall apply instead. Without limitation, different fees may be charged:

(1) If the request is communicated in writing;

(2) If the request is communicated by another medium authorized by filing-office rule; and

(3) If the request is for expedited service.

(e) **Record of mortgage.** This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under RCW 62A.9A502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

(f) **Filing office rules.** (1) The department of licensing shall by rule set the fees called for in this section for filing with, and obtaining information from, the

department of licensing. The director shall set fees at a sufficient level to defray the costs of administering the program. All receipts from fees collected under this title, except fees for services covered under RCW 62A.9A-501(a)(1), shall be deposited to the uniform commercial code fund in the state treasury. Moneys in the fund may be spent only after appropriation and may be used only to administer the uniform commercial code program.

(2) In addition to fees on filings authorized under this section, the department of licensing shall impose a surcharge of ~~((eight))~~ ten dollars per filing for paper filings and a surcharge of ~~((three))~~ ten dollars per filing for electronic filings. The department shall deposit the proceeds from these surcharges in the financial fraud and identity theft crimes investigation and prosecution account created in RCW 43.330.300.

(g) **Transition.** This section continues the fee-setting authority conferred on the department of licensing by former RCW 62A.9409 and nothing herein shall invalidate fees set by the department of licensing under the authority of former RCW 62A.9409.

Sec. 3. 2009 c 565 s 57 (uncodified) is amended to read as follows:

(1) Section 16 of this act expires July 1, ~~((2015))~~ 2020.

(2) Section 41 of this act expires June 30, 2016.

Sec. 4. 2008 c 290 s 4 (uncodified) is amended to read as follows:

This act expires July 1, ~~((2015))~~ 2020.

NEW SECTION. **Sec. 5.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 66

[Substitute House Bill 1132]

ADULT FAMILY HOMES

AN ACT Relating to the regulation of adult family homes; and amending RCW 70.128.060 and 70.128.120.

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

Sec. 1. RCW 70.128.060 and 2013 c 300 s 2 are each amended to read as follows:

(1) An application for license shall be made to the department upon forms provided by it and shall contain such information as the department reasonably requires.

(2) Subject to the provisions of this section, the department shall issue a license to an adult family home if the department finds that the applicant and the home are in compliance with this chapter and the rules adopted under this chapter. The department may not issue a license if (a) the applicant or a person affiliated with the applicant has prior violations of this chapter relating to the adult family home subject to the application or any other adult family home, or

of any other law regulating residential care facilities within the past ten years that resulted in revocation, suspension, or nonrenewal of a license or contract with the department; or (b) the applicant or a person affiliated with the applicant has a history of significant noncompliance with federal, state, or local laws, rules, or regulations relating to the provision of care or services to vulnerable adults or to children. A person is considered affiliated with an applicant if the person is listed on the license application as a partner, officer, director, resident manager, or majority owner of the applying entity, or is the spouse of the applicant.

(3) The license fee shall be submitted with the application.

(4) Proof of financial solvency must be submitted when requested by the department.

(5) The department shall serve upon the applicant a copy of the decision granting or denying an application for a license. An applicant shall have the right to contest denial of his or her application for a license as provided in chapter 34.05 RCW by requesting a hearing in writing within twenty-eight days after receipt of the notice of denial.

(6) The department shall not issue a license to a provider if the department finds that the provider or spouse of the provider or any partner, officer, director, managerial employee, or majority owner has a history of significant noncompliance with federal or state regulations, rules, or laws in providing care or services to vulnerable adults or to children.

(7) The department shall license an adult family home for the maximum level of care that the adult family home may provide. The department shall define, in rule, license levels based upon the education, training, and caregiving experience of the licensed provider or staff.

(8) For adult family homes that serve residents with special needs such as dementia, developmental disabilities, or mental illness, specialty training is required of providers and resident managers consistent with RCW 70.128.230, and also is required for caregivers, with standardized competency testing for caregivers hired after July 28, 2013, as set forth by the department in rule. The department shall examine, with input from experts, providers, consumers, and advocates, whether the existing specialty training courses are adequate for providers, resident managers, and caregivers to meet these residents' special needs, are sufficiently standardized in curricula and instructional techniques, and are accompanied by effective tools to fairly evaluate successful student completion. The department may enhance the existing specialty training requirements by rule, and may update curricula, instructional techniques, and competency testing based upon its review and stakeholder input. In addition, the department shall examine, with input from experts, providers, consumers, and advocates, whether additional specialty training categories should be created for adult family homes serving residents with other special needs, such as traumatic brain injury, skilled nursing, or bariatric care. The department may establish, by rule, additional specialty training categories and requirements for providers, resident managers, and caregivers, if needed to better serve residents with such special needs.

(9) The department shall establish, by rule, standards used to license nonresident providers and multiple facility operators.

(10) The department shall establish, by rule, for multiple facility operators educational standards substantially equivalent to recognized national certification standards for residential care administrators.

(11)(a)(i) At the time of an application for an adult family home license and upon the annual fee renewal date set by the department, the licensee shall pay a license fee. Beginning July 1, 2011, the per bed license fee and any processing fees, including the initial license fee, must be established in the omnibus appropriations act and any amendment or additions made to that act. The license fees established in the omnibus appropriations act and any amendment or additions made to that act may not exceed the department's annual licensing and oversight activity costs and must include the department's cost of paying providers for the amount of the license fee attributed to medicaid clients.

(ii) In addition to the fees established in (a)(i) of this subsection, the department shall charge the licensee a nonrefundable fee in the event of a change in ownership of the adult family home. The fee must be established in the omnibus appropriations act and any amendment or additions made to that act.

(b) The department may authorize a one-time waiver of all or any portion of the licensing, processing, or change of ownership fees required under this subsection (11) in any case in which the department determines that an adult family home is being relicensed because of exceptional circumstances, such as death or incapacity of a provider, and that to require the full payment of the licensing, processing, or change of ownership fees would present a hardship to the applicant.

(12) A provider who receives notification of the department's initiation of a denial, suspension, nonrenewal, or revocation of an adult family home license may, in lieu of appealing the department's action, surrender or relinquish the license. The department shall not issue a new license to or contract with the provider, for the purposes of providing care to vulnerable adults or children, for a period of twenty years following the surrendering or relinquishment of the former license. The licensing record shall indicate that the provider relinquished or surrendered the license, without admitting the violations, after receiving notice of the department's initiation of a denial, suspension, nonrenewal, or revocation of a license.

(13) The department shall establish, by rule, the circumstances requiring a change in the licensed provider, which include, but are not limited to, a change in ownership or control of the adult family home or provider, a change in the provider's form of legal organization, such as from sole proprietorship to partnership or corporation, and a dissolution or merger of the licensed entity with another legal organization. The new provider is subject to the provisions of this chapter, the rules adopted under this chapter, and other applicable law. In order to ensure that the safety of residents is not compromised by a change in provider, the new provider is responsible for correction of all violations that may exist at the time of the new license.

Sec. 2. RCW 70.128.120 and 2013 c 39 s 21 are each amended to read as follows:

Each adult family home provider, applicant, and each resident manager shall have the following minimum qualifications, except that only applicants are required to meet the provisions of subsections (10) and (11) of this section:

- (1) Twenty-one years of age or older;

(2) For those applying after September 1, 2001, to be licensed as providers, and for resident managers whose employment begins after September 1, 2001, a United States high school diploma or high school equivalency certificate as provided in RCW 28B.50.536 or any English or translated government documentation of the following:

(a) Successful completion of government-approved public or private school education in a foreign country that includes an annual average of one thousand hours of instruction over twelve years or no less than twelve thousand hours of instruction;

(b) A foreign college, foreign university, or United States community college two-year diploma;

(c) Admission to, or completion of coursework at, a foreign university or college for which credit was granted;

(d) Admission to, or completion of coursework at, a United States college or university for which credits were awarded;

(e) Admission to, or completion of postgraduate coursework at, a United States college or university for which credits were awarded; or

(f) Successful passage of the United States board examination for registered nursing, or any professional medical occupation for which college or university education preparation was required;

(3) Good moral and responsible character and reputation;

(4) Literacy and the ability to communicate in the English language;

(5) Management and administrative ability to carry out the requirements of this chapter;

(6) Satisfactory completion of department-approved basic training and continuing education training as required by RCW 74.39A.074, and in rules adopted by the department;

(7) Satisfactory completion of department-approved, or equivalent, special care training before a provider may provide special care services to a resident;

(8) Not been convicted of any crime that is disqualifying under RCW 43.43.830 or 43.43.842, or department rules adopted under this chapter, or been found to have abused, neglected, exploited, or abandoned a minor or vulnerable adult as specified in RCW 74.39A.056(2);

(9) For those applying to be licensed as providers, and for resident managers whose employment begins after August 24, 2011, at least one thousand hours in the previous sixty months of successful, direct caregiving experience obtained after age eighteen to vulnerable adults in a licensed or contracted setting prior to operating or managing an adult family home. The applicant or resident manager must have credible evidence of the successful, direct caregiving experience or, currently hold one of the following professional licenses: Physician licensed under chapter 18.71 RCW; osteopathic physician licensed under chapter 18.57 RCW; osteopathic physician assistant licensed under chapter 18.57A RCW; physician assistant licensed under chapter 18.71A RCW; registered nurse, advanced registered nurse practitioner, or licensed practical nurse licensed under chapter 18.79 RCW;

(10) For applicants, proof of financial solvency, as defined in rule; and

(11) Applicants must successfully complete an adult family home administration and business planning class, prior to being granted a license. The class must be a minimum of forty-eight hours of classroom time and approved

by the department. The department shall promote and prioritize bilingual capabilities within available resources and when materials are available for this purpose. Under exceptional circumstances, such as the sudden and unexpected death of a provider, the department may consider granting a license to an applicant who has not completed the class but who meets all other requirements. If the department decides to grant the license due to exceptional circumstances, the applicant must have enrolled in or completed the class within four months of licensure.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 67

[Substitute House Bill 1138]

MENTAL HEALTH AND SUICIDE PREVENTION TASK FORCE

AN ACT Relating to creating a task force on mental health and suicide prevention in higher education; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that:

(a) According to Mental Health America's Parity or Disparity: The State of Mental Health in America 2015 Report, Washington ranks fourth in states with the highest prevalence of mental illness and lowest access to care. The report finds that, in Washington, both adults and youth have worse mental health outcomes than residents of other states. The report shows that Washington ranks third in states with the highest prevalence of behavioral concerns. The report estimates that there are over one million adults with mental illness in Washington, and almost one quarter of a million adults with serious thoughts of suicide.

(b) According to the national college health assessment survey, sponsored by the American college health association, almost ten percent of college students reported that they had seriously considered attempting suicide and 1.5 percent of students reported that they had attempted suicide within the last school year. There are approximately four hundred thousand students attending Washington's two-year and four-year public and private institutions of higher education, so based on national averages, about forty thousand Washington students have suicidal ideation, and about six thousand have attempted suicide in the past year.

(c) According to the state department of health:

(i) Suicide is the second leading cause of death for Washington youth between the ages of ten and twenty-four. Suicide rates among Washington youth remain higher than the national average;

(ii) In 2012 and 2013, over two hundred youth between the ages of eighteen and twenty-four died by suicide. Those same years, over one thousand youth ages eighteen to twenty-four required hospitalization due to a self-inflicted nonfatal injury; and

(iii) For each youth between the ages of ten and twenty-four who dies by suicide, the average cost is nearly two million dollars in future work loss and five thousand dollars in medical costs. The estimated cost for each nonfatal suicide attempt that results in hospitalization is about eleven thousand dollars in medical costs and twenty-four thousand dollars in work loss costs.

(d) According to the national center for veterans studies at the University of Utah, veterans face an elevated risk of suicide as compared to the general population; nearly half of college students who are United States military veterans have had thoughts of suicide. Nearly eight percent of veteran college students reported a suicide attempt compared to a little over one percent of other college students.

(2) Therefore, the legislature intends to convene a task force on mental health and suicide prevention in higher education to determine what policies, resources, and technical assistance may be needed to support the institutions of higher education in improving access to mental health services and improving suicide prevention responses.

NEW SECTION. **Sec. 2.** (1) Forefront at the University of Washington shall convene a task force on mental health and suicide prevention at Washington's public and private institutions of higher education to determine what policies, resources, and technical assistance are needed to support the institutions in improving access to mental health services and improving suicide prevention responses.

(2) Membership of the mental health and suicide prevention in higher education task force shall be as provided in this subsection.

(a) The following agencies and organizations shall each appoint one member to the task force: The student achievement council, the council of presidents, the state board for community and technical colleges, the independent colleges of Washington, the workforce training and education coordinating board, the northwest career colleges federation, the Washington department of veterans affairs, the Washington department of social and health services, and the Washington department of health; and

(b) Forefront at the University of Washington shall invite campus counselors and mental health experts; experts on suicide assessment, treatment and management; mental health and suicide prevention advocates; veterans center staff; experts on lesbian, gay, bisexual and transgender issues, and ethnic and minority affairs experts; campus administrators; and students to be members of the task force. The invitees must represent the various demographics and geographies of the state.

(c) The task force may form subgroups of members that research, discuss, and make recommendations on one or more topics in furtherance of the overall goals of the task force.

(3) The task force shall choose its cochairs from among its membership. Forefront at the University of Washington shall convene the initial meeting of the task force and the cochairs shall convene subsequent meetings.

(4) Staff support for the task force must be provided by Forefront at the University of Washington.

(5) The task force, in cooperation with the state's public and private institutions of higher education, shall collect data related to mental health services, suicide prevention and response, and deaths by suicide at the public

and private institutions of higher education in Washington, to the extent that data is available. This data may include:

(a) Protocols for responding to students in distress that cover intervention, treatment, reentry, and post-crisis intervention;

(b) Data on on-campus use of student behavioral health services over the past five years;

(c) Data on available funding for on-campus student behavioral health services over the past five years;

(d) Data on the number of mental health professionals and chemical dependency professionals working on campus and the number of students on campus over the past five years;

(e) Data on student suicide attempts and deaths over the past five years;

(f) Information on courses or seminars focusing on early identification of mental health issues, providing early access to mental health services, and intervention offered at the campus over the past five years;

(g) Information on student groups raising awareness about suicide prevention and behavioral health promotion;

(h) Information on efforts to screen students for behavioral health disorders and suicidal ideation;

(i) Information on efforts to reduce access to lethal means, such as locking dorm balconies or prescription medication drop-off campaigns;

(j) Information on the relationship between emotional distress and student withdrawal; and

(k) Information on the availability of online behavioral health resources on institution web sites.

(6) Subject to funds appropriated specifically for this purpose, the expenses of the task force must be paid by the University of Washington.

(7) The task force shall report its findings and recommendations to the governor and the appropriate committees of the legislature by November 1, 2016. The report must include:

(a) A summary of the data reviewed by the task force;

(b) Best practices and policies for providing mental health services and preventing suicide at institutions of higher education;

(c) Recommendations on resources and technical assistance required to increase awareness of behavioral health needs on campus and support institutions of higher education in preventing suicide on campus.

NEW SECTION, Sec. 3. This act expires July 1, 2017.

Passed by the House March 2, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.

Filed in Office of Secretary of State April 23, 2015.

CHAPTER 68

[Substitute House Bill 1127]

DEPARTMENT OF AGRICULTURE--LABOR SKILLS AND SAFETY GRANT PROGRAM

AN ACT Relating to the agricultural labor skills and safety grant program; adding a new section to chapter 43.330 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature recognizes that Washington is one of the most productive growing regions in the country and Washington's agriculture is an integral part of this state's economic health. The legislature also recognizes the agricultural industry's need for skilled workers and the workers' need in upgrading their agricultural skills and marketability. The legislature recognizes that providing skills and safety training for Washington agricultural workers helps ensure their success and safety and helps to ensure the continued success of Washington's agricultural industry.

NEW SECTION. Sec. 2. A new section is added to chapter 43.330 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the department shall create and administer the agricultural labor skills and safety grant program that will provide training opportunities for Washington agricultural workers.

(2) The department shall select one recipient that has a community-based organization whose primary mission is to provide services to Washington agricultural workers and that has the ability to carry out the objectives in subsection (3) of this section. The department must ensure that the grant recipient gives priority to Washington agricultural workers. The training is open to all workers in Washington agriculture, and is intended to improve job employability of workers who live in Washington state and to improve the skills and knowledge of workers who work on a permanent, local seasonal, or seasonal migrant basis, and who intend to return to Washington state to work in Washington state agriculture.

(3) The grant recipient shall provide training to agricultural workers in workforce skills and safety training by working with agricultural employee and agricultural employer organizations in:

(a) Designing and implementing an agricultural skills development program;

(b) Developing a plan to increase the number of skilled agricultural workers through outreach to Washington agricultural workers;

(c) Providing agricultural health and safety training to its participants and ensuring that participation in the training program is voluntary;

(d) Conducting project evaluations on agricultural trainings and service delivery strategies for agricultural workers and employers;

(e) Partnering with an agricultural employee and an agricultural employer organization that has focused on agricultural labor and employment issues and services for Washington agricultural workers for at least ten years, and that has experience in providing training to agricultural employees in developing and providing the training curriculum; and

(f) Delivering training through a service delivery system that is sensitive to the unique needs of Washington agricultural employers and agricultural workers, including the barriers to employment for agricultural workers.

(4) The grant recipient may receive up to one million dollars per year.

(5) This section expires July 1, 2018.

Passed by the House March 6, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 23, 2015.
Filed in Office of Secretary of State April 23, 2015.

CHAPTER 69

[Second Substitute Senate Bill 5404]

HOMELESS YOUTH

AN ACT Relating to homeless youth prevention and protection; amending RCW 13.32A.042, 13.32A.044, 13.32A.050, 13.32A.090, 13.32A.095, 13.32A.130, 74.13.032, 74.13.033, 74.13.034, 74.15.220, 74.15.225, 43.330.167, 43.185C.040, 43.185C.240, and 28A.300.540; reenacting and amending RCW 43.185C.010, 13.32A.060, and 13.32A.065; adding new sections to chapter 43.185C RCW; adding new sections to chapter 43.330 RCW; creating a new section; and recodifying RCW 13.32A.042, 13.32A.044, 13.32A.050, 13.32A.060, 13.32A.065, 13.32A.070, 13.32A.090, 13.32A.095, 13.32A.130, 74.13.032, 74.13.0321, 74.13.033, 74.13.034, 74.15.220, 74.15.225, 74.15.260, and 74.15.270.

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

NEW SECTION. Sec. 1. Creation of subchapter. Sections 3 through 9 of this act are each added to chapter 43.330 RCW and codified with the subchapter heading of "homeless youth prevention and protection act."

NEW SECTION. Sec. 2. Short title. This act may be known and cited as the "homeless youth prevention and protection act."

NEW SECTION. Sec. 3. Definitions. The definitions in this section apply throughout this subchapter unless the context clearly requires otherwise.

(1) "Child," "juvenile," "youth," and "minor" means any unemancipated individual who is under the chronological age of eighteen years.

(2) "Homeless" means without a fixed, regular, and adequate nighttime residence as set forth in the federal McKinney-Vento homeless assistance act, P.L. 100-77, July 22, 1987, 101 Stat. 482, and runaway and homeless youth act, P.L. 93-415, Title III, September 7, 1974, 88 Stat. 1129.

(3) "Runaway" means an unmarried and unemancipated minor who is absent from the home of a parent or guardian or other lawful placement without the consent of the parent, guardian, or lawful custodian.

(4) "Street youth" means a person under the age of eighteen who lives outdoors or in another unsafe location not intended for occupancy by the minor and who is not residing with his or her parent or at his or her legally authorized residence.

(5) "Unaccompanied" means a youth or young adult experiencing homelessness while not in the physical custody of a parent or guardian.

(6) "Young adult" means a person between eighteen and twenty-four years of age.

NEW SECTION. Sec. 4. Legislative findings. (1) The legislature finds that every night thousands of homeless youth in Washington go to sleep without the safety, stability, and support of a family or a home. This population is exposed to an increased level of violence, human trafficking, and exploitation resulting in a higher incidence of substance abuse, illness, and death. The prevention and reduction of youth and young adult homelessness and protection of homeless youth is of key concern to the state. Nothing in chapter ..., Laws of 2015 (this act) is meant to diminish the work accomplished by the implementation of Becca legislation but rather, the intent of the legislature is to further enhance the state's

efforts in working with unaccompanied homeless youth and runaways to encourage family reconciliation or permanent housing and support through dependency when family reconciliation is not a viable alternative.

(2) Successfully addressing youth and young adult homelessness ensures that homeless youth and young adults in our state have the support they need to thrive and avoid involvement in the justice system, human trafficking, long-term, avoidable use of public benefits, and extended adult homelessness.

(3) Providing appropriate, relevant, and readily accessible services is critical for addressing one-time, episodic, or longer-term homelessness among youth and young adults, and keeping homeless youth and young adults safe, housed, and connected to family.

(4) The coordination of statewide programs to combat youth and young adult homelessness should include programs addressing both youth and young adults. However, the legislature acknowledges that current law and best practices mandate that youth programs and young adult programs be segregated in their implementation. The legislature further finds that the differing needs of these populations should be considered when assessing which programs are relevant and appropriate.

(5) To successfully reduce and prevent youth and young adult homelessness, it is the goal of the legislature to have the following key components available and accessible:

(a) **Stable housing:** It is the goal of the legislature to provide a safe and healthy place for homeless youth to sleep each night until permanency can be reached. Every homeless young adult in our state deserves access to housing that gives them a safe, healthy, and supported launching pad to adulthood. Every family in crisis should have appropriate support as they work to keep their children housed and safe. It is the goal of the legislature that every homeless youth discharged from a public system of care in our state will not be discharged into homelessness.

(b) **Family reconciliation:** All homeless youth should have access to services that support reunification with immediate family. When reunification is not possible for homeless youth, youth should be placed in the custody of the department of social and health services.

(c) **Permanent connections:** Every homeless young adult should have opportunities to establish positive, healthy relationships with adults, including family members, employers, landlords, teachers, and community members, with whom they can maintain connections and from whom they can receive ongoing, long-term support to help them develop the skills and experiences necessary to achieve a successful transition to adulthood.

(d) **Education and employment:** Every homeless young adult in our state deserves the opportunity and support they need to complete their high school education and pursue additional education and training. It is the goal of the legislature that every homeless young adult in our state will have the opportunity to engage in employment training and be able to access employment. With both education and employment support and opportunities, young adults will have the skills they need to become self-sufficient, self-reliant, and independent.

(e) **Social and emotional well-being:** Every homeless youth and young adult in our state should have access to both behavioral health care and physical health care. Every state-funded program for homeless youth and young adults must

endeavor to identify, encourage, and nurture each youth's strengths and abilities and demonstrate a commitment to youth-centered programming.

NEW SECTION. Sec. 5. Creation of office of homeless youth prevention and protection programs. (1) There is created the office of homeless youth prevention and protection programs within the department.

(2) Activities of the office of homeless youth prevention and protection programs must be carried out by a director of the office of homeless youth prevention and protection programs, supervised by the director of the department or his or her designee.

(3) The office of homeless youth prevention and protection programs is responsible for leading efforts under this subchapter to coordinate a spectrum of ongoing and future funding, policy, and practice efforts related to homeless youth and improving the safety, health, and welfare of homeless youth in this state.

(4) The measurable goals of the office of homeless youth prevention and protection programs are to: (a) Measurably decrease the number of homeless youth and young adults by identifying programs that address the initial causes of homelessness, and (b) measurably increase permanency rates among homeless youth by decreasing the length and occurrences of youth homelessness caused by a youth's separation from family or a legal guardian.

(5) The office of homeless youth prevention and protection programs shall (a) gather data and outcome measures, (b) initiate data sharing agreements, (c) develop specific recommendations and timelines to address funding, policy, and practice gaps within the state system for addressing the five priority service areas identified in section 4 of this act, (d) make reports, (e) increase system integration and coordinate efforts to prevent state systems from discharging youth and young adults into homelessness, (f) develop measures to include by county and statewide the number of homeless youth, dependency status, family reunification status, housing status, program participation, and runaway status, and (g) develop a comprehensive plan to encourage identification of youth experiencing homelessness, promote family stability, and eliminate youth and young adult homelessness.

(6)(a) The office of homeless youth prevention and protection programs shall regularly consult with an advisory committee, comprised of advocates, at least two legislators, at least two parent advocates, at least one representative from law enforcement, service providers, and other stakeholders knowledgeable in the provision of services to homeless youth and young adults, including the prevention of youth and young adult homelessness, the dependency system, and family reunification, for a total of twelve members. The advisory committee shall provide guidance and recommendations to the office of homeless youth prevention and protection programs regarding funding, policy, and practice gaps within and among state programs.

(b) The advisory committee must be staffed by the department.

(c) The members of the advisory committee must be appointed by the governor, except for the legislators who must be appointed by the speaker of the house of representatives and the president of the senate.

(d) The advisory committee must have its initial meeting no later than March 1, 2016.

(7) The office of homeless youth prevention and protection programs must be operational no later than January 1, 2016. Transfer of powers, duties, and functions of the department of social and health services to the department of commerce pertaining to youth homeless services and programs identified in section 7(2) of this act may occur before this date.

NEW SECTION. Sec. 6. Reporting and data gathering.(1) The office of homeless youth prevention and protection programs shall identify data and outcomes measures from which to evaluate future public investment in homeless youth services.

(2) By December 1, 2016, and in compliance with RCW 43.01.036, the office of homeless youth prevention and protection programs must submit a report to the governor and the legislature to inform recommendations for funding, policy, and best practices in the five priority service areas identified in section 4 of this act and present recommendations to address funding, policy, and practice gaps in the state system.

(3) Recommendations must include, but are not limited to: Strategies to enhance coordination between providers of youth homelessness programs and the child welfare system, and strategies for communities to identify homeless youth and ensure their protection and referral to appropriate services, including family reconciliation and transition to dependent status for minors.

NEW SECTION. Sec. 7. Authorization for administration of services and funding through the office of homeless youth prevention and protection programs.(1)(a) The office of homeless youth prevention and protection programs shall report to the director or the director's designee.

(b)(i) The office of homeless youth prevention and protection programs may distribute grants to providers who serve homeless youth and young adults throughout the state.

(ii) The grants must fund services in the five priority service areas identified in section 4 of this act.

(iii) The grants must be expended on a statewide basis and may be used to support direct services, as well as technical assistance, evaluation, and capacity building.

(2) The office of homeless youth prevention and protection programs shall provide management and oversight guidance and direction to the following programs:

(a) HOPE centers as described in RCW 74.15.220 (as recodified by this act);

(b) Crisis residential centers as described in RCW 74.13.032 (as recodified by this act);

(c) Street youth services;

(d) Independent youth housing programs as described in RCW 43.63A.305.

NEW SECTION. Sec. 8. (1) The office of homeless youth prevention and protection programs shall establish a statewide training program on homeless youth for criminal justice personnel. The training must include identifying homeless youth, existing laws governing the intersection of law enforcement and homeless youth, and best practices for approaching and engaging homeless youth in appropriate services.

(2) The training must be provided where possible by an entity that has experience in developing coalitions, training, programs, and policy on homeless youth in Washington.

NEW SECTION. Sec. 9. The joint legislative audit and review committee shall conduct a review of state-funded programs that serve unaccompanied homeless youth under the age of eighteen, including dependent youth, to determine what performance measures exist, what statutory reporting requirements exist, and whether there is reliable data on ages of youth served, length of stay, and effectiveness of program exit and reentry. Where statutory reporting requirements do exist, the joint legislative audit and review committee shall review the programs' compliance with relevant statutory reporting requirements. The committee shall report on what services are provided to unaccompanied homeless youth including, but not limited to: Outreach and other nonshelter services, shelter services, and family reconciliation. The committee is also to report on the number of unaccompanied homeless youth statewide and by county and city and how this number is determined. The programs reviewed may include, but are not limited to, HOPE centers as described in RCW 74.15.220 (as recodified by this act) and crisis residential centers as described in RCW 74.13.032 (as recodified by this act).

Sec. 10. RCW 43.185C.010 and 2009 c 565 s 40 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Administrator" means the individual who has the daily administrative responsibility of a crisis residential center.

(2) "Child in need of services petition" means a petition filed in juvenile court by a parent, child, or the department seeking adjudication of placement of the child.

(3) "Community action agency" means a nonprofit private or public organization established under the economic opportunity act of 1964.

~~((2))~~ (4) "Crisis residential center" means a secure or semi-secure facility established pursuant to chapter 74.13 RCW.

(5) "Department" means the department of commerce.

~~((3))~~ (6) "Director" means the director of the department of commerce.

~~((4))~~ (7) "Home security fund account" means the state treasury account receiving the state's portion of income from revenue from the sources established by RCW 36.22.179, RCW 36.22.1791, and all other sources directed to the homeless housing and assistance program.

~~((5))~~ (8) "Homeless housing grant program" means the vehicle by which competitive grants are awarded by the department, utilizing moneys from the home security fund account, to local governments for programs directly related to housing homeless individuals and families, addressing the root causes of homelessness, preventing homelessness, collecting data on homeless individuals, and other efforts directly related to housing homeless persons.

~~((6))~~ (9) "Homeless housing plan" means the ten-year plan developed by the county or other local government to address housing for homeless persons.

~~((7))~~ (10) "Homeless housing program" means the program authorized under this chapter as administered by the department at the state level and by the local government or its designated subcontractor at the local level.

~~((8))~~ (11) "Homeless housing strategic plan" means the ten-year plan developed by the department, in consultation with the interagency council on homelessness and the affordable housing advisory board.

~~((9))~~ (12) "Homeless person" means an individual living outside or in a building not meant for human habitation or which they have no legal right to occupy, in an emergency shelter, or in a temporary housing program which may include a transitional and supportive housing program if habitation time limits exist. This definition includes substance abusers, people with mental illness, and sex offenders who are homeless.

~~((10))~~ (13) "HOPE center" means an agency licensed by the secretary to provide temporary residential placement and other services to street youth. A street youth may remain in a HOPE center for thirty days while services are arranged and permanent placement is coordinated. No street youth may stay longer than thirty days unless approved by the department and any additional days approved by the department must be based on the unavailability of a long-term placement option. A street youth whose parent wants him or her returned to home may remain in a HOPE center until his or her parent arranges return of the youth, not longer. All other street youth must have court approval under chapter 13.34 or 13.32A RCW to remain in a HOPE center up to thirty days.

(14) "Housing authority" means any of the public corporations created by chapter 35.82 RCW.

~~((11))~~ (15) "Housing continuum" means the progression of individuals along a housing-focused continuum with homelessness at one end and homeownership at the other.

~~((12))~~ (16) "Interagency council on homelessness" means a committee appointed by the governor and consisting of, at least, policy level representatives of the following entities: (a) The department of commerce; (b) the department of corrections; (c) the department of social and health services; (d) the department of veterans affairs; and (e) the department of health.

~~((13))~~ (17) "Local government" means a county government in the state of Washington or a city government, if the legislative authority of the city affirmatively elects to accept the responsibility for housing homeless persons within its borders.

~~((14))~~ (18) "Local homeless housing task force" means a voluntary local committee created to advise a local government on the creation of a local homeless housing plan and participate in a local homeless housing program. It must include a representative of the county, a representative of the largest city located within the county, at least one homeless or formerly homeless person, such other members as may be required to maintain eligibility for federal funding related to housing programs and services and if feasible, a representative of a private nonprofit organization with experience in low-income housing.

~~((15))~~ (19) "Long-term private or public housing" means subsidized and unsubsidized rental or owner-occupied housing in which there is no established time limit for habitation of less than two years.

~~((16))~~ (20) "Performance measurement" means the process of comparing specific measures of success against ultimate and interim goals.

~~((17))~~ (21) "Secure facility" means a crisis residential center, or portion thereof, that has locking doors, locking windows, or a secured perimeter, designed and operated to prevent a child from leaving without permission of the facility staff.

(22) "Semi-secure facility" means any facility including, but not limited to, crisis residential centers or specialized foster family homes, operated in a manner to reasonably assure that youth placed there will not run away. Pursuant to rules established by the department, the facility administrator shall establish reasonable hours for residents to come and go from the facility such that no residents are free to come and go at all hours of the day and night. To prevent residents from taking unreasonable actions, the facility administrator, where appropriate, may condition a resident's leaving the facility upon the resident being accompanied by the administrator or the administrator's designee and the resident may be required to notify the administrator or the administrator's designee of any intent to leave, his or her intended destination, and the probable time of his or her return to the center.

(23) "Staff secure facility" means a structured group care facility licensed under rules adopted by the department of social and health services with a ratio of at least one adult staff member to every two children.

(24) "Washington homeless census" means an annual statewide census conducted as a collaborative effort by towns, cities, counties, community-based organizations, and state agencies, with the technical support and coordination of the department, to count and collect data on all homeless individuals in Washington.

~~((18))~~ (25) "Washington homeless client management information system" means a database of information about homeless individuals in the state used to coordinate resources to assist homeless clients to obtain and retain housing and reach greater levels of self-sufficiency or economic independence when appropriate, depending upon their individual situations.

Sec. 11. RCW 13.32A.042 and 2000 c 123 s 4 are each amended to read as follows:

(1)(a) The administrator of a crisis residential center may convene a multidisciplinary team, which is to be locally based and administered, at the request of a child placed at the center or the child's parent.

(b) If the administrator has reasonable cause to believe that a child is a child in need of services and the parent is unavailable or unwilling to continue efforts to maintain the family structure, the administrator shall immediately convene a multidisciplinary team.

(c) A parent may disband a team twenty-four hours, excluding weekends and holidays, after receiving notice of formation of the team under (b) of this subsection unless a petition has been filed under RCW 13.32A.140. If a petition has been filed the parent may not disband the team until the hearing is held under RCW 13.32A.179. The court may allow the team to continue if an out-of-home placement is ordered under RCW 13.32A.179(3). Upon the filing of an at-risk youth or dependency petition the team shall cease to exist, unless the parent requests continuation of the team or unless the out-of-home placement was ordered under RCW 13.32A.179(3).

(2) The ~~(secretary))~~ administrator shall request participation of appropriate state agencies to assist in the coordination and delivery of services through the

multidisciplinary teams. Those agencies that agree to participate shall provide the secretary all information necessary to facilitate forming a multidisciplinary team and the ~~((secretary))~~ administrator shall provide this information to the administrator of each crisis residential center.

~~(3) ((The secretary shall designate within each region a department employee who shall have responsibility for coordination of the state response to a request for creation of a multidisciplinary team. The secretary shall advise the administrator of each crisis residential center of the name of the appropriate employee. Upon a request of the administrator to form a multidisciplinary team the employee shall provide a list of the agencies that have agreed to participate in the multidisciplinary team.~~

~~(4))~~ (4)) The administrator shall also seek participation from representatives of mental health and drug and alcohol treatment providers as appropriate.

~~((5))~~ (4) A parent shall be advised of the request to form a multidisciplinary team and may select additional members of the multidisciplinary team. The parent or child may request any person or persons to participate including, but not limited to, educators, law enforcement personnel, court personnel, family therapists, licensed health care practitioners, social service providers, youth residential placement providers, other family members, church representatives, and members of their own community. The administrator shall assist in obtaining the prompt participation of persons requested by the parent or child.

~~((6))~~ (5) When an administrator of a crisis residential center requests the formation of a team, the state agencies must respond as soon as possible.

Sec. 12. RCW 13.32A.044 and 2000 c 123 s 5 are each amended to read as follows:

(1) The purpose of the multidisciplinary team is to assist in a coordinated referral of the family to available social and health-related services.

(2) The team shall have the authority to evaluate the juvenile, and family members, if appropriate and agreed to by the parent, and shall:

(a) With parental input, develop a plan of appropriate available services and assist the family in obtaining those services;

(b) Make a referral to the designated chemical dependency specialist or the county designated mental health professional, if appropriate;

(c) Recommend no further intervention because the juvenile and his or her family have resolved the problem causing the family conflict; or

(d) With the parent's consent, work with them to achieve reconciliation of the child and family.

(3) At the first meeting of the multidisciplinary team, it shall choose a member to coordinate the team's efforts. The parent member of the multidisciplinary team must agree with the choice of coordinator. The team shall meet or communicate as often as necessary to assist the family.

(4) The coordinator of the multidisciplinary team may assist in filing a child in need of services petition when requested by the parent or child or an at-risk youth petition when requested by the parent. The multidisciplinary team shall have no standing as a party in any action under this title.

(5) If the administrator is unable to contact the child's parent, the multidisciplinary team may be used for assistance. If the parent has not been contacted within five days the administrator shall contact the department of of

social and health services and request the case be reviewed for a dependency filing under chapter 13.34 RCW.

Sec. 13. RCW 13.32A.050 and 2000 c 123 s 6 are each amended to read as follows:

(1) A law enforcement officer shall take a child into custody:

(a) If a law enforcement agency has been contacted by the parent of the child that the child is absent from parental custody without consent; or

(b) If a law enforcement officer reasonably believes, considering the child's age, the location, and the time of day, that a child is in circumstances which constitute a danger to the child's safety or that a child is violating a local curfew ordinance; or

(c) If an agency legally charged with the supervision of a child has notified a law enforcement agency that the child has run away from placement; or

(d) If a law enforcement agency has been notified by the juvenile court that the court finds probable cause exists to believe that the child has violated a court placement order issued under this chapter or chapter 13.34 RCW or that the court has issued an order for law enforcement pick-up of the child under this chapter or chapter 13.34 RCW.

(2) Law enforcement custody shall not extend beyond the amount of time reasonably necessary to transport the child to a destination authorized by law and to place the child at that destination. Law enforcement custody continues until the law enforcement officer transfers custody to a person, agency, or other authorized entity under this chapter, or releases the child because no placement is available. Transfer of custody is not complete unless the person, agency, or entity to whom the child is released agrees to accept custody.

(3) If a law enforcement officer takes a child into custody pursuant to either subsection (1)(a) or (b) of this section and transports the child to a crisis residential center, the officer shall, within twenty-four hours of delivering the child to the center, provide to the center a written report detailing the reasons the officer took the child into custody. The center shall provide the department of social and health services with a copy of the officer's report.

(4) If the law enforcement officer who initially takes the juvenile into custody or the staff of the crisis residential center have reasonable cause to believe that the child is absent from home because he or she is abused or neglected, a report shall be made immediately to the department of social and health services.

(5) Nothing in this section affects the authority of any political subdivision to make regulations concerning the conduct of minors in public places by ordinance or other local law.

(6) If a law enforcement officer has a reasonable suspicion that a child is being unlawfully harbored in violation of RCW 13.32A.080, the officer shall remove the child from the custody of the person harboring the child and shall transport the child to one of the locations specified in RCW 13.32A.060 (as recodified by this act).

(7) No child may be placed in a secure facility except as provided in this chapter.

Sec. 14. RCW 13.32A.060 and 2000 c 162 s 11 and 2000 c 123 s 7 are each reenacted and amended to read as follows:

(1) An officer taking a child into custody under RCW 13.32A.050(1) (a) or (b) (as recodified by this act) shall inform the child of the reason for such custody and shall:

(a) Transport the child to his or her home or to a parent at his or her place of employment, if no parent is at home. The parent may request that the officer take the child to the home of an adult extended family member, responsible adult, crisis residential center, the department of social and health services, or a licensed youth shelter. In responding to the request of the parent, the officer shall take the child to a requested place which, in the officer's belief, is within a reasonable distance of the parent's home. The officer releasing a child into the custody of a parent, an adult extended family member, responsible adult, or a licensed youth shelter shall inform the person receiving the child of the reason for taking the child into custody and inform all parties of the nature and location of appropriate services available in the community; or

(b) After attempting to notify the parent, take the child to a designated crisis residential center's secure facility or a center's semi-secure facility if a secure facility is full, not available, or not located within a reasonable distance if:

(i) The child expresses fear or distress at the prospect of being returned to his or her home which leads the officer to believe there is a possibility that the child is experiencing some type of abuse or neglect;

(ii) It is not practical to transport the child to his or her home or place of the parent's employment; or

(iii) There is no parent available to accept custody of the child; or

(c) After attempting to notify the parent, if a crisis residential center is full, not available, or not located within a reasonable distance, request the department of social and health services to accept custody of the child. If the department of social and health services determines that an appropriate placement is currently available, the department of social and health services shall accept custody and place the child in an out-of-home placement. Upon accepting custody of a child from the officer, the department of social and health services may place the child in an out-of-home placement for up to seventy-two hours, excluding Saturdays, Sundays, and holidays, without filing a child in need of services petition, obtaining parental consent, or obtaining an order for placement under chapter 13.34 RCW. Upon transferring a child to the department(^s) of social and health services' custody, the officer shall provide written documentation of the reasons and the statutory basis for taking the child into custody. If the department of social and health services declines to accept custody of the child, the officer may release the child after attempting to take the child to the following, in the order listed: The home of an adult extended family member; a responsible adult; or a licensed youth shelter. The officer shall immediately notify the department of social and health services if no placement option is available and the child is released.

(2) An officer taking a child into custody under RCW 13.32A.050(1) (c) or (d) (as recodified by this act) shall inform the child of the reason for custody. An officer taking a child into custody under RCW 13.32A.050(1)(c) (as recodified by this act) may release the child to the supervising agency, or shall take the child to a designated crisis residential center's secure facility. If the secure facility is not available, not located within a reasonable distance, or full, the officer shall take the child to a semi-secure crisis residential center. An officer

taking a child into custody under RCW 13.32A.050(1)(d) (as recodified by this act) may place the child in a juvenile detention facility as provided in RCW 13.32A.065 (as recodified by this act) or a secure facility, except that the child shall be taken to detention whenever the officer has been notified that a juvenile court has entered a detention order under this chapter or chapter 13.34 RCW.

(3) Every officer taking a child into custody shall provide the child and his or her parent or parents or responsible adult with a copy of the statement specified in RCW 13.32A.130(6) (as recodified by this act).

(4) Whenever an officer transfers custody of a child to a crisis residential center or the department of social and health services, the child may reside in the crisis residential center or may be placed by the department of social and health services in an out-of-home placement for an aggregate total period of time not to exceed seventy-two hours excluding Saturdays, Sundays, and holidays. Thereafter, the child may continue in out-of-home placement only if the parents have consented, a child in need of services petition has been filed, or an order for placement has been entered under chapter 13.34 RCW.

(5) The department of social and health services shall ensure that all law enforcement authorities are informed on a regular basis as to the location of all designated secure and semi-secure facilities within centers in their jurisdiction, where children taken into custody under RCW 13.32A.050 (as recodified by this act) may be taken.

Sec. 15. RCW 13.32A.065 and 2000 c 162 s 12 and 2000 c 123 s 8 are each reenacted and amended to read as follows:

(1) A child may be placed in detention after being taken into custody pursuant to RCW 13.32A.050(1)(d) (as recodified by this act). The court shall hold a detention review hearing within twenty-four hours, excluding Saturdays, Sundays, and holidays. The court shall release the child after twenty-four hours, excluding Saturdays, Sundays, and holidays, unless:

(a) A motion and order to show why the child should not be held in contempt has been filed and served on the child at or before the detention hearing; and

(b) The court believes that the child would not appear at a hearing on contempt.

(2) If the court orders the child to remain in detention, the court shall set the matter for a hearing on contempt within seventy-two hours, excluding Saturdays, Sundays, and holidays.

Sec. 16. RCW 13.32A.090 and 2000 c 123 s 11 are each amended to read as follows:

(1) The administrator of a designated crisis residential center (~~or the department~~) shall perform the duties under subsection (3) of this section:

(a) Upon admitting a child who has been brought to the center by a law enforcement officer under RCW 13.32A.060 (as recodified by this act);

(b) Upon admitting a child who has run away from home or has requested admittance to the center;

(c) Upon learning from a person under RCW 13.32A.082 that the person is providing shelter to a child absent from home; or

(d) Upon learning that a child has been placed with a responsible adult pursuant to RCW 13.32A.060 (as recodified by this act).

(2) Transportation expenses of the child shall be at the parent's expense to the extent of his or her ability to pay, with any unmet transportation expenses assumed by the (~~(department)~~) crisis residential center.

(3) When any of the circumstances under subsection (1) of this section are present, the administrator of a center (~~(or the department)~~) shall perform the following duties:

(a) Immediately notify the child's parent of the child's whereabouts, physical and emotional condition, and the circumstances surrounding his or her placement;

(b) Initially notify the parent that it is the paramount concern of the family reconciliation service personnel to achieve a reconciliation between the parent and child to reunify the family and inform the parent as to the procedures to be followed under this chapter;

(c) Inform the parent whether a referral to children's protective services has been made and, if so, inform the parent of the standard pursuant to RCW 26.44.020(~~((1-2))~~) (1) governing child abuse and neglect in this state; and either

(d)(i) Arrange transportation for the child to the residence of the parent, as soon as practicable, when the child and his or her parent agrees to the child's return home or when the parent produces a copy of a court order entered under this chapter requiring the child to reside in the parent's home; or

(ii) Arrange transportation for the child to: (~~((i)-(A))~~) (A) An out-of-home placement which may include a licensed group care facility or foster family when agreed to by the child and parent; or (~~((ii)-(B))~~) (B) a certified or licensed mental health or chemical dependency program of the parent's choice.

(4) If the administrator of the crisis residential center performs the duties listed in subsection (3) of this section, he or she shall also notify the department of social and health services that a child has been admitted to the crisis residential center.

Sec. 17. RCW 13.32A.095 and 2000 c 123 s 12 are each amended to read as follows:

The administrator of a crisis residential center shall notify parents, the appropriate law enforcement agency, and the department of social and health services immediately as to any unauthorized leave from the center by a child placed at the center.

Sec. 18. RCW 13.32A.130 and 2009 c 569 s 1 are each amended to read as follows:

(1) A child admitted to a secure facility located in a juvenile detention center shall remain in the facility for at least twenty-four hours after admission but for not more than five consecutive days. A child admitted to a secure facility not located in a juvenile detention center or a semi-secure facility may remain for not more than fifteen consecutive days. If a child is transferred between a secure and semi-secure facility, the aggregate length of time a child may remain in both facilities shall not exceed fifteen consecutive days per admission, and in no event may a child's stay in a secure facility located in a juvenile detention center exceed five days per admission.

(2)(a)(i) The facility administrator shall determine within twenty-four hours after a child's admission to a secure facility whether the child is likely to remain in a semi-secure facility and may transfer the child to a semi-secure facility or

release the child to the department of social and health services. The determination shall be based on: (A) The need for continued assessment, protection, and treatment of the child in a secure facility; and (B) the likelihood the child would remain at a semi-secure facility until his or her parents can take the child home or a petition can be filed under this title.

(ii) In making the determination the administrator shall consider the following information if known: (A) The child's age and maturity; (B) the child's condition upon arrival at the center; (C) the circumstances that led to the child's being taken to the center; (D) whether the child's behavior endangers the health, safety, or welfare of the child or any other person; (E) the child's history of running away; and (F) the child's willingness to cooperate in the assessment.

(b) If the administrator of a secure facility determines the child is unlikely to remain in a semi-secure facility, the administrator shall keep the child in the secure facility pursuant to this chapter and in order to provide for space for the child may transfer another child who has been in the facility for at least seventy-two hours to a semi-secure facility. The administrator shall only make a transfer of a child after determining that the child who may be transferred is likely to remain at the semi-secure facility.

(c) A crisis residential center administrator is authorized to transfer a child to a crisis residential center in the area where the child's parents reside or where the child's lawfully prescribed residence is located.

(d) An administrator may transfer a child from a semi-secure facility to a secure facility whenever he or she reasonably believes that the child is likely to leave the semi-secure facility and not return and after full consideration of all factors in (a)(i) and (ii) of this subsection.

(3) If no parent is available or willing to remove the child during the first seventy-two hours following admission, the department of social and health services shall consider the filing of a petition under RCW 13.32A.140.

(4) Notwithstanding the provisions of subsection (1) of this section, the parents may remove the child at any time unless the staff of the crisis residential center has reasonable cause to believe that the child is absent from the home because he or she is abused or neglected or if allegations of abuse or neglect have been made against the parents. The department of social and health services or any agency legally charged with the supervision of a child may remove a child from a crisis residential center at any time after the first twenty-four-hour period after admission has elapsed and only after full consideration by all parties of the factors in subsection (2)(a) of this section.

(5) Crisis residential center staff shall make reasonable efforts to protect the child and achieve a reconciliation of the family. If a reconciliation and voluntary return of the child has not been achieved within forty-eight hours from the time of admission, and if the administrator of the center does not consider it likely that reconciliation will be achieved within five days of the child's admission to the center, then the administrator shall inform the parent and child of: (a) The availability of counseling services; (b) the right to file a child in need of services petition for an out-of-home placement, the right of a parent to file an at-risk youth petition, and the right of the parent and child to obtain assistance in filing the petition; (c) the right to request the facility administrator or his or her designee to form a multidisciplinary team; (d) the right to request a review of any out-of-home placement; (e) the right to request a mental health or chemical

dependency evaluation by a county-designated professional or a private treatment facility; and (f) the right to request treatment in a program to address the child's at-risk behavior under RCW 13.32A.197.

(6) At no time shall information regarding a parent's or child's rights be withheld. The department shall develop and distribute to all law enforcement agencies and to each crisis residential center administrator a written statement delineating the services and rights. The administrator of the facility or his or her designee shall provide every resident and parent with a copy of the statement.

(7) A crisis residential center and any person employed at the center acting in good faith in carrying out the provisions of this section are immune from criminal or civil liability for such actions.

Sec. 19. RCW 74.13.032 and 2011 c 240 s 1 are each amended to read as follows:

(1) The department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Crisis residential centers must record client information into a homeless management information system specified by the department.

(3) Within available funds appropriated for this purpose, the department shall establish, through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

~~((3))~~ (4) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to performance-based contracts with licensed private group care facilities.

~~((4))~~ (5) The department is authorized to allow contracting entities to include a combination of secure or semi-secure crisis residential centers as defined in RCW 13.32A.030 and/or HOPE centers pursuant to RCW 74.15.220 (as recodified by this act) in the same building or structure. The department shall permit the colocation of these centers only if the entity operating the facility agrees to designate a particular number of beds to each type of center that is located within the building or structure.

~~((5))~~ (6) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090 (as recodified by this act). ~~((The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.~~

~~((6))~~ (7) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

~~((7))~~ (8) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.

Sec. 20. RCW 74.13.033 and 2009 c 569 s 3 are each amended to read as follows:

(1) If a resident of a crisis residential center becomes by his or her behavior disruptive to the facility's program, such resident may be immediately removed to a separate area within the facility and counseled on an individual basis until such time as the child regains his or her composure. The department may set rules and regulations establishing additional procedures for dealing with severely disruptive children on the premises.

(2) When the juvenile resides in this facility, all services deemed necessary to the juvenile's reentry to normal family life shall be made available to the juvenile as required by chapter 13.32A RCW. In assessing the child and providing these services, the facility staff shall:

(a) Interview the juvenile as soon as possible;

(b) Contact the juvenile's parents and arrange for a counseling interview with the juvenile and his or her parents as soon as possible;

(c) Conduct counseling interviews with the juvenile and his or her parents, to the end that resolution of the child/parent conflict is attained and the child is returned home as soon as possible;

(d) Provide additional crisis counseling as needed, to the end that placement of the child in the crisis residential center will be required for the shortest time possible, but not to exceed fifteen consecutive days; and

(e) Convene, when appropriate, a multidisciplinary team.

(3) Based on the assessments done under subsection (2) of this section the center staff may refer any child who, as the result of a mental or emotional disorder, or intoxication by alcohol or other drugs, is suicidal, seriously assaultive, or seriously destructive toward others, or otherwise similarly evidences an immediate need for emergency medical evaluation and possible care, for evaluation pursuant to chapter 71.34 RCW, to a mental health professional pursuant to chapter 71.05 RCW, or to a chemical dependency specialist pursuant to chapter 70.96A RCW whenever such action is deemed appropriate and consistent with law.

(4) A juvenile taking unauthorized leave from a facility shall be apprehended and returned to it by law enforcement officers or other persons designated as having this authority as provided in RCW 13.32A.050 (as recodified by this act). If returned to the facility after having taken unauthorized leave for a period of more than twenty-four hours a juvenile shall be supervised by such a facility for a period, pursuant to this chapter, which, unless where otherwise provided, may not exceed fifteen consecutive days. Costs of housing juveniles admitted to crisis residential centers shall be assumed by the department for a period not to exceed fifteen consecutive days.

Sec. 21. RCW 74.13.034 and 2009 c 569 s 4 are each amended to read as follows:

(1) A child taken into custody and taken to a crisis residential center established pursuant to RCW 74.13.032 (as recodified by this act) may, if the

center is unable to provide appropriate treatment, supervision, and structure to the child, be taken at department expense to another crisis residential center, the nearest regional secure crisis residential center, or a secure facility with which it is collocated under RCW 74.13.032 (as recodified by this act). Placement in both locations shall not exceed fifteen consecutive days from the point of intake as provided in RCW 13.32A.130 (as recodified by this act).

(2) A child taken into custody and taken to a crisis residential center established by this chapter may be placed physically by the department (~~or the department's~~) of social and health services' designee and, at their departmental expense and approval, in a secure juvenile detention facility operated by the county in which the center is located for a maximum of forty-eight hours, including Saturdays, Sundays, and holidays, if the child has taken unauthorized leave from the center and the person in charge of the center determines that the center cannot provide supervision and structure adequate to ensure that the child will not again take unauthorized leave. Juveniles placed in such a facility pursuant to this section may not, to the extent possible, come in contact with alleged or convicted juvenile or adult offenders.

(3) Any child placed in secure detention pursuant to this section shall, during the period of confinement, be provided with appropriate treatment by the department of social and health services or the department's designee, which shall include the services defined in RCW 74.13.032(2) (as recodified by this act). If the child placed in secure detention is not returned home or if an alternative living arrangement agreeable to the parent and the child is not made within twenty-four hours after the child's admission, the child shall be taken at the department's expense to a crisis residential center. Placement in the crisis residential center or centers plus placement in juvenile detention shall not exceed five consecutive days from the point of intake as provided in RCW 13.32A.130 (as recodified by this act).

(4) Juvenile detention facilities used pursuant to this section shall first be certified by the department of social and health services to ensure that juveniles placed in the facility pursuant to this section are provided with living conditions suitable to the well-being of the child. Where space is available, juvenile courts, when certified by the department of social and health services to do so, shall provide secure placement for juveniles pursuant to this section, at department expense.

Sec. 22. RCW 74.15.220 and 2011 c 240 s 2 are each amended to read as follows:

The (~~secretary~~) department shall establish HOPE centers that provide no more than seventy-five beds across the state and may establish HOPE centers by contract, within funds appropriated by the legislature specifically for this purpose. HOPE centers shall be operated in a manner to reasonably assure that street youth placed there will not run away. Street youth may leave a HOPE center during the course of the day to attend school or other necessary appointments, but the street youth must be accompanied by an administrator or an administrator's designee. The street youth must provide the administration with specific information regarding his or her destination and expected time of return to the HOPE center. Any street youth who runs away from a HOPE center shall not be readmitted unless specifically authorized by the street youth's placement and liaison specialist, and the placement and liaison specialist shall

document with specific factual findings an appropriate basis for readmitting any street youth to a HOPE center. HOPE centers are required to have the following:

(1) A license issued by the (~~secretary~~) department of social and health services;

(2) A professional with a master's degree in counseling, social work, or related field and at least one year of experience working with street youth or a bachelor of arts degree in social work or a related field and five years of experience working with street youth. This professional staff person may be contractual or a part-time employee, but must be available to work with street youth in a HOPE center at a ratio of one to every fifteen youth staying in a HOPE center. This professional shall be known as a placement and liaison specialist. Preference shall be given to those professionals cross-credentialed in mental health and chemical dependency. The placement and liaison specialist shall:

(a) Conduct an assessment of the street youth that includes a determination of the street youth's legal status regarding residential placement;

(b) Facilitate the street youth's return to his or her legally authorized residence at the earliest possible date or initiate processes to arrange legally authorized appropriate placement. Any street youth who may meet the definition of dependent child under RCW 13.34.030 must be referred to the department of social and health services. The department of social and health services shall determine whether a dependency petition should be filed under chapter 13.34 RCW. A shelter care hearing must be held within seventy-two hours to authorize out-of-home placement for any youth the department of social and health services determines is appropriate for out-of-home placement under chapter 13.34 RCW. All of the provisions of chapter 13.32A RCW must be followed for children in need of services or at-risk youth;

(c) Interface with other relevant resources and system representatives to secure long-term residential placement and other needed services for the street youth;

(d) Be assigned immediately to each youth and meet with the youth within eight hours of the youth receiving HOPE center services;

(e) Facilitate a physical examination of any street youth who has not seen a physician within one year prior to residence at a HOPE center and facilitate evaluation by a county-designated mental health professional, a chemical dependency specialist, or both if appropriate; and

(f) Arrange an educational assessment to measure the street youth's competency level in reading, writing, and basic mathematics, and that will measure learning disabilities or special needs;

(3) Staff trained in development needs of street youth as determined by the (~~secretary~~) department, including an administrator who is a professional with a master's degree in counseling, social work, or a related field and at least one year of experience working with street youth, or a bachelor of arts degree in social work or a related field and five years of experience working with street youth, who must work with the placement and liaison specialist to provide appropriate services on site;

(4) A data collection system that measures outcomes for the population served, and enables research and evaluation that can be used for future program

development and service delivery. Data collection systems must have confidentiality rules and protocols developed by the (~~secretary~~) department;

(5) Notification requirements that meet the notification requirements of chapter 13.32A RCW. The youth's arrival date and time must be logged at intake by HOPE center staff. The staff must immediately notify law enforcement and dependency caseworkers if a street youth runs away from a HOPE center. A child may be transferred to a secure facility as defined in RCW 13.32A.030 whenever the staff reasonably believes that a street youth is likely to leave the HOPE center and not return after full consideration of the factors set forth in RCW 13.32A.130(2)(a) (i) and (ii) (as recodified by this act). The street youth's temporary placement in the HOPE center must be authorized by the court or the secretary of the department of social and health services if the youth is a dependent of the state under chapter 13.34 RCW or the department of social and health services is responsible for the youth under chapter 13.32A RCW, or by the youth's parent or legal custodian, until such time as the parent can retrieve the youth who is returning to home;

(6) HOPE centers must identify to the department of social and health services any street youth it serves who is not returning promptly to home. The department of social and health services then must contact the missing children's clearinghouse identified in chapter 13.60 RCW and either report the youth's location or report that the youth is the subject of a dependency action and the parent should receive notice from the department of social and health services;

(7) Services that provide counseling and education to the street youth; and

(8) The department shall award contracts for the operation of HOPE center beds (~~and responsible living skills programs~~) with the goal of facilitating the coordination of services provided for youth by such programs and those services provided by secure and semi-secure crisis residential centers.

Sec. 23. RCW 74.15.225 and 2008 c 267 s 10 are each amended to read as follows:

To be eligible for placement in a HOPE center, a minor must be either a street youth, as that term is defined in this chapter, or a youth who, without placement in a HOPE center, will continue to participate in increasingly risky behavior. Youth may also self-refer to a HOPE center. Payment for a HOPE center bed is not contingent upon prior approval by the department; however, approval from the department of social and health services is needed if the youth is dependent under chapter 13.34 RCW.

Sec. 24. RCW 43.330.167 and 2009 c 565 s 9 are each amended to read as follows:

(1)(a) There is created in the custody of the state treasurer an account to be known as the (~~homeless~~) Washington youth and families (~~services~~) fund. Revenues to the fund consist of (~~a one-time~~) appropriations by the legislature, private contributions, and all other sources deposited in the fund.

(b) Expenditures from the fund may only be used for the purposes of the program established in this section, including administrative expenses. Only the director of the department of commerce, or the director's designee, may authorize expenditures.

(c) Expenditures from the fund are exempt from appropriations and the allotment provisions of chapter 43.88 RCW. However, money used for program

administration by the department is subject to the allotment and budgetary controls of chapter 43.88 RCW, and an appropriation is required for these expenditures.

(2) The department may expend moneys from the fund to provide state matching funds for housing-based supportive services for homeless youth and families (~~over a period of at least ten years~~).

(3) Activities eligible for funding through the fund include, but are not limited to, the following:

- (a) Case management;
- (b) Counseling;
- (c) Referrals to employment support and job training services and direct employment support and job training services;
- (d) Domestic violence services and programs;
- (e) Mental health treatment, services, and programs;
- (f) Substance abuse treatment, services, and programs;
- (g) Parenting skills education and training;
- (h) Transportation assistance;
- (i) Child care; and
- (j) Other supportive services identified by the department to be an important link for housing stability.

(4) Organizations that may receive funds from the fund include local housing authorities, nonprofit community or neighborhood-based organizations, public development authorities, federally recognized Indian tribes in the state, and regional or statewide nonprofit housing assistance organizations.

Sec. 25. RCW 43.185C.040 and 2009 c 518 s 17 are each amended to read as follows:

(1) Six months after the first Washington homeless census, the department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, prepare and publish a ten-year homeless housing strategic plan which shall outline statewide goals and performance measures and shall be coordinated with the plan for homeless families with children required under RCW 43.63A.650. To guide local governments in preparation of their first local homeless housing plans due December 31, 2005, the department shall issue by October 15, 2005, temporary guidelines consistent with this chapter and including the best available data on each community's homeless population. Local governments' ten-year homeless housing plans shall not be substantially inconsistent with the goals and program recommendations of the temporary guidelines and, when amended after 2005, the state strategic plan.

(2) Program outcomes and performance measures and goals shall be reflected by the department and reflected in the department's homeless housing strategic plan as well as interim goals against which state and local governments' performance may be measured, including:

(a) By the end of year one, completion of the first census as described in RCW 43.185C.030;

(b) By the end of each subsequent year, goals common to all local programs which are measurable and the achievement of which would move that community toward housing its homeless population; and

(c) By July 1, 2015, reduction of the homeless population statewide and in each county by fifty percent.

(3) The department shall develop a consistent statewide data gathering instrument to monitor the performance of cities and counties receiving grants in order to determine compliance with the terms and conditions set forth in the grant application or required by the department.

The department shall, in consultation with the interagency council on homelessness and the affordable housing advisory board, report biennially to the governor and the appropriate committees of the legislature an assessment of the state's performance in furthering the goals of the state ten-year homeless housing strategic plan and the performance of each participating local government in creating and executing a local homeless housing plan which meets the requirements of this chapter. The annual report may include performance measures such as:

(a) The reduction in the number of homeless individuals and families from the initial count of homeless persons;

(b) The reduction in the number of unaccompanied homeless youth. "Unaccompanied homeless youth" has the same meaning as in section 3 of this act.

(c) The number of new units available and affordable for homeless families by housing type;

~~((e))~~ (d) The number of homeless individuals identified who are not offered suitable housing within thirty days of their request or identification as homeless;

~~((d))~~ (e) The number of households at risk of losing housing who maintain it due to a preventive intervention;

~~((e))~~ (f) The transition time from homelessness to permanent housing;

~~((f))~~ (g) The cost per person housed at each level of the housing continuum;

~~((g))~~ (h) The ability to successfully collect data and report performance;

~~((h))~~ (i) The extent of collaboration and coordination among public bodies, as well as community stakeholders, and the level of community support and participation;

~~((i))~~ (j) The quality and safety of housing provided; and

~~((j))~~ (k) The effectiveness of outreach to homeless persons, and their satisfaction with the program.

(4) Based on the performance of local homeless housing programs in meeting their interim goals, on general population changes and on changes in the homeless population recorded in the annual census, the department may revise the performance measures and goals of the state homeless housing strategic plan, set goals for years following the initial ten-year period, and recommend changes in local governments' plans.

Sec. 26. RCW 43.185C.240 and 2014 c 200 s 3 are each amended to read as follows:

(1) As a means of efficiently and cost-effectively providing housing assistance to very-low income and homeless households:

(a) Any local government that has the authority to issue housing vouchers, directly or through a contractor, using document recording surcharge funds collected pursuant to RCW 36.22.178, 36.22.179, or 36.22.1791 must:

(i)(A) Maintain an interested landlord list, which at a minimum, includes information on rental properties in buildings with fewer than fifty units;

- (B) Update the list at least once per quarter;
- (C) Distribute the list to agencies providing services to individuals and households receiving housing vouchers;
- (D) Ensure that a copy of the list or information for accessing the list online is provided with voucher paperwork; and
- (E) Communicate and interact with landlord and tenant associations located within its jurisdiction to facilitate development, maintenance, and distribution of the list to private rental housing landlords. The department must make reasonable efforts to ensure that local providers conduct outreach to private rental housing landlords each calendar quarter regarding opportunities to provide rental housing to the homeless and the availability of funds;
- (ii) Using cost-effective methods of communication, convene, on a semiannual or more frequent basis, landlords represented on the interested landlord list and agencies providing services to individuals and households receiving housing vouchers to identify successes, barriers, and process improvements. The local government is not required to reimburse any participants for expenses related to attendance;
- (iii) Produce data, limited to document recording fee uses and expenditures, on a calendar year basis in consultation with landlords represented on the interested landlord list and agencies providing services to individuals and households receiving housing vouchers, that include the following: Total amount expended from document recording fees; amount expended on, number of households that received, and number of housing vouchers issued in each of the private, public, and nonprofit markets; amount expended on, number of households that received, and number of housing placement payments provided in each of the private, public, and nonprofit markets; amount expended on and number of eviction prevention services provided in the private market; ~~(and)~~ amount expended on and number of other tenant-based rent assistance services provided in the private market; and amount expended on and number of services provided to unaccompanied homeless youth. If these data elements are not readily available, the reporting government may request the department to use the sampling methodology established pursuant to (c)(iii) of this subsection to obtain the data; and
- (iv) Annually submit the calendar year data to the department by October 1st, with preliminary data submitted by October 1, 2012, and full calendar year data submitted beginning October 1, 2013.
- (b) Any local government receiving more than three million five hundred thousand dollars during the previous calendar year from document recording surcharge funds collected pursuant to RCW 36.22.178, 36.22.179, and 36.22.1791, must apply to the Washington state quality award program, or similar Baldrige assessment organization, for an independent assessment of its quality management, accountability, and performance system. The first assessment may be a lite assessment. After submitting an application, a local government is required to reapply at least every two years.
- (c) The department must:
- (i) Require contractors that provide housing vouchers to distribute the interested landlord list created by the appropriate local government to individuals and households receiving the housing vouchers;

(ii) Convene a stakeholder group by March 1, 2017, consisting of landlords, homeless housing advocates, real estate industry representatives, cities, counties, and the department to meet to discuss long-term funding strategies for homeless housing programs that do not include a surcharge on document recording fees. The stakeholder group must provide a report of its findings to the legislature by December 1, 2017;

(iii) Develop a sampling methodology to obtain data required under this section when a local government or contractor does not have such information readily available. The process for developing the sampling methodology must include providing notification to and the opportunity for public comment by local governments issuing housing vouchers, landlord association representatives, and agencies providing services to individuals and households receiving housing vouchers;

(iv) Develop a report, limited to document recording fee uses and expenditures, on a calendar year basis that may include consultation with local governments, landlord association representatives, and agencies providing services to individuals and households receiving housing vouchers, that includes the following: Total amount expended from document recording fees; amount expended on, number of households that received, and number of housing vouchers issued in each of the private, public, and nonprofit markets; amount expended on, number of households that received, and number of housing placement payments provided in each of the private, public, and nonprofit markets; amount expended on and number of eviction prevention services provided in the private market; the total amount of funds set aside for private rental housing payments as required in RCW 36.22.179(1)(b); and amount expended on and number of other tenant-based rent assistance services provided in the private market. The information in the report must include data submitted by local governments and data on all additional document recording fee activities for which the department contracted that were not otherwise reported. The data, samples, and sampling methodology used to develop the report must be made available upon request and for the audits required in this section;

(v) Annually submit the calendar year report to the legislature by December 15th, with a preliminary report submitted by December 15, 2012, and full calendar year reports submitted beginning December 15, 2013; and

(vi) Work with the Washington state quality award program, local governments, and any other organizations to ensure the appropriate scheduling of assessments for all local governments meeting the criteria described in subsection (1)(b) of this section.

(d) The office of financial management must secure an independent audit of the department's data and expenditures of state funds received under RCW 36.22.179(1)(b) on an annual basis. The independent audit must review a random sample of local governments, contractors, and housing providers that is geographically and demographically diverse. The independent auditor must meet with the department and a landlord representative to review the preliminary audit and provide the department and the landlord representative with the opportunity to include written comments regarding the findings that must be included with the audit. The first audit of the department's data and expenditures will be for calendar year 2014 and is due July 1, 2015. Each audit thereafter will be due July 1st following the department's submission of the report to the

legislature. If the independent audit finds that the department has failed to set aside at least forty-five percent of the funds received under RCW 36.22.179(1)(b) after June 12, 2014, for private rental housing payments, the independent auditor must notify the department and the office of financial management of its finding. In addition, the independent auditor must make recommendations to the office of financial management and the legislature on alternative means of distributing the funds to meet the requirements of RCW 36.22.179(1)(b).

(e) The office of financial management must contract with an independent auditor to conduct a performance audit of the programs funded by document recording surcharge funds collected pursuant to RCW 36.22.178, 36.22.179, and 36.22.1791. The audit must provide findings to determine if the funds are being used effectively, efficiently, and for their intended purpose. The audit must review the department's performance in meeting all statutory requirements related to document recording surcharge funds including, but not limited to, the data the department collects, the timeliness and quality of required reports, and whether the data and required reports provide adequate information and accountability for the use of the document recording surcharge funds. The audit must include recommendations for policy and operational improvements to the use of document recording surcharges by counties and the department. The performance audit must be submitted to the legislature by December 1, 2016.

(2) For purposes of this section:

(a) "Housing placement payments" means one-time payments, such as first and last month's rent and move-in costs, funded by document recording surcharges collected pursuant to RCW 36.22.178, 36.22.179, or 36.22.1791 that are made to secure a unit on behalf of a tenant.

(b) "Housing vouchers" means payments, including private rental housing payments, funded by document recording surcharges collected pursuant to RCW 36.22.178, 36.22.179, or 36.22.1791 that are made by a local government or contractor to secure: (i) A rental unit on behalf of an individual tenant; or (ii) a block of units on behalf of multiple tenants.

(c) "Interested landlord list" means a list of landlords who have indicated to a local government or contractor interest in renting to individuals or households receiving a housing voucher funded by document recording surcharges.

(d) "Private rental housing" means housing owned by a private landlord and does not include housing owned by a nonprofit housing entity or government entity.

(3) This section expires June 30, 2019.

NEW SECTION. Sec. 27. A new section is added to chapter 43.185C RCW to read as follows:

Home security fund account funds appropriated to carry out the activities of sections 1 through 8 and 10 through 24 of this act are not subject to the set aside under RCW 36.22.179(1)(b).

Sec. 28. RCW 28A.300.540 and 2014 c 212 s 2 are each amended to read as follows:

(1) For the purposes of this section, "unaccompanied homeless student" means a student who is not in the physical custody of a parent or guardian and is homeless as defined in section 3(2) of this act.

(2) By December 31, 2010, the office of the superintendent of public instruction shall establish a uniform process designed to track the additional expenditures for transporting homeless students, including expenditures required under the McKinney Vento act, reauthorized as Title X, Part C, of the no child left behind act, P.L. 107-110, in January 2002. Once established, the superintendent shall adopt the necessary administrative rules to direct each school district to adopt and use the uniform process and track these expenditures. The superintendent shall post on the superintendent's web site total expenditures related to the transportation of homeless students.

~~((2))~~ (3)(a) By January 10, 2015, and every odd-numbered year thereafter, the office of the superintendent of public instruction shall report to the governor and the legislature the following data for homeless students:

(i) The number of identified homeless students enrolled in public schools;

(ii) The number of identified unaccompanied homeless students enrolled in public schools;

(iii) The number of students participating in the learning assistance program under chapter 28A.165 RCW, the highly capable program under chapter 28A.185 RCW, and the running start program under chapter 28A.600 RCW; and

~~((iii))~~ (iv) The academic performance and educational outcomes of homeless students and unaccompanied homeless students, including but not limited to the following performance and educational outcomes:

(A) Student scores on the statewide administered academic assessments;

(B) English language proficiency;

(C) Dropout rates;

(D) Four-year adjusted cohort graduation rate;

(E) Five-year adjusted cohort graduation rate;

(F) Absenteeism rates;

(G) Truancy rates, if available; and

(H) Suspension and expulsion data.

(b) The data reported under this subsection ~~((2))~~ (3) must include state and district-level information and must be disaggregated by at least the following subgroups of students: White, Black, Hispanic, American Indian/Alaskan Native, Asian, Pacific Islander/Hawaiian Native, low income, transitional bilingual, migrant, special education, and gender.

~~((3))~~ (4) By July 1, 2014, the office of the superintendent of public instruction in collaboration with experts from community organizations on homelessness and homeless education policy, shall develop or acquire a short video that provides information on how to identify signs that indicate a student may be homeless, how to provide services and support to homeless students, and why this identification and support is critical to student success. The video must be posted on the superintendent of public instruction's web site.

~~((4))~~ (5) By July 1, 2014, the office of the superintendent of public instruction shall adopt and distribute to each school district, best practices for choosing and training school district-designated homeless student liaisons.

NEW SECTION. Sec. 29. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 30. RCW 13.32A.042, 13.32A.044, 13.32A.050, 13.32A.060, 13.32A.065, 13.32A.070, 13.32A.090, 13.32A.095, 13.32A.130, 74.13.032, 74.13.0321, 74.13.033, 74.13.034, 74.15.220, 74.15.225, 74.15.260, and 74.15.270 are each recodified as sections in chapter 43.185C RCW.

Passed by the Senate March 10, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 70

[Second Substitute Senate Bill 5052]

MEDICAL MARIJUANA--REGULATION

AN ACT Relating to establishing the cannabis patient protection act; amending RCW 66.08.012, 69.50.101, 69.50.325, 69.50.331, 69.50.342, 69.50.345, 69.50.354, 69.50.357, 69.50.360, 69.50.4013, 69.51A.005, 69.51A.010, 69.51A.030, 69.51A.040, 69.51A.043, 69.51A.045, 69.51A.055, 69.51A.060, 69.51A.085, 69.51A.100, 43.70.320, 69.50.203, 69.50.204, and 9.94A.518; adding new sections to chapter 69.50 RCW; adding new sections to chapter 69.51A RCW; adding a new section to chapter 42.56 RCW; adding a new section to chapter 82.04 RCW; creating new sections; repealing RCW 69.51A.020, 69.51A.025, 69.51A.047, 69.51A.070, 69.51A.090, 69.51A.140, 69.51A.200, and 69.51A.085; prescribing penalties; providing an effective date; providing a contingent effective date; and declaring an emergency.

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

NEW SECTION. Sec. 1. This act may be known and cited as the cannabis patient protection act.

NEW SECTION. Sec. 2. The legislature finds that since voters approved Initiative Measure No. 692 in 1998, it has been the public policy of the state to permit the medical use of marijuana. Between 1998 and the present day, there have been multiple legislative attempts to clarify what is meant by the medical use of marijuana and to ensure qualifying patients have a safe, consistent, and adequate source of marijuana for their medical needs.

The legislature further finds that qualifying patients are people with serious medical conditions and have been responsible for finding their own source of marijuana for their own personal medical use. Either by growing it themselves, designating someone to grow for them, or participating in collective gardens, patients have developed methods of access in spite of continued federal opposition to the medical use of marijuana. In a time when access itself was an issue and no safe, consistent source of marijuana was available, this unregulated system was permitted by the state to ensure some, albeit limited, access to marijuana for medical use. Also permitted were personal possession limits of fifteen plants and twenty-four ounces of useable marijuana, which was deemed to be the amount of marijuana needed for a sixty-day supply. In a time when supply was not consistent, this amount of marijuana was necessary to ensure patients would be able to address their immediate medical needs.

The legislature further finds that while possession amounts are provided in statute, these do not amount to protection from arrest and prosecution for patients. In fact, patients in compliance with state law are not provided arrest protection. They may be arrested and their only remedy is to assert an affirmative defense at trial that they are in compliance with the law and have a

medical need. Too many patients using marijuana for medical purposes today do not know this; many falsely believe they cannot be arrested so long as their health care provider has authorized them for the medical use of marijuana.

The legislature further finds that in 2012 voters passed Initiative Measure No. 502 which permitted the recreational use of marijuana. For the first time in our nation's history, marijuana would be regulated, taxed, and sold for recreational consumption. Initiative Measure No. 502 provides for strict regulation on the production, processing, and distribution of marijuana. Under Initiative Measure No. 502, marijuana is trackable from seed to sale and may only be sold or grown under license. Marijuana must be tested for impurities and purchasers of marijuana must be informed of the THC level in the marijuana. Since its passage, two hundred fifty producer/processor licenses and sixty-three retail licenses have been issued, covering the majority of the state. With the current product canopy exceeding 2.9 million square feet, and retailers in place, the state now has a system of safe, consistent, and adequate access to marijuana; the marketplace is not the same marketplace envisioned by the voters in 1998. While medical needs remain, the state is in the untenable position of having a recreational product that is tested and subject to production standards that ensure safe access for recreational users. No such standards exist for medical users and, consequently, the very people originally meant to be helped through the medical use of marijuana do not know if their product has been tested for molds, do not know where their marijuana has been grown, have no certainty in the level of THC or CBD in their products, and have no assurances that their products have been handled through quality assurance measures. It is not the public policy of the state to allow qualifying patients to only have access to products that may be endangering their health.

The legislature, therefore, intends to adopt a comprehensive act that uses the regulations in place for the recreational market to provide regulation for the medical use of marijuana. It intends to ensure that patients retain their ability to grow their own marijuana for their own medical use and it intends to ensure that patients have the ability to possess more marijuana-infused products, useable marijuana, and marijuana concentrates than what is available to a nonmedical user. It further intends that medical specific regulations be adopted as needed and under consultation of the departments of health and agriculture so that safe handling practices will be adopted and so that testing standards for medical products meet or exceed those standards in use in the recreational market.

The legislature further intends that the costs associated with implementing and administering the medical marijuana authorization database shall be financed from the health professions account and that these funds shall be restored to the health professions account through future appropriations using funds derived from the dedicated marijuana account.

Sec. 3. RCW 66.08.012 and 2012 c 117 s 265 are each amended to read as follows:

There shall be a board, known as the "Washington state liquor (~~control~~) and cannabis board," consisting of three members, to be appointed by the governor, with the consent of the senate, who shall each be paid an annual salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The governor may, in his or her discretion, appoint one of the

members as chair of the board, and a majority of the members shall constitute a quorum of the board.

Sec. 4. RCW 69.50.101 and 2014 c 192 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, definitions of terms shall be as indicated where used in this chapter:

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

(1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "Commission" means the pharmacy quality assurance commission.

(d) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(e)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(f) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(g) "Department" means the department of health.

(h) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper

selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(i) "Dispenser" means a practitioner who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopeia/national formulary or the official homeopathic pharmacopeia of the United States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(m) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(n) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(o) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(p) "Isomer" means an optical isomer, but in subsection (z)(5) of this section, RCW 69.50.204(a) (12) and (34), and 69.50.206(b)(4), the term includes any geometrical isomer; in RCW 69.50.204(a) (8) and (42), and 69.50.210(c) the term includes any positional isomer; and in RCW 69.50.204(a)(35), 69.50.204(c), and 69.50.208(a) the term includes any positional or geometric isomer.

(q) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(r) "Lot number" shall identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(s) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction

and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(t) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(u) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than sixty percent.

(v) "Marijuana processor" means a person licensed by the state liquor ~~((control))~~ and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(w) "Marijuana producer" means a person licensed by the state liquor ~~((control))~~ and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(x) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, and have a THC concentration greater than 0.3 percent and no greater than sixty percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(y) "Marijuana retailer" means a person licensed by the state liquor ~~((control))~~ and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(z) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(aa) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium (opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW 69.50.201, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(bb) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(cc) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(dd) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ee) "Practitioner" means:

(1) A physician under chapter 18.71 RCW; a physician assistant under chapter 18.71A RCW; an osteopathic physician and surgeon under chapter 18.57 RCW; an osteopathic physician assistant under chapter 18.57A RCW who is licensed under RCW 18.57A.020 subject to any limitations in RCW 18.57A.040; an optometrist licensed under chapter 18.53 RCW who is certified by the optometry board under RCW 18.53.010 subject to any limitations in RCW 18.53.010; a dentist under chapter 18.32 RCW; a podiatric physician and surgeon under chapter 18.22 RCW; a veterinarian under chapter 18.92 RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter 18.79 RCW; a naturopathic physician under chapter 18.36A RCW who is licensed under RCW 18.36A.030 subject to any limitations in RCW 18.36A.040; a pharmacist under chapter 18.64 RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(ff) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(gg) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(hh) "Retail outlet" means a location licensed by the state liquor ~~((control))~~ and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(ii) "Secretary" means the secretary of health or the secretary's designee.

(jj) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(kk) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(ll) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(mm) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

(nn) "Designated provider" has the meaning provided in RCW 69.51A.010.

(oo) "Qualifying patient" has the meaning provided in RCW 69.51A.010.

(pp) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(qq) "Plant" has the meaning provided in RCW 69.51A.010.

(rr) "Recognition card" has the meaning provided in RCW 69.51A.010.

Sec. 5. RCW 69.50.325 and 2014 c 192 s 2 are each amended to read as follows:

(1) There shall be a marijuana producer's license to produce marijuana for sale at wholesale to marijuana processors and other marijuana producers, regulated by the state liquor ~~((control))~~ and cannabis board and subject to annual renewal. The production, possession, delivery, distribution, and sale of marijuana in accordance with the provisions of this chapter ~~((3, Laws of 2013))~~ and the rules adopted to implement and enforce it, by a validly licensed marijuana producer, shall not be a criminal or civil offense under Washington state law. Every marijuana producer's license shall be issued in the name of the

applicant, shall specify the location at which the marijuana producer intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana producer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana producer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana producer intends to produce marijuana.

(2) There shall be a marijuana processor's license to process, package, and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale at wholesale to marijuana processors and marijuana retailers, regulated by the state liquor (~~control~~) and cannabis board and subject to annual renewal. The processing, packaging, possession, delivery, distribution, and sale of marijuana, useable marijuana, marijuana-infused products, and marijuana concentrates in accordance with the provisions of this chapter (~~(3, Laws of 2013)~~) and chapter 69.51A RCW and the rules adopted to implement and enforce (~~(#)~~) these chapters, by a validly licensed marijuana processor, shall not be a criminal or civil offense under Washington state law. Every marijuana processor's license shall be issued in the name of the applicant, shall specify the location at which the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana processor's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana processor's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana processor intends to process marijuana.

(3) There shall be a marijuana retailer's license to sell marijuana concentrates, useable marijuana, and marijuana-infused products at retail in retail outlets, regulated by the state liquor (~~control~~) and cannabis board and subject to annual renewal. The possession, delivery, distribution, and sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter (~~(3, Laws of 2013)~~) and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer, shall not be a criminal or civil offense under Washington state law. Every marijuana retailer's license shall be issued in the name of the applicant, shall specify the location of the retail outlet the licensee intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license. The application fee for a marijuana retailer's license shall be two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana retailer's license shall be one thousand dollars. A separate license shall be required for each location at which a marijuana retailer intends to sell marijuana concentrates, useable marijuana, and marijuana-infused products.

Sec. 6. RCW 69.50.331 and 2013 c 3 s 6 are each amended to read as follows:

(1) For the purpose of considering any application for a license to produce, process, or sell marijuana, or for the renewal of a license to produce, process, or sell marijuana, the state liquor (~~control~~) and cannabis board must conduct a comprehensive, fair, and impartial evaluation of the applications timely received.

(a) The state liquor and cannabis board must develop a competitive, merit-based application process that includes, at a minimum, the opportunity for an applicant to demonstrate experience and qualifications in the marijuana industry. The state liquor and cannabis board shall give preference between competing applications in the licensing process to applicants that have the following experience and qualifications, in the following order of priority:

(i) First priority is given to applicants who:

(A) Applied to the state liquor and cannabis board for a marijuana retailer license prior to July 1, 2014;

(B) Operated or were employed by a collective garden before January 1, 2013;

(C) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(D) Have had a history of paying all applicable state taxes and fees;

(ii) Second priority shall be given to applicants who:

(A) Operated or were employed by a collective garden before January 1, 2013;

(B) Have maintained a state business license and a municipal business license, as applicable in the relevant jurisdiction; and

(C) Have had a history of paying all applicable state taxes and fees; and

(iii) Third priority shall be given to all other applicants who do not have the experience and qualifications identified in (a)(i) and (ii) of this subsection.

(b) The state liquor and cannabis board may cause an inspection of the premises to be made, and may inquire into all matters in connection with the construction and operation of the premises. For the purpose of reviewing any application for a license and for considering the denial, suspension, revocation, or renewal or denial thereof, of any license, the state liquor (~~(control)~~) and cannabis board may consider any prior criminal conduct of the applicant including an administrative violation history record with the state liquor (~~(control)~~) and cannabis board and a criminal history record information check. The state liquor (~~(control)~~) and cannabis board may submit the criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor (~~(control)~~) and cannabis board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation. The provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to these cases. Subject to the provisions of this section, the state liquor (~~(control)~~) and cannabis board may, in its discretion, grant or deny the renewal or license applied for. Denial may be based on, without limitation, the existence of chronic illegal activity documented in objections submitted pursuant to subsections (7)(c) and (9) of this section. Authority to approve an uncontested or unopposed license may be granted by the state liquor (~~(control)~~) and cannabis board to any staff member the board designates in writing. Conditions for granting this authority shall be adopted by rule.

(c) No license of any kind may be issued to:

~~((a))~~ (i) A person under the age of twenty-one years;

~~((b))~~ (ii) A person doing business as a sole proprietor who has not lawfully resided in the state for at least three months prior to applying to receive a license;

~~((c))~~ (iii) A partnership, employee cooperative, association, nonprofit corporation, or corporation unless formed under the laws of this state, and unless all of the members thereof are qualified to obtain a license as provided in this section; or

~~((d))~~ (iv) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(2)(a) The state liquor ~~((control))~~ and cannabis board may, in its discretion, subject to the provisions of RCW 69.50.334, suspend or cancel any license; and all protections of the licensee from criminal or civil sanctions under state law for producing, processing, or selling marijuana, useable marijuana, or marijuana-infused products thereunder shall be suspended or terminated, as the case may be.

(b) The state liquor ~~((control))~~ and cannabis board shall immediately suspend the license of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the state liquor ~~((control))~~ and cannabis board's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

(c) The state liquor ~~((control))~~ and cannabis board may request the appointment of administrative law judges under chapter 34.12 RCW who shall have power to administer oaths, issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony, examine witnesses, and to receive testimony in any inquiry, investigation, hearing, or proceeding in any part of the state, under rules and regulations the state liquor ~~((control))~~ and cannabis board may adopt.

(d) Witnesses shall be allowed fees and mileage each way to and from any inquiry, investigation, hearing, or proceeding at the rate authorized by RCW 34.05.446. Fees need not be paid in advance of appearance of witnesses to testify or to produce books, records, or other legal evidence.

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

(3) Upon receipt of notice of the suspension or cancellation of a license, the licensee shall forthwith deliver up the license to the state liquor ~~((control))~~ and cannabis board. Where the license has been suspended only, the state liquor ~~((control))~~ and cannabis board shall return the license to the licensee at the expiration or termination of the period of suspension. The state liquor ~~((control))~~ and cannabis board shall notify all other licensees in the county where the

subject licensee has its premises of the suspension or cancellation of the license; and no other licensee or employee of another licensee may allow or cause any marijuana, useable marijuana, or marijuana-infused products to be delivered to or for any person at the premises of the subject licensee.

(4) Every license issued under chapter 3, Laws of 2013 shall be subject to all conditions and restrictions imposed by chapter 3, Laws of 2013 or by rules adopted by the state liquor (~~(control)~~) and cannabis board to implement and enforce chapter 3, Laws of 2013. All conditions and restrictions imposed by the state liquor (~~(control)~~) and cannabis board in the issuance of an individual license shall be listed on the face of the individual license along with the trade name, address, and expiration date.

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

(6) No licensee shall employ any person under the age of twenty-one years.

(7)(a) Before the state liquor (~~(control)~~) and cannabis board issues a new or renewed license to an applicant it shall give notice of the application to the chief executive officer of the incorporated city or town, if the application is for a license within an incorporated city or town, or to the county legislative authority, if the application is for a license outside the boundaries of incorporated cities or towns.

(b) The incorporated city or town through the official or employee selected by it, or the county legislative authority or the official or employee selected by it, shall have the right to file with the state liquor (~~(control)~~) and cannabis board within twenty days after the date of transmittal of the notice for applications, or at least thirty days prior to the expiration date for renewals, written objections against the applicant or against the premises for which the new or renewed license is asked. The state liquor (~~(control)~~) and cannabis board may extend the time period for submitting written objections.

(c) The written objections shall include a statement of all facts upon which the objections are based, and in case written objections are filed, the city or town or county legislative authority may request, and the state liquor (~~(control)~~) and cannabis board may in its discretion hold, a hearing subject to the applicable provisions of Title 34 RCW. If the state liquor (~~(control)~~) and cannabis board makes an initial decision to deny a license or renewal based on the written objections of an incorporated city or town or county legislative authority, the applicant may request a hearing subject to the applicable provisions of Title 34 RCW. If a hearing is held at the request of the applicant, state liquor (~~(control)~~) and cannabis board representatives shall present and defend the state liquor (~~(control)~~) and cannabis board's initial decision to deny a license or renewal.

(d) Upon the granting of a license under this title the state liquor (~~(control)~~) and cannabis board shall send written notification to the chief executive officer of the incorporated city or town in which the license is granted, or to the county legislative authority if the license is granted outside the boundaries of incorporated cities or towns.

(8) The state liquor (~~(control)~~) and cannabis board shall not issue a license for any premises within one thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or any game arcade admission to which is not restricted to persons aged twenty-one years or older.

(9) In determining whether to grant or deny a license or renewal of any license, the state liquor (~~(control)~~) and cannabis board shall give substantial weight to objections from an incorporated city or town or county legislative authority based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises, or the conduct of the applicant's patrons inside or outside the licensed premises. "Chronic illegal activity" means (a) a pervasive pattern of activity that threatens the public health, safety, and welfare of the city, town, or county including, but not limited to, open container violations, assaults, disturbances, disorderly conduct, or other criminal law violations, or as documented in crime statistics, police reports, emergency medical response data, calls for service, field data, or similar records of a law enforcement agency for the city, town, county, or any other municipal corporation or any state agency; or (b) an unreasonably high number of citations for violations of RCW 46.61.502 associated with the applicant's or licensee's operation of any licensed premises as indicated by the reported statements given to law enforcement upon arrest.

Sec. 7. RCW 69.50.342 and 2013 c 3 s 9 are each amended to read as follows:

(1) For the purpose of carrying into effect the provisions of chapter 3, Laws of 2013 according to their true intent or of supplying any deficiency therein, the state liquor (~~(control)~~) and cannabis board may adopt rules not inconsistent with the spirit of chapter 3, Laws of 2013 as are deemed necessary or advisable. Without limiting the generality of the preceding sentence, the state liquor (~~(control)~~) and cannabis board is empowered to adopt rules regarding the following:

~~((1))~~ (a) The equipment and management of retail outlets and premises where marijuana is produced or processed, and inspection of the retail outlets and premises where marijuana is produced or processed;

~~((2))~~ (b) The books and records to be created and maintained by licensees, the reports to be made thereon to the state liquor (~~(control)~~) and cannabis board, and inspection of the books and records;

~~((3))~~ (c) Methods of producing, processing, and packaging marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products; conditions of sanitation; safe handling requirements; approved pesticides and pesticide testing requirements; and standards of ingredients, quality, and identity of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products produced, processed, packaged, or sold by licensees;

~~((4))~~ (d) Security requirements for retail outlets and premises where marijuana is produced or processed, and safety protocols for licensees and their employees;

~~((5))~~ (e) Screening, hiring, training, and supervising employees of licensees;

~~((6))~~ (f) Retail outlet locations and hours of operation;

~~((7))~~ (g) Labeling requirements and restrictions on advertisement of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products for sale in retail outlets;

~~((8))~~ (h) Forms to be used for purposes of this chapter (~~(3, Laws of 2013)~~) and chapter 69.51A RCW or the rules adopted to implement and enforce (~~(#)~~) these chapters, the terms and conditions to be contained in licenses issued under

this chapter ((3, Laws of 2013)) and chapter 69.51A RCW, and the qualifications for receiving a license issued under this chapter ((3, Laws of 2013)) and chapter 69.51A RCW, including a criminal history record information check. The state liquor ((control)) and cannabis board may submit any criminal history record information check to the Washington state patrol and to the identification division of the federal bureau of investigation in order that these agencies may search their records for prior arrests and convictions of the individual or individuals who filled out the forms. The state liquor ((control)) and cannabis board shall require fingerprinting of any applicant whose criminal history record information check is submitted to the federal bureau of investigation;

((9)) (i) Application, reinstatement, and renewal fees for licenses issued under this chapter ((3, Laws of 2013)) and chapter 69.51A RCW, and fees for anything done or permitted to be done under the rules adopted to implement and enforce this chapter ((3, Laws of 2013)) and chapter 69.51A RCW;

((10)) (j) The manner of giving and serving notices required by this chapter ((3, Laws of 2013)) and chapter 69.51A RCW or rules adopted to implement or enforce ((#)) these chapters;

((11)) (k) Times and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

((12)) (l) Identification, seizure, confiscation, destruction, or donation to law enforcement for training purposes of all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, sold, or offered for sale within this state which do not conform in all respects to the standards prescribed by this chapter ((3, Laws of 2013)) or chapter 69.51A RCW or the rules adopted to implement and enforce ((it: PROVIDED, That nothing in chapter 3, Laws of 2013 shall be construed as authorizing the state liquor control board to seize, confiscate, destroy, or donate to law enforcement marijuana, useable marijuana, or marijuana-infused products produced, processed, sold, offered for sale, or possessed in compliance with the Washington state medical use of cannabis act, chapter 69.51A RCW)) these chapters.

(2) Rules adopted on retail outlets holding medical marijuana endorsements must be adopted in coordination and consultation with the department.

Sec. 8. RCW 69.50.345 and 2013 c 3 s 10 are each amended to read as follows:

The state liquor ((control)) and cannabis board, subject to the provisions of this chapter ((3, Laws of 2013)), must adopt rules ((by December 1, 2013,)) that establish the procedures and criteria necessary to implement the following:

(1) Licensing of marijuana producers, marijuana processors, and marijuana retailers, including prescribing forms and establishing application, reinstatement, and renewal fees.

(a) Application forms for marijuana producers must request the applicant to state whether the applicant intends to produce marijuana for sale by marijuana retailers holding medical marijuana endorsements and the amount or percentage of canopy the applicant intends to commit to growing plants determined by the department under section 10 of this act to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for

marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients.

(b) The state liquor and cannabis board must reconsider and increase limits on the amount of square feet permitted to be in production on the effective date of this section and increase the percentage of production space for those marijuana producers who intend to grow plants for marijuana retailers holding medical marijuana endorsements if the marijuana producer designates the increased production space to plants determined by the department under section 10 of this act to be of a THC concentration, CBD concentration, or THC to CBD ratio appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products to be sold to qualifying patients. If current marijuana producers do not use all the increased production space, the state liquor and cannabis board may reopen the license period for new marijuana producer license applicants but only to those marijuana producers who agree to grow plants for marijuana retailers holding medical marijuana endorsements. Priority in licensing must be given to marijuana producer license applicants who have an application pending on the effective date of this section but who are not yet licensed and then to new marijuana producer license applicants. After January 1, 2017, any reconsideration of the limits on the amount of square feet permitted to be in production to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in section 21 of this act;

(2) Determining, in consultation with the office of financial management, the maximum number of retail outlets that may be licensed in each county, taking into consideration:

- (a) Population distribution;
- (b) Security and safety issues; ~~((and))~~

(c) The provision of adequate access to licensed sources of marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(d) The number of retail outlets holding medical marijuana endorsements necessary to meet the medical needs of qualifying patients. The state liquor and cannabis board must reconsider and increase the maximum number of retail outlets it established before the effective date of this section and allow for a new license application period and a greater number of retail outlets to be permitted in order to accommodate the medical needs of qualifying patients and designated providers. After January 1, 2017, any reconsideration of the maximum number of retail outlets needed to meet the medical needs of qualifying patients must consider information contained in the medical marijuana authorization database established in section 21 of this act;

(3) Determining the maximum quantity of marijuana a marijuana producer may have on the premises of a licensed location at any time without violating Washington state law;

(4) Determining the maximum quantities of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana processor may have on the premises of a licensed location at any time without violating Washington state law;

(5) Determining the maximum quantities of marijuana concentrates, useable marijuana, and marijuana-infused products a marijuana retailer may have on the premises of a retail outlet at any time without violating Washington state law;

(6) In making the determinations required by ~~((subsections (3) through (5) of))~~ this section, the state liquor ~~((control))~~ and cannabis board shall take into consideration:

(a) Security and safety issues;

(b) The provision of adequate access to licensed sources of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products to discourage purchases from the illegal market; and

(c) Economies of scale, and their impact on licensees' ability to both comply with regulatory requirements and undercut illegal market prices;

(7) Determining the nature, form, and capacity of all containers to be used by licensees to contain marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products, and their labeling requirements, to include but not be limited to:

(a) The business or trade name and Washington state unified business identifier number of the licensees that ~~((grew,))~~ processed~~((;))~~ and sold the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(b) Lot numbers of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(c) THC concentration and CBD concentration of the marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product;

(d) Medically and scientifically accurate information about the health and safety risks posed by marijuana use; and

(e) Language required by RCW 69.04.480;

(8) In consultation with the department of agriculture and the department, establishing classes of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products according to grade, condition, cannabinoid profile, THC concentration, CBD concentration, or other qualitative measurements deemed appropriate by the state liquor ~~((control))~~ and cannabis board;

(9) Establishing reasonable time, place, and manner restrictions and requirements regarding advertising of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products that are not inconsistent with the provisions of this chapter ((3, Laws of 2013)), taking into consideration:

(a) Federal laws relating to marijuana that are applicable within Washington state;

(b) Minimizing exposure of people under twenty-one years of age to the advertising; ~~((and))~~

(c) The inclusion of medically and scientifically accurate information about the health and safety risks posed by marijuana use in the advertising; and

(d) Ensuring that retail outlets with medical marijuana endorsements may advertise themselves as medical retail outlets;

(10) Specifying and regulating the time and periods when, and the manner, methods, and means by which, licensees shall transport and deliver marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products within the state;

(11) In consultation with the department and the department of agriculture, establishing accreditation requirements for testing laboratories used by licensees to demonstrate compliance with standards adopted by the state liquor ~~((control))~~ and cannabis board, and prescribing methods of producing, processing, and packaging marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products; conditions of sanitation; and standards of ingredients, quality, and identity of marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, or sold by licensees;

(12) Specifying procedures for identifying, seizing, confiscating, destroying, and donating to law enforcement for training purposes all marijuana, marijuana concentrates, useable marijuana, and marijuana-infused products produced, processed, packaged, labeled, or offered for sale in this state that do not conform in all respects to the standards prescribed by this chapter ~~((3, Laws of 2013))~~ or the rules of the state liquor ~~((control))~~ and cannabis board.

Sec. 9. RCW 69.50.354 and 2014 c 192 s 3 are each amended to read as follows:

There may be licensed, in no greater number in each of the counties of the state than as the state liquor ~~((control))~~ and cannabis board shall deem advisable, retail outlets established for the purpose of making marijuana concentrates, useable marijuana, and marijuana-infused products available for sale to adults aged twenty-one and over. Retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products in accordance with the provisions of this chapter ~~((3, Laws of 2013))~~ and the rules adopted to implement and enforce it, by a validly licensed marijuana retailer or retail outlet employee, shall not be a criminal or civil offense under Washington state law.

NEW SECTION. Sec. 10. A new section is added to chapter 69.50 RCW to read as follows:

(1) A medical marijuana endorsement to a marijuana retail license is hereby established to permit a marijuana retailer to sell marijuana for medical use to qualifying patients and designated providers. This endorsement also permits such retailers to provide marijuana at no charge, at their discretion, to qualifying patients and designated providers.

(2) An applicant may apply for a medical marijuana endorsement concurrently with an application for a marijuana retail license.

(3) To be issued an endorsement, a marijuana retailer must:

(a) Not authorize the medical use of marijuana for qualifying patients at the retail outlet or permit health care professionals to authorize the medical use of marijuana for qualifying patients at the retail outlet;

(b) Carry marijuana concentrates and marijuana-infused products identified by the department under subsection (4) of this section;

(c) Not use labels or market marijuana concentrates, useable marijuana, or marijuana-infused products in a way that make them intentionally attractive to minors;

(d) Demonstrate the ability to enter qualifying patients and designated providers in the medical marijuana authorization database established in section 21 of this act and issue recognition cards and agree to enter qualifying patients

and designated providers into the database and issue recognition cards in compliance with department standards;

(e) Keep copies of the qualifying patient's or designated provider's recognition card, or keep equivalent records as required by rule of the state liquor and cannabis board or the department of revenue to document the validity of tax exempt sales; and

(f) Meet other requirements as adopted by rule of the department or the state liquor and cannabis board.

(4) The department, in conjunction with the state liquor and cannabis board, must adopt rules on requirements for marijuana concentrates, useable marijuana, and marijuana-infused products that may be sold, or provided at no charge, to qualifying patients or designated providers at a retail outlet holding a medical marijuana endorsement. These rules must include:

(a) THC concentration, CBD concentration, or low THC, high CBD ratios appropriate for marijuana concentrates, useable marijuana, or marijuana-infused products sold to qualifying patients or designated providers;

(b) Labeling requirements including that the labels attached to marijuana concentrates, useable marijuana, or marijuana-infused products contain THC concentration, CBD concentration, and THC to CBD ratios;

(c) Other product requirements, including any additional mold, fungus, or pesticide testing requirements, or limitations to the types of solvents that may be used in marijuana processing that the department deems necessary to address the medical needs of qualifying patients;

(d) Safe handling requirements for marijuana concentrates, useable marijuana, or marijuana-infused products; and

(e) Training requirements for employees.

(5) A marijuana retailer holding an endorsement to sell marijuana to qualifying patients or designated providers must train its employees on:

(a) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical marijuana authorization database;

(b) Recognition of valid recognition cards; and

(c) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of marijuana concentrates, useable marijuana, and marijuana-infused products, available for sale when assisting qualifying patients and designated providers at the retail outlet.

NEW SECTION. Sec. 11. A new section is added to chapter 69.50 RCW to read as follows:

A marijuana retailer or a marijuana retailer holding a medical marijuana endorsement may sell products with a THC concentration of 0.3 percent or less. Marijuana retailers holding a medical marijuana endorsement may also provide these products at no charge to qualifying patients or designated providers.

Sec. 12. RCW 69.50.357 and 2014 c 192 s 4 are each amended to read as follows:

(1) Retail outlets shall sell no products or services other than marijuana concentrates, useable marijuana, marijuana-infused products, or paraphernalia intended for the storage or use of marijuana concentrates, useable marijuana, or marijuana-infused products.

(2) Licensed marijuana retailers shall not employ persons under twenty-one years of age or allow persons under twenty-one years of age to enter or remain on the premises of a retail outlet. However, qualifying patients between eighteen and twenty-one years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of eighteen with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical marijuana endorsement, but may not purchase products for their personal medical use.

(3)(a) Licensed marijuana retailers must ensure that all employees are trained on the rules adopted to implement this chapter, identification of persons under the age of twenty-one, and other requirements adopted by the state liquor and cannabis board to ensure that persons under the age of twenty-one are not permitted to enter or remain on the premises of a retail outlet.

(b) Licensed marijuana retailers with a medical marijuana endorsement must ensure that all employees are trained on the subjects required by (a) of this subsection as well as identification of authorizations and recognition cards. Employees must also be trained to permit qualifying patients who hold recognition cards and are between the ages of eighteen and twenty-one to enter the premises and purchase marijuana for their personal medical use and to permit qualifying patients who are under the age of eighteen with a recognition card to enter the premises if accompanied by their designated providers.

(4) Licensed marijuana retailers shall not display any signage in a window, on a door, or on the outside of the premises of a retail outlet that is visible to the general public from a public right-of-way, other than a single sign no larger than one thousand six hundred square inches identifying the retail outlet by the licensee's business or trade name. Retail outlets that hold medical marijuana endorsements may include this information on signage.

~~((4))~~ (5) Licensed marijuana retailers shall not display marijuana concentrates, useable marijuana, or marijuana-infused products in a manner that is visible to the general public from a public right-of-way.

~~((5))~~ (6) No licensed marijuana retailer or employee of a retail outlet shall open or consume, or allow to be opened or consumed, any marijuana concentrates, useable marijuana, or marijuana-infused product on the outlet premises.

~~((6))~~ (7) The state liquor ~~((control))~~ and cannabis board shall fine a licensee one thousand dollars for each violation of any subsection of this section. Fines collected under this section must be deposited into the dedicated marijuana fund created under RCW 69.50.530.

Sec. 13. RCW 69.50.360 and 2014 c 192 s 5 are each amended to read as follows:

The following acts, when performed by a validly licensed marijuana retailer or employee of a validly licensed retail outlet in compliance with rules adopted by the state liquor ~~((control))~~ and cannabis board to implement and enforce chapter 3, Laws of 2013, shall not constitute criminal or civil offenses under Washington state law:

(1) Purchase and receipt of marijuana concentrates, useable marijuana, or marijuana-infused products that have been properly packaged and labeled from a marijuana processor validly licensed under this chapter (~~(3, Laws of 2013)~~);

(2) Possession of quantities of marijuana concentrates, useable marijuana, or marijuana-infused products that do not exceed the maximum amounts established by the state liquor (~~control~~) and cannabis board under RCW 69.50.345(5); and

(3) Delivery, distribution, and sale, on the premises of the retail outlet, of any combination of the following amounts of marijuana concentrates, useable marijuana, or marijuana-infused product to any person twenty-one years of age or older:

- (a) One ounce of useable marijuana;
- (b) Sixteen ounces of marijuana-infused product in solid form;
- (c) Seventy-two ounces of marijuana-infused product in liquid form; or
- (d) Seven grams of marijuana concentrate.

Sec. 14. RCW 69.50.4013 and 2013 c 3 s 20 are each amended to read as follows:

(1) It is unlawful for any person to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW 69.50.4014, any person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

(3) The possession, by a person twenty-one years of age or older, of useable marijuana or marijuana-infused products in amounts that do not exceed those set forth in RCW 69.50.360(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(4) No person under twenty-one years of age may possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(5) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter 69.51A RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

NEW SECTION. Sec. 15. A new section is added to chapter 69.50 RCW to read as follows:

(1) Nothing in this chapter permits anyone other than a validly licensed marijuana processor to use butane or other explosive gases to extract or separate resin from marijuana or to produce or process any form of marijuana concentrates or marijuana-infused products that include marijuana concentrates not purchased from a validly licensed marijuana retailer as an ingredient. The extraction or separation of resin from marijuana, the processing of marijuana concentrates, and the processing of marijuana-infused products that include marijuana concentrates not purchased from a validly licensed marijuana retailer as an ingredient by any person other than a validly licensed marijuana processor each constitute manufacture of marijuana in violation of RCW 69.50.401.

Cooking oil, butter, and other nonexplosive home cooking substances may be used to make marijuana extracts for noncommercial personal use.

(2) Except for the use of butane, the state liquor and cannabis board may not enforce this section until it has adopted the rules required by section 28 of this act.

Sec. 16. RCW 69.51A.005 and 2011 c 181 s 102 are each amended to read as follows:

(1) The legislature finds that:

(a) There is medical evidence that some patients with terminal or debilitating medical conditions may, under their health care professional's care, benefit from the medical use of ~~((cannabis))~~ marijuana. Some of the conditions for which ~~((cannabis))~~ marijuana appears to be beneficial include, but are not limited to:

(i) Nausea, vomiting, and cachexia associated with cancer, HIV-positive status, AIDS, hepatitis C, anorexia, and their treatments;

(ii) Severe muscle spasms associated with multiple sclerosis, epilepsy, and other seizure and spasticity disorders;

(iii) Acute or chronic glaucoma;

(iv) Crohn's disease; and

(v) Some forms of intractable pain.

(b) Humanitarian compassion necessitates that the decision to use ~~((cannabis))~~ marijuana by patients with terminal or debilitating medical conditions is a personal, individual decision, based upon their health care professional's professional medical judgment and discretion.

(2) Therefore, the legislature intends that, so long as such activities are in strict compliance with this chapter:

(a) Qualifying patients with terminal or debilitating medical conditions who, in the judgment of their health care professionals, may benefit from the medical use of ~~((cannabis))~~ marijuana, shall not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law based solely on their medical use of ~~((cannabis))~~ marijuana, notwithstanding any other provision of law;

(b) Persons who act as designated providers to such patients shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law, notwithstanding any other provision of law, based solely on their assisting with the medical use of ~~((cannabis))~~ marijuana; and

(c) Health care professionals shall also not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences under state law for the proper authorization of medical use of ~~((cannabis))~~ marijuana by qualifying patients for whom, in the health care professional's professional judgment, the medical use of ~~((cannabis))~~ marijuana may prove beneficial.

(3) Nothing in this chapter establishes the medical necessity or medical appropriateness of ~~((cannabis))~~ marijuana for treating terminal or debilitating medical conditions as defined in RCW 69.51A.010.

(4) Nothing in this chapter diminishes the authority of correctional agencies and departments, including local governments or jails, to establish a procedure for determining when the use of ~~((cannabis))~~ marijuana would impact community safety or the effective supervision of those on active supervision for

a criminal conviction, nor does it create the right to any accommodation of any medical use of (~~(cannabis))~~ marijuana in any correctional facility or jail.

Sec. 17. RCW 69.51A.010 and 2010 c 284 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Designated provider" means a person who(~~(:~~
(~~a~~)) is (~~(eighteen))~~ twenty-one years of age or older(~~(;~~
(~~b~~)) and:

(a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and beginning July 1, 2016, holds a recognition card; or

(ii) Has been designated in writing by a qualifying patient to serve as ((a)) the designated provider ((under this chapter)) for that patient;

(b)(i) Has an authorization from the qualifying patient's health care professional; or

(ii) Beginning July 1, 2016:

(A) Has been entered into the medical marijuana authorization database as being the designated provider to a qualifying patient; and

(B) Has been provided a recognition card;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider; (~~and~~)

(d) Provides marijuana to only the qualifying patient that has designated him or her;

(e) Is in compliance with the terms and conditions of this chapter; and

(f) Is the designated provider to only one patient at any one time.

(2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) "Medical use of marijuana" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of marijuana(~~(, as defined in RCW 69.50.101(q),))~~) for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating (~~(illness))~~ medical condition.

(4) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

~~((b))~~ (ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

~~((c))~~ (iii) Is a resident of the state of Washington at the time of such diagnosis;

~~((d))~~ (iv) Has been advised by that health care professional about the risks and benefits of the medical use of marijuana; (~~and~~

~~(e))~~ (v) Has been advised by that health care professional that they may benefit from the medical use of marijuana;

(vi)(A) Has an authorization from his or her health care professional; or

(B) Beginning July 1, 2016, has been entered into the medical marijuana authorization database and has been provided a recognition card; and

(vii) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(5) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit ~~(valid documentation)~~ authorization.

(6) "Terminal or debilitating medical condition" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; ~~((✕))~~

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; ~~((✕))~~

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; ~~((✕))~~

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; ~~((✕))~~

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; ~~((✕))~~

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; ~~((✕))~~

~~(g) ((Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter))~~ Posttraumatic stress disorder; or

(h) Traumatic brain injury.

(7) ~~(("Valid documentation"))~~ (a) Until July 1, 2016, "authorization" means:

~~((a))~~ (i) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

~~((b))~~ (ii) Proof of identity such as a Washington state driver's license or identocard, as defined in RCW 46.20.035.

(b) Beginning July 1, 2016, "authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

(c) An authorization is not a prescription as defined in RCW 69.50.101.

(8) "Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

(9) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product.

(10) "Department" means the department of health.

(11) "Marijuana" has the meaning provided in RCW 69.50.101.

(12) "Marijuana concentrates" has the meaning provided in RCW 69.50.101.

(13) "Marijuana processor" has the meaning provided in RCW 69.50.101.

(14) "Marijuana producer" has the meaning provided in RCW 69.50.101.

(15) "Marijuana retailer" has the meaning provided in RCW 69.50.101.

(16) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer that has been issued a medical marijuana endorsement by the state liquor and cannabis board pursuant to section 10 of this act.

(17) "Marijuana-infused products" has the meaning provided in RCW 69.50.101.

(18) "Medical marijuana authorization database" means the secure and confidential database established in section 21 of this act.

(19) "Plant" means a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(20) "Retail outlet" has the meaning provided in RCW 69.50.101.

(21) "Secretary" means the secretary of the department of health.

(22) "THC concentration" has the meaning provided in RCW 69.50.101.

(23) "Useable marijuana" has the meaning provided in RCW 69.50.101.

(24) "Low THC, high CBD" means products determined by the department to have a low THC, high CBD ratio under section 10 of this act. Low THC, high CBD products must be inhalable, ingestible, or absorbable.

(25) "Public place" has the meaning provided in RCW 70.160.020.

(26) "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

Sec. 18. RCW 69.51A.030 and 2011 c 181 s 301 are each amended to read as follows:

(1) The following acts do not constitute crimes under state law or unprofessional conduct under chapter 18.130 RCW, and a health care professional may not be arrested, searched, prosecuted, disciplined, or subject to other criminal sanctions or civil consequences or liability under state law, or have real or personal property searched, seized, or forfeited pursuant to state law,

notwithstanding any other provision of law as long as the health care professional complies with subsection (2) of this section:

(a) Advising a patient about the risks and benefits of medical use of ~~((cannabis))~~ marijuana or that the patient may benefit from the medical use of ~~((cannabis))~~ marijuana; or

(b) Providing a patient or designated provider meeting the criteria established under RCW 69.51A.010~~((26))~~ with ~~((valid documentation))~~ an authorization, based upon the health care professional's assessment of the patient's medical history and current medical condition, ~~((where such use is))~~ if the health care professional has complied with this chapter and he or she determines within a professional standard of care or in the individual health care professional's medical judgment the qualifying patient may benefit from the medical use of marijuana.

(2)(a) A health care professional may ~~((only))~~ provide a qualifying patient or that patient's designated provider with ~~((valid documentation authorizing))~~ an authorization for the medical use of ~~((cannabis or register the patient with the registry established in section 901 of this act if he or she has a newly initiated or existing documented relationship with the patient, as a primary care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition, and only after:~~

~~((i) Completing a))~~ (i) marijuana in accordance with this section.

(b) In order to authorize for the medical use of marijuana under (a) of this subsection, the health care professional must:

(i) Have a documented relationship with the patient, as a principal care provider or a specialist, relating to the diagnosis and ongoing treatment or monitoring of the patient's terminal or debilitating medical condition;

(ii) Complete an in-person physical examination of the patient ((as appropriate, based on the patient's condition and age));

~~((iii) Documenting))~~ (iii) Document the terminal or debilitating medical condition of the patient in the patient's medical record and that the patient may benefit from treatment of this condition or its symptoms with medical use of ~~((cannabis))~~ marijuana;

~~((iii) Informing))~~ (iv) Inform the patient of other options for treating the terminal or debilitating medical condition and documenting in the patient's medical record that the patient has received this information; ~~((and~~

~~((iv) Documenting))~~ (v) Document in the patient's medical record other measures attempted to treat the terminal or debilitating medical condition that do not involve the medical use of ~~((cannabis))~~ marijuana; and

(vi) Complete an authorization on forms developed by the department, in accordance with subsection (3) of this section.

~~((b))~~ (c) For a qualifying patient eighteen years of age or older, an authorization expires one year after its issuance. For a qualifying patient less than eighteen years of age, an authorization expires six months after its issuance. An authorization may be renewed upon completion of an in-person physical examination and compliance with the other requirements of (b) of this subsection.

(d) A health care professional shall not:

(i) ~~Accept, solicit, or offer any form of pecuniary remuneration from or to a ((licensed dispenser, licensed producer, or licensed processor of cannabis products))~~ marijuana retailer, marijuana processor, or marijuana producer;

(ii) Offer a discount or any other thing of value to a qualifying patient who is a customer of, or agrees to be a customer of, a particular ~~((licensed dispenser, licensed producer, or licensed processor of cannabis products))~~ marijuana retailer;

(iii) Examine or offer to examine a patient for purposes of diagnosing a terminal or debilitating medical condition at a location where ~~((cannabis))~~ marijuana is produced, processed, or ~~((dispensed))~~ sold;

(iv) Have a business or practice which consists ~~((solely))~~ primarily of authorizing the medical use of ~~((cannabis))~~ marijuana or authorize the medical use of marijuana at any location other than his or her practice's permanent physical location;

(v) ~~((Include any statement or reference, visual or otherwise, on the medical use of cannabis in any advertisement for his or her business or practice))~~ Except as provided in section 35 of this act, sell, or provide at no charge, marijuana concentrates, marijuana-infused products, or useable marijuana to a qualifying patient or designated provider; or

(vi) Hold an economic interest in an enterprise that produces, processes, or ~~((dispenses cannabis))~~ sells marijuana if the health care professional authorizes the medical use of ~~((cannabis))~~ marijuana.

(3) ~~((A violation of any provision of subsection (2) of this section constitutes unprofessional conduct under chapter 18.130 RCW.))~~ The department shall develop the form for the health care professional to use as an authorization for qualifying patients and designated providers. The form shall include the qualifying patient's or designated provider's name, address, and date of birth; the health care professional's name, address, and license number; the amount of marijuana recommended for the qualifying patient; a telephone number where the authorization can be verified during normal business hours; the dates of issuance and expiration; and a statement that an authorization does not provide protection from arrest unless the qualifying patient or designated provider is also entered in the medical marijuana authorization database and holds a recognition card.

(4) Until July 1, 2016, a health care professional who, within a single calendar month, authorizes the medical use of marijuana to more than thirty patients must report the number of authorizations issued.

(5) The appropriate health professions disciplining authority may inspect or request patient records to confirm compliance with this section. The health care professional must provide access to or produce documents, records, or other items that are within his or her possession or control within twenty-one calendar days of service of a request by the health professions disciplining authority. If the twenty-one calendar day limit results in a hardship upon the health care professional, he or she may request, for good cause, an extension not to exceed thirty additional calendar days. Failure to produce the documents, records, or other items shall result in citations and fines issued consistent with RCW 18.130.230. Failure to otherwise comply with the requirements of this section shall be considered unprofessional conduct and subject to sanctions under chapter 18.130 RCW.

(6) After a health care professional authorizes a qualifying patient for the medical use of marijuana, he or she may discuss with the qualifying patient how to use marijuana and the types of products the qualifying patient should seek from a retail outlet.

NEW SECTION. Sec. 19. A new section is added to chapter 69.51A RCW to read as follows:

As part of authorizing a qualifying patient or designated provider, the health care professional may include recommendations on the amount of marijuana that is likely needed by the qualifying patient for his or her medical needs and in accordance with this section.

(1) If the health care professional does not include recommendations on the qualifying patient's or designated provider's authorization, the marijuana retailer with a medical marijuana endorsement, when adding the qualifying patient or designated provider to the medical marijuana authorization database, shall enter into the database that the qualifying patient or designated provider may purchase or obtain at a retail outlet holding a medical marijuana endorsement a combination of the following: Forty-eight ounces of marijuana-infused product in solid form; three ounces of useable marijuana; two hundred sixteen ounces of marijuana-infused product in liquid form; or twenty-one grams of marijuana concentrates. The qualifying patient or designated provider may also grow, in his or her domicile, up to six plants for the personal medical use of the qualifying patient and possess up to eight ounces of useable marijuana produced from his or her plants. These amounts shall be specified on the recognition card that is issued to the qualifying patient or designated provider.

(2) If the health care professional determines that the medical needs of a qualifying patient exceed the amounts provided for in subsection (1) of this section, the health care professional must specify on the authorization that it is recommended that the patient be allowed to grow, in his or her domicile, up to fifteen plants for the personal medical use of the patient. A patient so authorized may possess up to sixteen ounces of useable marijuana in his or her domicile. The number of plants must be entered into the medical marijuana authorization database by the marijuana retailer with a medical marijuana endorsement and specified on the recognition card that is issued to the qualifying patient or designated provider.

(3) If a qualifying patient or designated provider with an authorization from a health care professional has not been entered into the medical marijuana authorization database, he or she may not receive a recognition card and may only purchase at a retail outlet, whether it holds a medical marijuana endorsement or not, the amounts established in RCW 69.50.360. In addition the qualifying patient or the designated provider may grow, in his or her domicile, up to four plants for the personal medical use of the qualifying patient and possess up to six ounces of useable marijuana in his or her domicile.

NEW SECTION. Sec. 20. A new section is added to chapter 69.51A RCW to read as follows:

(1) Health care professionals may authorize the medical use of marijuana for qualifying patients who are under the age of eighteen if:

(a) The minor's parent or guardian participates in the minor's treatment and agrees to the medical use of marijuana by the minor; and

(b) The parent or guardian acts as the designated provider for the minor and has sole control over the minor's marijuana.

(2) The minor may not grow plants or purchase marijuana-infused products, useable marijuana, or marijuana concentrates from a marijuana retailer with a medical marijuana endorsement.

(3) Both the minor and the minor's parent or guardian who is acting as the designated provider must be entered in the medical marijuana authorization database and hold a recognition card.

(4) A health care professional who authorizes the medical use of marijuana by a minor must do so as part of the course of treatment of the minor's terminal or debilitating medical condition. If authorizing a minor for the medical use of marijuana, the health care professional must:

(a) Consult with other health care providers involved in the minor's treatment, as medically indicated, before authorization or reauthorization of the medical use of marijuana; and

(b) Reexamine the minor at least once every six months or more frequently as medically indicated. The reexamination must:

(i) Determine that the minor continues to have a terminal or debilitating medical condition and that the condition benefits from the medical use of marijuana; and

(ii) Include a follow-up discussion with the minor's parent or guardian to ensure the parent or guardian continues to participate in the treatment of the minor.

NEW SECTION. Sec. 21. A new section is added to chapter 69.51A RCW to read as follows:

(1) The department must contract with an entity to create, administer, and maintain a secure and confidential medical marijuana authorization database that, beginning July 1, 2016, allows:

(a) A marijuana retailer with a medical marijuana endorsement to add a qualifying patient or designated provider and include the amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under section 19 of this act;

(b) Persons authorized to prescribe or dispense controlled substances to access health care information on their patients for the purpose of providing medical or pharmaceutical care for their patients;

(c) A qualifying patient or designated provider to request and receive his or her own health care information or information on any person or entity that has queried their name or information;

(d) Appropriate local, state, tribal, and federal law enforcement or prosecutorial officials who are engaged in a bona fide specific investigation of suspected marijuana-related activity that may be illegal under Washington state law to confirm the validity of the recognition card of a qualifying patient or designated provider;

(e) A marijuana retailer holding a medical marijuana endorsement to confirm the validity of the recognition card of a qualifying patient or designated provider;

(f) The department of revenue to verify tax exemptions under chapters 82.08 and 82.12 RCW;

(g) The department and the health care professional's disciplining authorities to monitor authorizations and ensure compliance with this chapter and chapter 18.130 RCW by their licensees; and

(h) Authorizations to expire six months or one year after entry into the medical marijuana authorization database, depending on whether the authorization is for a minor or an adult.

(2) A qualifying patient and his or her designated provider, if any, may be placed in the medical marijuana authorization database at a marijuana retailer with a medical marijuana endorsement. After a qualifying patient or designated provider is placed in the medical marijuana authorization database, he or she must be provided with a recognition card that contains identifiers required in subsection (3) of this section.

(3) The recognition card requirements must be developed by the department in rule and include:

(a) A randomly generated and unique identifying number;

(b) For designated providers, the unique identifying number of the qualifying patient whom the provider is assisting;

(c) A photograph of the qualifying patient's or designated provider's face taken by an employee of the marijuana retailer with a medical marijuana endorsement at the same time that the qualifying patient or designated provider is being placed in the medical marijuana authorization database in accordance with rules adopted by the department;

(d) The amount of marijuana concentrates, useable marijuana, marijuana-infused products, or plants for which the qualifying patient is authorized under section 19 of this act;

(e) The effective date and expiration date of the recognition card;

(f) The name of the health care professional who authorized the qualifying patient or designated provider; and

(g) For the recognition card, additional security features as necessary to ensure its validity.

(4) For qualifying patients who are eighteen years of age or older and their designated providers, recognition cards are valid for one year from the date the health care professional issued the authorization. For qualifying patients who are under the age of eighteen and their designated providers, recognition cards are valid for six months from the date the health care professional issued the authorization. Qualifying patients may not be reentered into the medical marijuana authorization database until they have been reexamined by a health care professional and determined to meet the definition of qualifying patient. After reexamination, a marijuana retailer with a medical marijuana endorsement must reenter the qualifying patient or designated provider into the medical marijuana authorization database and a new recognition card will then be issued in accordance with department rules.

(5) If a recognition card is lost or stolen, a marijuana retailer with a medical marijuana endorsement, in conjunction with the database administrator, may issue a new card that will be valid for six months to one year if the patient is reexamined by a health care professional and determined to meet the definition of qualifying patient and depending on whether the patient is under the age of eighteen or eighteen years of age or older as provided in subsection (4) of this section. If a reexamination is not performed, the expiration date of the

replacement recognition card must be the same as the lost or stolen recognition card.

(6) The database administrator must remove qualifying patients and designated providers from the medical marijuana authorization database upon expiration of the recognition card. Qualifying patients and designated providers may request to remove themselves from the medical marijuana authorization database before expiration of a recognition card and health care professionals may request to remove qualifying patients and designated providers from the medical marijuana authorization database if the patient or provider no longer qualifies for the medical use of marijuana. The database administrator must retain database records for at least five calendar years to permit the state liquor and cannabis board and the department of revenue to verify eligibility for tax exemptions.

(7) During development of the medical marijuana authorization database, the database administrator must consult with the department, stakeholders, and persons with relevant expertise to include, but not be limited to, qualifying patients, designated providers, health care professionals, state and local law enforcement agencies, and the University of Washington computer science and engineering security and privacy research lab or a certified cyber security firm, vendor, or service.

(8) The medical marijuana authorization database must meet the following requirements:

(a) Any personally identifiable information included in the database must be nonreversible, pursuant to definitions and standards set forth by the national institute of standards and technology;

(b) Any personally identifiable information included in the database must not be susceptible to linkage by use of data external to the database;

(c) The database must incorporate current best differential privacy practices, allowing for maximum accuracy of database queries while minimizing the chances of identifying the personally identifiable information included therein; and

(d) The database must be upgradable and updated in a timely fashion to keep current with state of the art privacy and security standards and practices.

(9)(a) Personally identifiable information of qualifying patients and designated providers included in the medical marijuana authorization database is confidential and exempt from public disclosure, inspection, or copying under chapter 42.56 RCW.

(b) Information contained in the medical marijuana authorization database may be released in aggregate form, with all personally identifying information redacted, for the purpose of statistical analysis and oversight of agency performance and actions.

(c) Information contained in the medical marijuana authorization database shall not be shared with the federal government or its agents unless the particular patient or designated provider is convicted in state court for violating this chapter or chapter 69.50 RCW.

(10)(a) The department must charge a one dollar fee for each initial and renewal recognition card issued by a marijuana retailer with a medical marijuana endorsement. The marijuana retailer with a medical marijuana endorsement shall collect the fee from the qualifying patient or designated provider at the time that

he or she is entered into the database and issued a recognition card. The department shall establish a schedule for marijuana retailers with a medical marijuana endorsement to remit the fees collected. Fees collected under this subsection shall be deposited into the health professions account created under RCW 43.70.320.

(b) By November 1, 2016, the department shall report to the governor and the fiscal committees of both the house of representatives and the senate regarding the cost of implementation and administration of the medical marijuana authorization database. The report must specify amounts from the health professions account used to finance the establishment and administration of the medical marijuana authorization database as well as estimates of the continuing costs associated with operating the medical marijuana database. The report must also provide initial enrollment figures in the medical marijuana authorization database and estimates of expected future enrollment.

(11) If the database administrator fails to comply with this section, the department may cancel any contracts with the database administrator and contract with another database administrator to continue administration of the database. A database administrator who fails to comply with this section is subject to a fine of up to five thousand dollars in addition to any penalties established in the contract. Fines collected under this section must be deposited into the health professions account created under RCW 43.70.320.

(12) The department may adopt rules to implement this section.

NEW SECTION. Sec. 22. A new section is added to chapter 42.56 RCW to read as follows:

Records in the medical marijuana authorization database established in section 21 of this act containing names and other personally identifiable information of qualifying patients and designated providers are exempt from disclosure under this chapter.

NEW SECTION. Sec. 23. A new section is added to chapter 69.51A RCW to read as follows:

(1) It is unlawful for a person to knowingly or intentionally:

(a) Access the medical marijuana authorization database for any reason not authorized under section 21 of this act;

(b) Disclose any information received from the medical marijuana authorization database in violation of section 21 of this act including, but not limited to, qualifying patient or designated provider names, addresses, or amount of marijuana for which they are authorized;

(c) Produce a recognition card or to tamper with a recognition card for the purpose of having it accepted by a marijuana retailer holding a medical marijuana endorsement in order to purchase marijuana as a qualifying patient or designated provider or to grow marijuana plants in accordance with this chapter;

(d) If a person is a designated provider to a qualifying patient, sell, donate, or supply marijuana produced or obtained for the qualifying patient to another person, or use the marijuana produced or obtained for the qualifying patient for the designated provider's own personal use or benefit; or

(e) If the person is a qualifying patient, sell, donate, or otherwise supply marijuana produced or obtained by the qualifying patient to another person.

(2) A person who violates this section is guilty of a class C felony.

Sec. 24. RCW 69.51A.040 and 2011 c 181 s 401 are each amended to read as follows:

The medical use of ~~((cannabis))~~ marijuana in accordance with the terms and conditions of this chapter does not constitute a crime and a qualifying patient or designated provider in compliance with the terms and conditions of this chapter may not be arrested, prosecuted, or subject to other criminal sanctions or civil consequences~~(s)~~ for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, ~~((cannabis))~~ marijuana under state law, or have real or personal property seized or forfeited for possession, manufacture, or delivery of, or for possession with intent to manufacture or deliver, ~~((cannabis))~~ marijuana under state law, and investigating ~~((peace))~~ law enforcement officers and ~~((law enforcement))~~ agencies may not be held civilly liable for failure to seize ~~((cannabis))~~ marijuana in this circumstance, if:

(1)(a) The qualifying patient or designated provider has been entered into the medical marijuana authorization database and holds a valid recognition card and possesses no more than ~~((fifteen cannabis plants and:~~

(i) ~~No more than twenty-four ounces of useable cannabis;~~

(ii) ~~No more cannabis product than what could reasonably be produced with no more than twenty-four ounces of useable cannabis; or~~

(iii) ~~A combination of useable cannabis and cannabis product that does not exceed a combined total representing possession and processing of no more than twenty-four ounces of useable cannabis))~~ the amount of marijuana concentrates, useable marijuana, plants, or marijuana-infused products authorized under section 19 of this act.

~~((b))~~ If a person is both a qualifying patient and a designated provider for another qualifying patient, the person may possess no more than twice the amounts described in ~~((a) of this subsection))~~ section 19 of this act for the qualifying patient and designated provider, whether the plants, ~~((useable cannabis, and cannabis product))~~ marijuana concentrates, useable marijuana, or marijuana-infused products are possessed individually or in combination between the qualifying patient and his or her designated provider;

~~((2))~~ (b) The qualifying patient or designated provider presents his or her ~~((proof of registration with the department of health,))~~ recognition card to any ~~((peace))~~ law enforcement officer who questions the patient or provider regarding his or her medical use of ~~((cannabis))~~ marijuana;

~~((3))~~ (c) The qualifying patient or designated provider keeps a copy of his or her ~~((proof of registration with the registry established in section 901 of this act))~~ recognition card and the qualifying patient or designated provider's contact information posted prominently next to any ~~((cannabis))~~ plants, ~~((cannabis))~~ marijuana concentrates, marijuana-infused products, or useable ~~((cannabis))~~ marijuana located at his or her residence;

~~((4))~~ (d) The investigating ~~((peace))~~ law enforcement officer does not possess evidence that:

~~((a))~~ (i) The designated provider has converted ~~((cannabis))~~ marijuana produced or obtained for the qualifying patient for his or her own personal use or benefit; or

~~((b))~~ (ii) The qualifying patient ~~((has converted cannabis produced or obtained for his or her own medical use to the qualifying patient's personal,~~

~~nonmedical use or benefit))~~ sold, donated, or supplied marijuana to another person; and

~~((5))~~ (e) The (investigating peace officer does not possess evidence that the) designated provider has not served as a designated provider to more than one qualifying patient within a fifteen-day period; ~~(and~~

~~(6))~~ or

(2) The (investigating peace officer has not observed evidence of any of the circumstances identified in section 901(4)) qualifying patient or designated provider participates in a cooperative as provided in section 26 of this act.

Sec. 25. RCW 69.51A.043 and 2011 c 181 s 402 are each amended to read as follows:

(1) A qualifying patient or designated provider who has a valid authorization from his or her health care professional, but is not ((registered with the registry established in section 901 of this act)) entered in the medical marijuana authorization database and does not have a recognition card may raise the affirmative defense set forth in subsection (2) of this section, if:

(a) The qualifying patient or designated provider presents his or her ~~((valid documentation to any peace))~~ authorization to any law enforcement officer who questions the patient or provider regarding his or her medical use of ~~((cannabis))~~ marijuana;

(b) The qualifying patient or designated provider possesses no more ~~((cannabis))~~ marijuana than the limits set forth in ~~((RCW 69.51A.040(1)))~~ section 19(3) of this act;

(c) The qualifying patient or designated provider is in compliance with all other terms and conditions of this chapter;

(d) The investigating ~~((peace))~~ law enforcement officer does not have probable cause to believe that the qualifying patient or designated provider has committed a felony, or is committing a misdemeanor in the officer's presence, that does not relate to the medical use of ~~((cannabis))~~ marijuana; and

(e) No outstanding warrant for arrest exists for the qualifying patient or designated provider~~(; and~~

~~(f) The investigating peace officer has not observed evidence of any of the circumstances identified in section 901(4) of this act)).~~

(2) A qualifying patient or designated provider who is not ~~((registered with the registry established in section 901 of this act))~~ entered in the medical marijuana authorization database and does not have a recognition card, but who presents his or her ~~((valid documentation))~~ authorization to any ((peace)) law enforcement officer who questions the patient or provider regarding his or her medical use of ~~((cannabis))~~ marijuana, may assert an affirmative defense to charges of violations of state law relating to ~~((cannabis))~~ marijuana through proof at trial, by a preponderance of the evidence, that he or she otherwise meets the requirements of RCW 69.51A.040. A qualifying patient or designated provider meeting the conditions of this subsection but possessing more ~~((cannabis))~~ marijuana than the limits set forth in ~~((RCW 69.51A.040(1)))~~ section 19(3) of this act may, in the investigating ~~((peace))~~ law enforcement officer's discretion, be taken into custody and booked into jail in connection with the investigation of the incident.

NEW SECTION. **Sec. 26.** A new section is added to chapter 69.51A RCW to read as follows:

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf.

(2) Cooperatives may not be located within one mile of a marijuana retailer. People who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process marijuana. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable marijuana or marijuana-infused products grown at that location. The state liquor and cannabis board must deny the registration of any cooperative if the location is within one mile of a marijuana retailer.

(3) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(4) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable marijuana that can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating under this section.

(5) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A

copy of each participant's recognition card must be kept at the location at all times.

(6) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all marijuana grown in a cooperative.

(7) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.

NEW SECTION. Sec. 27. A new section is added to chapter 69.51A RCW to read as follows:

(1) Notwithstanding any other provision of this chapter and even if multiple qualifying patients or designated providers reside in the same housing unit, no more than fifteen plants may be grown or located in any one housing unit other than a cooperative established pursuant to section 26 of this act.

(2) Neither the production nor processing of marijuana or marijuana-infused products pursuant to this section nor the storage or growing of plants may occur if any portion of such activity can be readily seen by normal unaided vision or readily smelled from a public place or the private property of another housing unit.

(3) Cities, towns, counties, and other municipalities may create and enforce civil penalties, including abatement procedures, for the growing or processing of marijuana and for keeping marijuana plants beyond or otherwise not in compliance with this section.

NEW SECTION. Sec. 28. A new section is added to chapter 69.51A RCW to read as follows:

(1) Once the state liquor and cannabis board adopts rules under subsection (2) of this section, qualifying patients or designated providers may only extract or separate the resin from marijuana or produce or process any form of marijuana concentrates or marijuana-infused products in accordance with those standards.

(2) The state liquor and cannabis board must adopt rules permitting qualifying patients and designated providers to extract or separate the resin from marijuana using noncombustible methods. The rules must provide the noncombustible methods permitted and any restrictions on this practice.

Sec. 29. RCW 69.51A.045 and 2011 c 181 s 405 are each amended to read as follows:

(1) A qualifying patient or designated provider in possession of ~~((cannabis))~~ plants, marijuana concentrates, useable ~~((cannabis))~~ marijuana, or ~~((cannabis))~~ marijuana-infused products exceeding the limits set forth in ~~((RCW 69.51A.040(1)))~~ this chapter but otherwise in compliance with all other terms and conditions of this chapter may establish an affirmative defense to charges of violations of state law relating to ~~((cannabis))~~ marijuana through proof at trial,

by a preponderance of the evidence, that the qualifying patient's necessary medical use exceeds the amounts set forth in RCW 69.51A.040((+)).

(2) An investigating (~~(peace)~~) law enforcement officer may seize (~~(cannabis)~~) plants, marijuana concentrates, useable (~~(cannabis)~~) marijuana, or (~~(cannabis)~~) marijuana-infused products exceeding the amounts set forth in (~~RCW 69.51A.040(1): PROVIDED, That~~) this chapter. In the case of (~~(cannabis)~~) plants, the qualifying patient or designated provider shall be allowed to select the plants that will remain at the location. The officer and his or her law enforcement agency may not be held civilly liable for failure to seize (~~(cannabis)~~) marijuana in this circumstance.

Sec. 30. RCW 69.51A.055 and 2011 c 181 s 1105 are each amended to read as follows:

(1)(a) The arrest and prosecution protections established in RCW 69.51A.040 may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(b) The affirmative defenses established in RCW 69.51A.043(~~(-)~~) and 69.51A.045(~~(-69.51A.047, and section 407 of this act)~~) may not be asserted in a supervision revocation or violation hearing by a person who is supervised by a corrections agency or department, including local governments or jails, that has determined that the terms of this section are inconsistent with and contrary to his or her supervision.

(2) (~~The provisions of~~) RCW 69.51A.040(~~(-69.51A.085, and 69.51A.025 do)~~) does not apply to a person who is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision.

(~~(3) A person may not be licensed as a licensed producer, licensed processor of cannabis products, or a licensed dispenser under section 601, 602, or 701 of this act if he or she is supervised for a criminal conviction by a corrections agency or department, including local governments or jails, that has determined that licensure is inconsistent with and contrary to his or her supervision.~~)

Sec. 31. RCW 69.51A.060 and 2011 c 181 s 501 are each amended to read as follows:

(1) It shall be a class 3 civil infraction to use or display medical (~~(cannabis)~~) marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter establishes a right of care as a covered benefit or requires any state purchased health care as defined in RCW 41.05.011 or other health carrier or health plan as defined in Title 48 RCW to be liable for any claim for reimbursement for the medical use of (~~(cannabis)~~) marijuana. Such entities may enact coverage or noncoverage criteria or related policies for payment or nonpayment of medical (~~(cannabis)~~) marijuana in their sole discretion.

(3) Nothing in this chapter requires any health care professional to authorize the medical use of (~~(cannabis)~~) marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of (~~(cannabis)~~) marijuana in any place of employment, in any school

bus or on any school grounds, in any youth center, in any correctional facility, or smoking ~~((cannabis))~~ marijuana in any public place or hotel or motel. However, a school may permit a minor who meets the requirements of section 20 of this act to consume marijuana on school grounds. Such use must be in accordance with school policy relating to medication use on school grounds.

(5) Nothing in this chapter authorizes the possession or use of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products on federal property.

~~((5))~~ (6) Nothing in this chapter authorizes the use of medical ((cannabis)) marijuana by any person who is subject to the Washington code of military justice in chapter 38.38 RCW.

~~((6))~~ (7) Employers may establish drug-free work policies. Nothing in this chapter requires an accommodation for the medical use of ((cannabis)) marijuana if an employer has a drug-free workplace.

~~((7) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010(32)(a), or to backdate such documentation to a time earlier than its actual date of execution.)~~

(8) No person shall be entitled to claim the protection from arrest and prosecution under RCW 69.51A.040 or the affirmative defense under RCW 69.51A.043 for engaging in the medical use of ((cannabis)) marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway, including violations of RCW 46.61.502 or 46.61.504, or equivalent local ordinances.

Sec. 32. RCW 69.51A.085 and 2011 c 181 s 403 are each amended to read as follows:

(1) Qualifying patients may create and participate in collective gardens for the purpose of producing, processing, transporting, and delivering ((cannabis)) marijuana for medical use subject to the following conditions:

(a) No more than ten qualifying patients may participate in a single collective garden at any time;

(b) ~~No person under the age of twenty-one may participate in a collective garden or receive marijuana that was produced, processed, transported, or delivered through a collective garden. A designated provider for a person who is under the age of twenty-one may participate in a collective garden on behalf of the person under the age of twenty-one;~~

(c) A collective garden may contain no more than fifteen plants per patient up to a total of forty-five plants;

~~((e))~~ (d) A collective garden may contain no more than twenty-four ounces of useable ((cannabis)) marijuana per patient up to a total of seventy-two ounces of useable ((cannabis)) marijuana;

~~((d))~~ (e) A copy of each qualifying patient's ~~(valid documentation or proof of registration with the registry established in section 901 of this act)) authorization, including a copy of the patient's proof of identity, must be available at all times on the premises of the collective garden; and~~

~~((e))~~ (f) No useable ((cannabis)) marijuana from the collective garden is delivered to anyone other than one of the qualifying patients participating in the collective garden.

(2) For purposes of this section, the creation of a "collective garden" means qualifying patients sharing responsibility for acquiring and supplying the resources required to produce and process cannabis for medical use such as, for example, a location for a collective garden; equipment, supplies, and labor necessary to plant, grow, and harvest (~~cannabis; cannabis~~) marijuana plants, seeds, and cuttings; and equipment, supplies, and labor necessary for proper construction, plumbing, wiring, and ventilation of a garden of (~~cannabis~~) marijuana plants.

(3) A person who knowingly violates a provision of subsection (1) of this section is not entitled to the protections of this chapter.

NEW SECTION. Sec. 33. A new section is added to chapter 69.50 RCW to read as follows:

(1) The state liquor and cannabis board may conduct controlled purchase programs to determine whether:

(a) A marijuana retailer is unlawfully selling marijuana to persons under the age of twenty-one;

(b) A marijuana retailer holding a medical marijuana endorsement is selling to persons under the age of eighteen or selling to persons between the ages of eighteen and twenty-one who do not hold valid recognition cards;

(c) Until July 1, 2016, collective gardens under RCW 69.51A.085 are providing marijuana to persons under the age of twenty-one; or

(d) A cooperative organized under section 26 of this act is permitting a person under the age of twenty-one to participate.

(2) Every person under the age of twenty-one years who purchases or attempts to purchase marijuana is guilty of a violation of this section. This section does not apply to:

(a) Persons between the ages of eighteen and twenty-one who hold valid recognition cards and purchase marijuana at a marijuana retail outlet holding a medical marijuana endorsement;

(b) Persons between the ages of eighteen and twenty-one years who are participating in a controlled purchase program authorized by the state liquor and cannabis board under rules adopted by the board. Violations occurring under a private, controlled purchase program authorized by the state liquor and cannabis board may not be used for criminal or administrative prosecution.

(3) A marijuana retailer who conducts an in-house controlled purchase program authorized under this section shall provide his or her employees a written description of the employer's in-house controlled purchase program. The written description must include notice of actions an employer may take as a consequence of an employee's failure to comply with company policies regarding the sale of marijuana during an in-house controlled purchase program.

(4) An in-house controlled purchase program authorized under this section shall be for the purposes of employee training and employer self-compliance checks. A marijuana retailer may not terminate an employee solely for a first-time failure to comply with company policies regarding the sale of marijuana during an in-house controlled purchase program authorized under this section.

(5) Every person between the ages of eighteen and twenty-one who is convicted of a violation of this section is guilty of a misdemeanor punishable as provided by RCW 9A.20.021.

Sec. 34. RCW 69.51A.100 and 2011 c 181 s 404 are each amended to read as follows:

(1) A qualifying patient may revoke his or her designation of a specific designated provider and designate a different designated provider at any time. A revocation of designation must be in writing, signed and dated, and provided to the designated provider and, if applicable, the medical marijuana authorization database administrator. The protections of this chapter cease to apply to a person who has served as a designated provider to a qualifying patient seventy-two hours after receipt of that patient's revocation of his or her designation.

(2) A person may stop serving as a designated provider to a given qualifying patient at any time by revoking that designation in writing, signed and dated, and provided to the qualifying patient and, if applicable, the medical marijuana authorization database administrator. However, that person may not begin serving as a designated provider to a different qualifying patient until fifteen days have elapsed from the date the last qualifying patient designated him or her to serve as a provider.

(3) The department may adopt rules to implement this section, including a procedure to remove the name of the designated provider from the medical marijuana authorization database upon receipt of a revocation under this section.

NEW SECTION. **Sec. 35.** A new section is added to chapter 69.51A RCW to read as follows:

Neither this chapter nor chapter 69.50 RCW prohibits a health care professional from selling or donating topical, noningestible products that have a THC concentration of less than .3 percent to qualifying patients.

**NEW SECTION. Sec. 36. A new section is added to chapter 69.51A RCW to read as follows:*

Employers of a health care professional may not prohibit or limit the authority of any health care professional to:

(1) Advise a patient about the risks and benefits of the medical use of marijuana or that the patient may benefit from the medical use of marijuana; or

(2) Provide a patient or designated provider meeting the criteria established under RCW 69.51A.010 with an authorization, based upon the health care professional's assessment of the patient's medical history and current medical condition, if the health care professional has complied with this chapter and he or she determines within a professional standard of care or in the individual health care professional's medical judgment the qualifying patient may benefit from the medical use of marijuana.

Sec. 36 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 37.** A new section is added to chapter 69.51A RCW to read as follows:

A medical marijuana consultant certificate is hereby established.

(1) In addition to any other authority provided by law, the secretary of the department may:

(a) Adopt rules, in accordance with chapter 34.05 RCW, necessary to implement this chapter;

(b) Establish forms and procedures necessary to administer this chapter;

(c) Approve training or education programs that meet the requirements of this section and any rules adopted to implement it;

(d) Receive criminal history record information that includes nonconviction information data for any purpose associated with initial certification or renewal of certification. The secretary shall require each applicant for initial certification to obtain a state or federal criminal history record information background check through the state patrol or the state patrol and the identification division of the federal bureau of investigation prior to the issuance of any certificate. The secretary shall specify those situations where a state background check is inadequate and an applicant must obtain an electronic fingerprint-based national background check through the state patrol and federal bureau of investigation. Situations where a background check is inadequate may include instances where an applicant has recently lived out-of-state or where the applicant has a criminal record in Washington;

(e) Establish administrative procedures, administrative requirements, and fees in accordance with RCW 43.70.110 and 43.70.250; and

(f) Maintain the official department record of all applicants and certificate holders.

(2) A training or education program approved by the secretary must include the following topics:

(a) The medical conditions that constitute terminal or debilitating conditions, and the symptoms of those conditions;

(b) Short and long-term effects of cannabinoids;

(c) Products that may benefit qualifying patients based on the patient's terminal or debilitating medical condition;

(d) Risks and benefits of various routes of administration;

(e) Safe handling and storage of useable marijuana, marijuana-infused products, and marijuana concentrates, including strategies to reduce access by minors;

(f) Demonstrated knowledge of this chapter and the rules adopted to implement it; and

(g) Other subjects deemed necessary and appropriate by the secretary to ensure medical marijuana consultant certificate holders are able to provide evidence-based and medically accurate advice on the medical use of marijuana.

(3) Medical marijuana consultant certificates are subject to annual renewals and continuing education requirements established by the secretary.

(4) The secretary shall have the power to refuse, suspend, or revoke the certificate of any medical marijuana consultant upon proof that:

(a) The certificate was procured through fraud, misrepresentation, or deceit;

(b) The certificate holder has committed acts in violation of subsection (6) of this section; or

(c) The certificate holder has violated or has permitted any employee or volunteer to violate any of the laws of this state relating to drugs or controlled substances or has been convicted of a felony.

In any case of the refusal, suspension, or revocation of a certificate by the secretary under the provisions of this chapter, appeal may be taken in accordance with chapter 34.05 RCW, the administrative procedure act.

(5) A medical marijuana consultant may provide the following services when acting as an owner, employee, or volunteer of a retail outlet licensed under

RCW 69.50.354 and holding a medical marijuana endorsement under section 10 of this act:

(a) Assisting a customer with the selection of products sold at the retail outlet that may benefit the qualifying patient's terminal or debilitating medical condition;

(b) Describing the risks and benefits of products sold at the retail outlet;

(c) Describing the risks and benefits of methods of administration of products sold at the retail outlet;

(d) Advising a customer about the safe handling and storage of useable marijuana, marijuana-infused products, and marijuana concentrates, including strategies to reduce access by minors; and

(e) Providing instruction and demonstrations to customers about proper use and application of useable marijuana, marijuana-infused products, and marijuana concentrates.

(6) Nothing in this section authorizes a medical marijuana consultant to:

(a) Offer or undertake to diagnose or cure any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of marijuana or any other means or instrumentality; or

(b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of marijuana.

(7) Nothing in this section requires an owner, employee, or volunteer of a retail outlet licensed under RCW 69.50.354 and holding a medical marijuana endorsement under section 10 of this act to obtain a medical marijuana consultant certification.

(8) Nothing in this section applies to the practice of a health care profession by individuals who are licensed, certified, or registered in a profession listed in RCW 18.130.040(2) and who are performing services within their authorized scope of practice.

NEW SECTION. Sec. 38. A new section is added to chapter 69.51A RCW to read as follows:

The board of naturopathy, the board of osteopathic medicine and surgery, the medical quality assurance commission, and the nursing care quality assurance commission shall develop and approve continuing education programs related to the use of marijuana for medical purposes for the health care providers that they each regulate that are based upon practice guidelines that have been adopted by each entity.

Sec. 39. RCW 43.70.320 and 2008 c 134 s 16 are each amended to read as follows:

(1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifications, renewals, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department and implementing and administering the medical marijuana authorization database established in section 21 of this act shall be paid from the account as authorized by legislative appropriation, except as

provided in subsection (4) of this section. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees.

(4) The secretary shall, at the request of a board or commission as applicable, spend unappropriated funds in the health professions account that are allocated to the requesting board or commission to meet unanticipated costs of that board or commission when revenues exceed more than fifteen percent over the department's estimated sixyear spending projections for the requesting board or commission. Unanticipated costs shall be limited to spending as authorized in subsection (3) of this section for anticipated costs.

NEW SECTION. Sec. 40. A new section is added to chapter 82.04 RCW to read as follows:

(1) This chapter does not apply to any cooperative in respect to growing marijuana, or manufacturing marijuana concentrates, useable marijuana, or marijuana-infused products, as those terms are defined in RCW 69.50.101.

(2) The tax preference authorized in this section is not subject to the provisions of RCW 82.32.805 and 82.32.808.

NEW SECTION. Sec. 41. (1) The department of health must develop recommendations on establishing medical marijuana specialty clinics that would allow for the authorization and dispensing of marijuana to patients of health care professionals who work on-site of the clinic and who are certified by the department of health in the medical use of marijuana.

(2) Recommendations must be reported to the chairs of the health care committees of both the senate and house of representatives by December 1, 2015.

***Sec. 42. RCW 69.50.203 and 2013 c 19 s 88 are each amended to read as follows:**

(a) Except as provided in subsection (c) of this section, the commission shall place a substance in Schedule I upon finding that the substance:

(1) has high potential for abuse;

(2) has no currently accepted medical use in treatment in the United States; and

(3) lacks accepted safety for use in treatment under medical supervision.

(b) The commission may place a substance in Schedule I without making the findings required by subsection (a) of this section if the substance is controlled under Schedule I of the federal Controlled Substances Act by a federal agency as the result of an international treaty, convention, or protocol.

(c) No marijuana concentrates, useable marijuana, or marijuana-infused product that the department has identified in rules adopted pursuant to section 10(4) of this act as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement shall be deemed to have met the criteria established in subsection (a) of this section and may not be placed in Schedule I.

Sec. 42 was vetoed. See message at end of chapter.

**Sec. 43. RCW 69.50.204 and 2010 c 177 s 2 are each amended to read as follows:*

Unless specifically excepted by state or federal law or regulation or more specifically included in another schedule, the following controlled substances are listed in Schedule I:

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(2) Acetylmethadol;

(3) Allylprodine;

(4) Alphacetylmethadol, except levoalphacetylmethadol, also known as levoalphaacetylmethadol, levomethadyl acetate, or LAAM;

(5) Alphameprodine;

(6) Alphamethadol;

(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl) ethyl-4piperidyl] propionanilide); (1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(9) Benzethidine;

(10) Betacetylmethadol;

(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)4-piperidinyl]-N-phenylpropanamide);

(12) Beta-hydroxy-3-methylfentanyl, some trade or other names: N-[1-(2-hydrox-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(13) Betameprodine;

(14) Betamethadol;

(15) Betaprodine;

(16) Clonitazene;

(17) Dextromoramide;

(18) Diampromide;

(19) Diethylthiambutene;

(20) Difenoxin;

(21) Dimenoxadol;

(22) Dimepheptanol;

(23) Dimethylthiambutene;

(24) Dioxaphetyl butyrate;

(25) Dipipanone;

(26) Ethylmethylthiambutene;

(27) Etonitazene;

(28) Etoxidine;

(29) Furethidine;

(30) Hydroxypethidine;

(31) Ketobemidone;

(32) Levomoramide;

(33) Levophenacetylmorphan;

(34) *3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);*

(35) *3-Methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);*

(36) *Morpheridine;*

(37) *MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);*

(38) *Noracymethadol;*

(39) *Norlevorphanol;*

(40) *Normethadone;*

(41) *Norpipanone;*

(42) *Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide);*

(43) *PEPAP(1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);*

(44) *Phenadoxone;*

(45) *Phenampromide;*

(46) *Phenomorphan;*

(47) *Phenoperidine;*

(48) *Piritramide;*

(49) *Proheptazine;*

(50) *Propерidine;*

(51) *Propiram;*

(52) *Racemoramide;*

(53) *Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide);*

(54) *Tilidine;*

(55) *Trimeperidine.*

(b) *Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:*

(1) *Acetorphine;*

(2) *Acetyldihydrocodeine;*

(3) *Benzylmorphine;*

(4) *Codeine methylbromide;*

(5) *Codeine-N-Oxide;*

(6) *Cyprenorphine;*

(7) *Desomorphine;*

(8) *Dihydromorphine;*

(9) *Drotebanol;*

(10) *Etorphine, except hydrochloride salt;*

(11) *Heroin;*

(12) *Hydromorphinol;*

(13) *Methyldesorphine;*

(14) *Methyldihydromorphine;*

(15) *Morphine methylbromide;*

(16) *Morphine methylsulfonate;*

(17) *Morphine-N-Oxide;*

(18) *Myrophine;*

(19) *Nicocodeine;*

(20) *Nicomorphine*;

(21) *Normorphine*;

(22) *Pholcodine*;

(23) *Thebacon*.

(c) *Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this subsection only, the term "isomer" includes the optical, position, and geometric isomers:*

(1) *Alphaethyltryptamine: Some trade or other names: Etryptamine; monase; aethylHindole3ethanamine; 3(2aminobutyl) indole; aET; and AET;*

(2) *4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;*

(3) *4bromo2,5dimethoxyphenethylamine: Some trade or other names: 2(4bromo2,5dimethoxyphenyl)Iaminoethane; alpha-desmethyl DOB; 2CB, nexus;*

(4) *2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;*

(5) *2,5dimethoxy4ethylamphetamine (DOET);*

(6) *2,5dimethoxy4(n)propylthiophenethylamine: Other name: 2CT7;*

(7) *4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;*

(8) *5-methoxy-3,4-methylenedioxy-amphetamine;*

(9) *4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";*

(10) *3,4-methylenedioxy amphetamine;*

(11) *3,4-methylenedioxyamphetamine (MDMA);*

(12) *3,4methylenedioxyNethylamphetamine, also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;*

(13) *Nhydroxy3,4methylenedioxyamphetamine also known as Nhydroxyalphamethyl3,4(methylenedioxy)phenethylamine,N-hydroxy MDA;*

(14) *3,4,5-trimethoxy amphetamine;*

(15) *Alphamethyltryptamine: Other name: AMT;*

(16) *Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;*

(17) *Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;*

(18) *Dimethyltryptamine: Some trade or other names: DMT;*

(19) *5methoxyN,Ndiisopropyltryptamine: Other name: 5MeODIPT;*

(20) *Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta, 7,8,9,10,12,13,-octahydro-2-methoxy-6,9-methano-5H-pyndo (1',2' 1,2) azepino (5,4-b) indole; Tabernanthe iboga;*

(21) *Lysergic acid diethylamide;*

(22) *Marihuana or marijuana, except for any marijuana concentrates, useable marijuana, or marijuana-infused products identified by the*

department in rules adopted pursuant to section 10(4) of this act as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement;

(23) Mescaline;

(24) Parahexyl-7374: Some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;

(25) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 U.S.C. Sec. 812 (c), Schedule I (c)(12));

(26) N-ethyl-3-piperidyl benzilate;

(27) N-methyl-3-piperidyl benzilate;

(28) Psilocybin;

(29) Psilocyn;

(30)(i) Tetrahydrocannabinols, meaning tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis* (cannabis plant), as well as synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, species, and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

((i)) (A) 1 - cis - or trans tetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

((ii)) (B) 6 - cis - or trans tetrahydrocannabinol, and their optical isomers;

((iii)) (C) 3,4 - cis - or trans tetrahydrocannabinol, and its optical isomers;

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

(ii) The term "tetrahydrocannabinols" does not include any marijuana concentrates, useable marijuana, or marijuana-infused products identified by the department in rules adopted pursuant to section 10(4) of this act as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement;

(31) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE;

(32) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

(33) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thienyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(34) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine: A trade or other name is TCPy.

(d) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains

any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

(1) *Gammahydroxybutyric acid*: Some other names include *GHB*; *gammahydroxybutyrate*; *4hydroxybutyrate*; *4hydroxybutanoic acid*; *sodium oxybate*; *sodium oxybutyrate*;

(2) *Mecloqualone*;

(3) *Methaqualone*.

(e) *Stimulants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) *Aminorex*: Some other names: *aminoxaphen*; *2-amino-5-phenyl-2-oxazoline*; or *4, 5-dihydro-5phenyl-2-oxazolamine*;

(2) *NBenzylpiperazine*: Some other names: *BZP*, *1benzylpiperazine*;

(3) *Cathinone*, also known as *2amino1phenyl1propanone*, *alphaaminopropiophenone*, *2aminopropiophenone* and *norephedrone*;

(4) *Fenethylamine*;

(5) *Methcathinone*: Some other names: *2-(methylamino)-propiophenone*; *alpha-(methylamino)propiophenone*; *2-(methylamino)-1-phenylpropan-1-one*; *alpha-N-methylaminopropiophenone*; *monomethylpropion*; *ephedrone*; *N-methylcathinone*; *methylcathinone*; *AL-464*; *AL-422*; *AL-463* and *UR1432*, its salts, optical isomers, and salts of optical isomers;

(6) *(+)-cis-4-methylaminorex* (*(+)-cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine*);

(7) *N-ethylamphetamine*;

(8) *N,N-dimethylamphetamine*: Some trade or other names: *N,N-alpha-trimethyl-benzeneethanamine*; *N,N-alpha-trimethylphenoethylene*.

The controlled substances in this section may be added, rescheduled, or deleted as provided for in RCW 69.50.201.

Sec. 43 was vetoed. See message at end of chapter.

***NEW SECTION.** Sec. 44. A new section is added to chapter 69.50 RCW to read as follows:

(1) It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, marijuana concentrates, useable marijuana, and marijuana-infused products identified by the department in rules adopted pursuant to section 10(4) of this act as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement, except:

(a) As those activities are associated with the lawful operation as a licensed marijuana producer, processor, retailer, or retailer with a medical marijuana endorsement in compliance with this chapter and chapter 69.51A RCW;

(b) In association with the lawful operation of a cooperative established pursuant to, and operating in compliance with, section 26 of this act;

(c) Until July 1, 2016, in association with the lawful operation of a collection garden established pursuant to, and operating in compliance with RCW 69.51A.085; or

(d) As the activities of a designated provider or qualifying patient support the personal, medical use of a qualifying patient in compliance with section 27 of this act.

(2) Any person who violates this section is guilty of a class B felony. Sec. 44 was vetoed. See message at end of chapter.

**NEW SECTION. Sec. 45. A new section is added to chapter 69.50 RCW to read as follows:*

(1) It is unlawful for any person to possess marijuana concentrates, useable marijuana, and marijuana-infused products identified by the department in rules adopted pursuant to section 10(4) of this act as appropriate for sale to qualifying patients and designated providers in a retail outlet that holds a medical marijuana endorsement, unless:

(a) It is obtained and possessed by a designated provider or qualifying patient in an amount that does not exceed those authorized in section 19 of this act and the substance is obtained from:

(i) A licensed marijuana retailer or retailer with a medical marijuana endorsement operating in compliance with this chapter and chapter 69.51A RCW;

(ii) A cooperative established pursuant to, and operating in compliance with, section 26 of this act;

(iii) Until July 1, 2016, a collective garden established pursuant to, and operating in compliance with RCW 69.51A.085; or

(iv) The designated provider or qualifying patient in compliance with section 27 of this act; or

(b) It is obtained and possessed by a person in an amount that does not exceed those authorized in RCW 69.50.360 and was obtained from a licensed marijuana retailer or retailer with a medical marijuana endorsement operating in compliance with this chapter.

(2) Any person who violates this section is guilty of a class C felony. Sec. 45 was vetoed. See message at end of chapter.

**Sec. 46. RCW 9.94A.518 and 2003 c 53 s 57 are each amended to read as follows:*

**TABLE 4
DRUG OFFENSES
INCLUDED WITHIN EACH
SERIOUSNESS LEVEL**

**III Any felony offense under chapter 69.50
RCW with a deadly weapon special
verdict under RCW 9.94A.602**

**Controlled Substance Homicide (RCW
69.50.415)**

**Delivery of imitation controlled
substance by person eighteen or
over to person under eighteen
(RCW 69.52.030(2))**

*Involving a minor in drug dealing
(RCW 69.50.4015)*

*Manufacture of methamphetamine
(RCW 69.50.401(2)(b))*

*Over 18 and deliver heroin,
methamphetamine, a narcotic from
Schedule I or II, or flunitrazepam
from Schedule IV to someone
under 18 (RCW 69.50.406)*

*Over 18 and deliver narcotic from
Schedule III, IV, or V or a
nonnarcotic, except flunitrazepam
or methamphetamine, from
Schedule I-V to someone under 18
and 3 years junior (RCW
69.50.406)*

*Possession of Ephedrine,
Pseudoephedrine, or Anhydrous
Ammonia with intent to
manufacture
methamphetamine (RCW
69.50.440)*

*Selling for profit (controlled or
counterfeit) any controlled
substance (RCW 69.50.410)*

*II Create, deliver, or possess a counterfeit
controlled substance (RCW
69.50.4011)*

*Deliver or possess with intent to deliver
methamphetamine (RCW
69.50.401(2)(b))*

*Delivery of a material in lieu of a
controlled substance (RCW
69.50.4012)*

*Maintaining a Dwelling or Place for
Controlled Substances (RCW
69.50.402(1)(f))*

*Manufacture, deliver, or possess with
intent to deliver amphetamine
(RCW 69.50.401(2)(b))*

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II or flunitrazepam from Schedule IV (RCW 69.50.401(2)(a))

Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or nonnarcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam) (RCW 69.50.401(2)(c) through (e))

Manufacture, distribute, or possess with intent to distribute an imitation controlled substance (RCW 69.52.030(1))

*I Forged Prescription (RCW 69.41.020)
Forged Prescription for a Controlled Substance (RCW 69.50.403)*

Manufacture, deliver, or possess with intent to deliver marijuana (RCW 69.50.401(2)(c))

Manufacture, deliver, or possess with intent to deliver marijuana pursuant to section 44 of this act

Possesses marijuana pursuant to section 45 of this act

Possess Controlled Substance that is a Narcotic from Schedule III, IV, or V or Nonnarcotic from Schedule I-V (RCW 69.50.4013)

Possession of Controlled Substance that is either heroin or narcotics from Schedule I or II (RCW 69.50.4013)

Unlawful Use of Building for Drug Purposes (RCW 69.53.010)

Sec. 46 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 47.** All references to the Washington state liquor control board must be construed as referring to the Washington state liquor and cannabis board. The code reviser must prepare legislation for the 2016 legislative session changing all references in the Revised Code of Washington

from the Washington state liquor control board to the Washington state liquor and cannabis board.

NEW SECTION. Sec. 48. The following acts or parts of acts are each repealed:

1RCW 69.51A.020 (Construction of chapter) and 2011 c 181 s 103 & 1999 c 2 s 3;

2RCW 69.51A.025 (Construction of chapter—Compliance with RCW 69.51A.040) and 2011 c 181 s 413;

3RCW 69.51A.047 (Failure to register or present valid documentation—Affirmative defense) and 2011 c 181 s 406;

4RCW 69.51A.070 (Addition of medical conditions) and 2007 c 371 s 7 & 1999 c 2 s 9;

5RCW 69.51A.090 (Applicability of valid documentation definition) and 2010 c 284 s 5;

6RCW 69.51A.140 (Counties, cities, towns—Authority to adopt and enforce requirements) and 2011 c 181 s 1102; and

7RCW 69.51A.200 (Evaluation) and 2011 c 181 s 1001.

NEW SECTION. Sec. 49. RCW 69.51A.085 (Collective gardens) and 2015 c ... s 32 (section 32 of this act) and 2011 c 181 s 403 are each repealed.

NEW SECTION. Sec. 50. Sections 12, 19, 20, 23 through 26, 31, 35, 40, and 49 of this act take effect July 1, 2016.

NEW SECTION. Sec. 51. Sections 21, 22, 32, and 33 of this act are necessary for the immediate preservation of the public health, or safety, or support of the state government and its existing public institutions, and take effect immediately.

****NEW SECTION. Sec. 52. This act takes effect on the dates provided in sections 50 and 51 of this act if House Bill No. 2136, or any subsequent version of House Bill No. 2136, is enacted into law by October 1, 2015.***

Sec. 52 was vetoed. See message at end of chapter.

Passed by the Senate April 14, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 25, 2015.

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

"I am returning herewith, without my approval as to Sections 36, 42, 43, 44, 45, 46, and 52, Second Substitute Senate Bill No. 5052 entitled:

"AN ACT Relating to establishing the cannabis patient protection act.

After tremendous deliberation, compromise and hard work from our outstanding bipartisan sponsors and co-sponsors, committee chairs and ranking members from both houses, we have a measure that will create a medical marijuana system that works for our state.

I am committed to ensuring a system that serves patients well and makes medicine available in a safe and accessible manner, just like we would do for any

medicine. That's what this bill strives to provide. It will help families of patients in real need.

As significant an accomplishment as this bill is for our state — and for patients to be ensured of having a safe place to get medicine they need — I know some remain concerned. These perspectives are important and compelling. I recognize the solution is not perfect. However, I do think this is far better than today's wholly unregulated system.

We will have options for patients and a system of strong enforcement to ensure public safety, especially for children. It is a good thing that this bill allows immediate enforcement of dispensaries to ensure they are not selling marijuana to kids.

I want to be clear that I am committed to implementing this law effectively by ensuring cooperatives are safe for patients in need, not sources of illicit diversion in our communities. To this end, I have directed the Liquor Control Board to work with the Attorney General's Office and local law enforcement to consider all options to ensure patient and public safety.

I also want to reassure you that the Department of Health will create an authorization form that will continue to honor the doctor-patient relationship.

While this bill takes a tremendous step forward, a large volume remains of unfinished work on marijuana tax policy, enforcement, local revenue sharing and funding for public health prevention programs. I strongly support efforts to address these items — and call on legislators to finish the job and provide the tools necessary to ensure a well-regulated and functioning marijuana market in our state.

I am vetoing the following sections:

Section 36. This section prohibits employers of health care providers from limiting medical marijuana recommendations to patients. This is an employment law provision that may cause confusion and potential unintended consequences. This section was added without adequate input.

The sponsors of this legislation have also requested this provision be vetoed to allow time for further discussion to develop appropriate policy.

Sections 42 and 43. These sections remove from Schedule I of our state's Controlled Substances Act any medical marijuana product. This is a laudable idea and I appreciate the intent to reduce the stigma of medical marijuana by rescheduling it from a Schedule I — an illegal — controlled substance to something more appropriate. However, our state's rescheduling system has very limited effect, and rescheduling just medicinal marijuana — not the entire cannabis plant and derivatives — may cause serious problems such as having the unintended effect of limiting the types of marijuana that are considered medicine. To that end, I have instructed the Department of Health to thoroughly consider this idea in consultation with medical professionals and stakeholders, and bring an appropriate resolution to me and the Legislature by next year. Furthermore, I will continue to advocate for the federal government to consider a

national rescheduling solution, which may be most beneficial, considering the limited power that state rescheduling has in this respect.

Sections 44, 45 and 46. These sections create new felonies in our criminal code. Washington state does not need additional criminal penalties related to medical marijuana. Moreover, these sections were added as part of the same amendment that created sections 42 and 43 that would have rescheduled medical marijuana. Because I have vetoed sections 42 and 43, sections 44, 45, and 46 are also unnecessary.

Section 52. This section makes Senate Bill 5052 contingent on the enactment of some version of House Bill 2136 by October 1, 2015. This contingent effective date causes confusion and potentially conflicts with other effective dates in Senate Bill 5052. In addition, if the Legislature is unable to pass a version of House Bill 2136, the Code Reviser's Office has advised me that this provision acts as a null and void clause, in which case we risk jeopardizing the integrity of the system created in this bill. I strongly agree with the need for additional policy and administrative changes to ensure a well-regulated and functioning marijuana market. However, this bill should not be made contingent on those changes.

For these reasons I have vetoed Sections 36, 42, 43, 44, 45, 46, and 52 of Second Substitute Senate Bill No. 5052.

With the exception of Sections 36, 42, 43, 44, 45, 46, and 52, Second Substitute Senate Bill No. 5052 is approved."

CHAPTER 71

[Senate Bill 5121]

MARIJUANA RESEARCH LICENSE

AN ACT Relating to establishing a marijuana research license; amending RCW 28B.20.502 and 43.350.030; adding a new section to chapter 69.50 RCW; and adding a new section to chapter 42.56 RCW.

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

NEW SECTION, **Sec. 1.** A new section is added to chapter 69.50 RCW to read as follows:

(1) There shall be a marijuana research license that permits a licensee to produce and possess marijuana for the following limited research purposes:

- (a) To test chemical potency and composition levels;
- (b) To conduct clinical investigations of marijuana-derived drug products;
- (c) To conduct research on the efficacy and safety of administering marijuana as part of medical treatment; and
- (d) To conduct genomic or agricultural research.

(2) As part of the application process for a marijuana research license, an applicant must submit to the life sciences discovery fund authority a description of the research that is intended to be conducted. The life sciences discovery fund authority must review the project and determine that it meets the requirements of subsection (1) of this section. If the life sciences discovery fund authority

determines that the research project does not meet the requirements of subsection (1) of this section, the application must be denied.

(3) A marijuana research licensee may only sell marijuana grown or within its operation to other marijuana research licensees. The state liquor control board may revoke a marijuana research license for violations of this subsection.

(4) A marijuana research licensee may contract with the University of Washington or Washington State University to perform research in conjunction with the university. All research projects must be approved by the life sciences discovery fund authority and meet the requirements of subsection (1) of this section.

(5) In establishing a marijuana research license, the state liquor control board may adopt rules on the following:

(a) Application requirements;

(b) Marijuana research license renewal requirements, including whether additional research projects may be added or considered;

(c) Conditions for license revocation;

(d) Security measures to ensure marijuana is not diverted to purposes other than research;

(e) Amount of plants, useable marijuana, marijuana concentrates, or marijuana-infused products a licensee may have on its premises;

(f) Licensee reporting requirements;

(g) Conditions under which marijuana grown by marijuana processors may be donated to marijuana research licensees; and

(h) Additional requirements deemed necessary by the state liquor control board.

(6) The production, possession, delivery, donation, and sale of marijuana in accordance with this section and the rules adopted to implement and enforce it, by a validly licensed marijuana researcher, shall not be a criminal or civil offense under Washington state law. Every marijuana research license shall be issued in the name of the applicant, shall specify the location at which the marijuana researcher intends to operate, which must be within the state of Washington, and the holder thereof shall not allow any other person to use the license.

(7) The application fee for a marijuana research license is two hundred fifty dollars. The annual fee for issuance and renewal of a marijuana research license is one thousand dollars. Fifty percent of the application fee and the renewal fee must be deposited to the life sciences discovery fund under RCW 43.350.070.

Sec. 2. RCW 28B.20.502 and 2011 c 181 s 1002 are each amended to read as follows:

(1) The University of Washington and Washington State University may conduct scientific research on the efficacy and safety of administering ~~((cannabis))~~ marijuana as part of medical treatment. As part of this research, the University of Washington and Washington State University may develop and conduct studies to ascertain the general medical safety and efficacy of ~~((cannabis))~~ marijuana, and may develop medical guidelines for the appropriate administration and use of ~~((cannabis))~~ marijuana.

(2) The University of Washington and Washington State University may, in accordance with section 1 of this act, contract with marijuana research licensees to conduct research permitted under this section and section 1 of this act.

Sec. 3. RCW 43.350.030 and 2005 c 424 s 4 are each amended to read as follows:

In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Use public moneys in the life sciences discovery fund, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote life sciences research;

(2) Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities other than the state to receive moneys in consideration of the authority's promise to leverage those moneys with amounts received through appropriations from the legislature and contributions from other public entities and private entities, in order to use those moneys to promote life sciences research. Nonstate moneys received by the authority for this purpose shall be deposited in the life sciences discovery fund created in RCW 43.350.070;

(3) Hold funds received by the authority in trust for their use pursuant to this chapter to promote life sciences research;

(4) Manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

(5) Make grants to entities pursuant to contract for the promotion of life sciences research to be conducted in the state. Grant agreements shall specify deliverables to be provided by the recipient pursuant to the grant. The authority shall solicit requests for funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research; (b) its potential to improve health outcomes, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular disease or condition; (c) its potential for leveraging additional funding; (d) its potential to provide health care benefits or benefit human learning and development; (e) its potential to stimulate the health care delivery, biomedical manufacturing, and life sciences related employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty income and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration;

(6) Create one or more advisory boards composed of scientists, industrialists, and others familiar with life sciences research; ~~((and))~~

(7) Review and approve or disapprove marijuana research license applications under section 1 of this act;

(8) Review any reports made by marijuana research licensees under state liquor control board rule and provide the state liquor control board with its determination on whether the research project continues to meet research qualifications under section 1(1) of this act; and

(9) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

NEW SECTION. **Sec. 4.** A new section is added to chapter 42.56 RCW to read as follows:

Reports submitted by marijuana research licensees in accordance with rules adopted by the state liquor control board under section 1 of this act that contain proprietary information are exempt from disclosure under this chapter.

Passed by the Senate March 2, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 72

[Engrossed Substitute Senate Bill 5810]

ELECTRONIC SIGNATURES

AN ACT Relating to the use, acceptance, and removal of barriers to the use and acceptance of electronic signatures; amending RCW 18.25.020, 18.32.100, and 29A.72.010; reenacting and amending RCW 19.34.231; adding a new chapter to Title 19 RCW; and repealing RCW 39.04.390.

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

NEW SECTION. Sec. 1. The legislature recognizes that the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., applies to federal and state transactions, including certain governmental transactions, in or affecting interstate or foreign commerce relating to this state. In this act, the legislature, to the extent not already authorized by federal or state law, authorizes electronic dealings for governmental affairs and establishes the implementation framework for electronic governmental affairs and governmental transactions. This act is intended to promote electronic transactions and remove barriers that might prevent electronic transactions with governmental entities.

NEW SECTION. Sec. 2. (1) Unless specifically provided otherwise by law or agency rule, whenever the use of a written signature is authorized or required by this code with a state agency, an electronic signature may be used with the same force and effect as the use of a signature affixed by hand, as long as the electronic signature conforms to the definition in section 3 of this act and the writing conforms to section 4 of this act.

(2) Except as otherwise provided by law, each state agency may determine whether, and to what extent, the agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures. Nothing in this act requires a state agency to send or accept electronic records or electronic signatures when a writing or signature is required by statute.

(3) Except as otherwise provided by law, for governmental affairs and governmental transactions with state agencies, each state agency electing to send and accept shall establish the method that must be used for electronic submissions and electronic signatures. The method and process for electronic submissions and the use of electronic signatures must be established by policy or rule and be consistent with the policies, standards, or guidance established by the chief information officer required in subsection (4) of this section.

(4)(a) The chief information officer, in coordination with state agencies, must establish standards, guidelines, or policies for the electronic submittal and

receipt of electronic records and electronic signatures for governmental affairs and governmental transactions. The standards, policies, or guidelines must take into account reasonable access by and ability of persons to participate in governmental affairs or governmental transactions and be able to rely on transactions that are conducted electronically with agencies. Through the standards, policies, or guidelines, the chief information officer should encourage and promote consistency and interoperability among state agencies.

(b) In order to provide a single point of access, the chief information officer must establish a web site that maintains or links to the agency rules and policies established pursuant to subsection (3) of this section.

NEW SECTION. Sec. 3. (1) Unless specifically provided otherwise by law or rule or unless the context clearly indicates otherwise, whenever the term "signature" is used in this code for governmental affairs and is authorized by agency rule or policy pursuant to section 2 of this act, the term includes an electronic signature as defined in subsection (2) of this section.

(2) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record.

NEW SECTION. Sec. 4. (1) Unless specifically provided otherwise by law or rule or unless the context clearly indicates otherwise, whenever the term "writing" is used in this code for governmental affairs and is authorized by agency rule or policy pursuant to section 2 of this act, the term means a record.

(2) "Record," as used in subsection (1) of this section, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, except as otherwise defined for the purpose of state agency record retention, preservation, or disclosure.

NEW SECTION. Sec. 5. (1) Unless specifically provided otherwise by law or rule or unless the context clearly indicates otherwise, whenever the term "mail" is used in this code and authorized by agency rule or policy pursuant to section 2 of this act to transmit a writing with a state agency, the term includes the use of mail delivered through an electronic system such as email or secure mail transfer if authorized by the state agency in rule.

(2) For the purposes of this section, "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

NEW SECTION. Sec. 6. For purposes of sections 2 through 5 of this act, "state agency" means any state board, commission, bureau, committee, department, institution, division, or tribunal in the executive branch of state government, including statewide elected offices and institutions of higher education created and supported by the state government.

Sec. 7. RCW 18.25.020 and 1996 c 191 s 8 are each amended to read as follows:

(1) Any person not now licensed to practice chiropractic in this state and who desires to practice chiropractic in this state, before it shall be lawful for him or her to do so, shall make application therefor to the secretary, upon such form and in such manner as may be adopted and directed by the secretary. Each applicant who matriculates to a chiropractic college (~~(after January 1, 1975)~~), shall have completed not less than one-half of the requirements for a

baccalaureate degree at an accredited and approved college or university and shall be a graduate of a chiropractic school or college accredited and approved by the commission and shall show satisfactory evidence of completion by each applicant of a resident course of study of not less than four thousand classroom hours of instruction in such school or college. Applications shall be in writing and shall be signed by the applicant (~~(in his or her own handwriting and shall be sworn to before some officer authorized to administer oaths)~~), and shall recite the history of the applicant as to his or her educational advantages, his or her experience in matters pertaining to a knowledge of the care of the sick, how long he or she has studied chiropractic, under what teachers, what collateral branches, if any, he or she has studied, the length of time he or she has engaged in clinical practice; accompanying the same by reference therein, with any proof thereof in the shape of diplomas, certificates, and shall accompany said application with satisfactory evidence of good character and reputation.

(2) Applicants shall follow administrative procedures and administrative requirements and pay fees as provided in RCW 43.70.250 and 43.70.280.

Sec. 8. RCW 18.32.100 and 1994 sp.s. c 9 s 213 are each amended to read as follows:

The applicant for a dentistry license shall file an application on a form furnished by the secretary, stating the applicant's name, age, place of residence, the name of the school or schools attended by the applicant, the period of such attendance, the date of the applicant's graduation, whether the applicant has ever been the subject of any disciplinary action related to the practice of dentistry, and shall include a statement of all of the applicant's dental activities. This shall include any other information deemed necessary by the commission.

The application shall be signed by the applicant (~~(and sworn to by the applicant before some person authorized to administer oaths)~~) and shall be accompanied by proof of the applicant's school attendance and graduation.

Sec. 9. RCW 19.34.231 and 2011 1st sp.s. c 43 s 809 and 2011 c 183 s 2 are each reenacted and amended to read as follows:

~~((1) If a signature of a unit of state or local government, including its appropriate officers or employees, is required by statute, administrative rule, court rule, or requirement of the office of financial management, that unit of state or local government may become a subscriber to a certificate issued by a licensed certification authority for purposes of conducting official public business with electronic records.~~

~~((2)) A city or county may become a licensed certification authority under RCW 19.34.100 for purposes of providing services to local government, if authorized by ordinance adopted by the city or county legislative authority.~~

~~((3) A unit of state government, except the secretary, may not act as a certification authority.)~~

Sec. 10. RCW 29A.72.010 and 2003 c 111 s 1802 are each amended to read as follows:

If any legal voter of the state, either individually or on behalf of an organization, desires to petition the legislature to enact a proposed measure, or submit a proposed initiative measure to the people, or order that a referendum of all or part of any act, bill, or law, passed by the legislature be submitted to the people, he or she shall file with the secretary of state:

(1) A legible copy of the measure proposed, or the act or part of such act on which a referendum is desired~~((, accompanied by an))~~;

(2) A signed affidavit, or electronic submission, that the sponsor is a ~~((legal))~~ registered voter; and

(3) A filing fee prescribed under RCW 43.07.120.

NEW SECTION. Sec. 11. RCW 39.04.390 (Electronic competitive bidding) and 2014 c 151 s 1 are each repealed.

NEW SECTION. Sec. 12. Sections 1 through 6 of this act constitute a new chapter in Title 19 RCW.

Passed by the Senate March 5, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 73

[Senate Bill 5760]

JOINT OPERATING AGENCIES--CONTRACTS FOR MATERIALS OR WORK

AN ACT Relating to contracts for materials or work required by joint operating agencies; and amending RCW 43.52.560.

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

Sec. 1. RCW 43.52.560 and 2004 c 189 s 1 are each amended to read as follows:

Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is more than ~~((ten))~~ fifteen thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is more than ~~((ten))~~ twenty-five thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

Passed by the Senate March 4, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 74

[Substitute House Bill 1145]

COUNTY LEGISLATIVE AUTHORITIES--JOINT MEETINGS

AN ACT Relating to joint meetings of county legislative authorities; and amending RCW 36.32.080 and 36.32.090.

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

Sec. 1. RCW 36.32.080 and 1989 c 16 s 1 are each amended to read as follows:

(1) The county legislative authority of each county shall hold regular meetings at the county seat or at a location designated in accordance with

subsection (2) of this section to transact any business required or permitted by law.

(2)(a) Any two or more county legislative authorities may hold a joint regular meeting solely in the county seat of a participating county if the agenda item or items relate to actions or considerations of mutual interest or concern to the participating legislative authorities.

(b) A legislative authority participating in a joint regular meeting held in accordance with this subsection (2) must, for purposes of the meeting, comply with notice requirements for special meetings provided in RCW 42.30.080. This subsection (2)(b) does not apply to the legislative authority of the county in which the meeting will be held.

Sec. 2. RCW 36.32.090 and 1989 c 16 s 2 are each amended to read as follows:

(1) The county legislative authority of each county may hold special meetings at the county seat or at a location designated in accordance with subsection (2) or (3) of this section to transact the business of the county. Notice of a special meeting shall be made as provided in RCW 42.30.080.

(2) A special meeting may be held outside of the county seat at any location within the county if the agenda item or items are of unique interest or concern to the citizens of the portion of the county in which the special meeting is to be held.

(3) Any two or more county legislative authorities may hold a joint special meeting at the county seat or other agreed upon location within the jurisdiction of a participating county if the agenda item or items relate to actions or considerations of mutual interest or concern to the participating legislative authorities.

Passed by the House February 11, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 75

[House Bill 1168]

RETIREMENT SYSTEMS--RETIRED EMPLOYEES--RETURN TO EMPLOYMENT

AN ACT Relating to correcting restrictions on collecting a pension in the public employees' retirement system for retirees returning to work in an ineligible position or a position covered by a different state retirement system; and amending RCW 41.40.037.

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

Sec. 1. RCW 41.40.037 and 2011 1st sp.s. c 47 s 19 are each amended to read as follows:

(1)(a) If a retiree enters employment with an employer sooner than one calendar month after his or her accrual date, the retiree's monthly retirement allowance will be reduced by five and one-half percent for every eight hours worked during that month. This reduction will be applied each month until the retiree remains absent from employment with an employer for one full calendar month.

(b) The benefit reduction provided in (a) of this subsection will accrue for a maximum of one hundred sixty hours per month. Any benefit reduction over one hundred percent will be applied to the benefit the retiree is eligible to receive in subsequent months.

(2) A retiree from plan 1, plan 2, or plan 3 who ~~((enters employment with an employer at least one calendar month after his or her accrual date may continue to receive pension payments while engaged in such service for))~~ has satisfied the break in employment requirement of subsection (1) of this section may work up to eight hundred sixty-seven hours ((of service in a) per calendar year ((without a reduction of pension. For purposes of this section, employment includes positions covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400)) in an eligible position, as defined in RCW 41.32.010, 41.35.010, 41.37.010, or 41.40.010, or as a firefighter or law enforcement officer, as defined in RCW 41.26.030, or in a position covered by annuity and retirement income plans offered by institutions of higher education pursuant to RCW 28B.10.400, without suspension of his or her benefit.

(3) If the retiree opts to reestablish membership under RCW 41.40.023(12), he or she terminates his or her retirement status and becomes a member. Retirement benefits shall not accrue during the period of membership and the individual shall make contributions and receive membership credit. Such a member shall have the right to again retire if eligible in accordance with RCW 41.40.180. However, if the right to retire is exercised to become effective before the member has rendered two uninterrupted years of service, the retirement formula and survivor options the member had at the time of the member's previous retirement shall be reinstated.

(4) The department shall collect and provide the state actuary with information relevant to the use of this section for the select committee on pension policy.

(5) The legislature reserves the right to amend or repeal this section in the future and no member or beneficiary has a contractual right to be employed for more than five months in a calendar year without a reduction of his or her pension.

Passed by the House March 4, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 76

[House Bill 1179]

WINE COMMISSION ASSESSMENT--EXEMPTION--CIDER MAKERS

AN ACT Relating to exempting cider makers from the wine commission assessment; amending RCW 66.24.215; creating a new section; providing an effective date; and declaring an emergency.

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

NEW SECTION. **Sec. 1.** The legislature finds that the commodity assessment authorized in RCW 66.24.215 is applied to makers of cider as

defined in RCW 66.24.210 but by definition is focused on the marketing and support of vinifera wine grape growers and vinifera wine producers. The rapid growth and strong market potential of the Washington cider industry require marketing efforts that are focused on cider products as a unique beverage category. The legislature intends to allow cider makers to support their own marketing efforts, which will benefit the cider industry by exempting them from an assessment that primarily supports vinifera wine.

Sec. 2. RCW 66.24.215 and 1988 c 257 s 7 are each amended to read as follows:

(1) To provide for permanent funding of the wine commission after July 1, 1989, agricultural commodity assessments (~~shall~~) must be levied by the board on wine producers and growers as follows:

(a) Beginning on July 1, 1989, the assessment on wine producers (~~shall be~~) is two cents per gallon on sales of packaged Washington wines.

(b) Beginning on July 1, 1989, the assessment on growers of Washington vinifera wine grapes (~~shall be~~) is levied as provided in RCW 15.88.130.

(c) After July 1, 1993, assessment rates under subsection (1)(a) of this section may be changed pursuant to a referendum conducted by the Washington wine commission and approved by a majority vote of wine producers. The weight of each producer's vote (~~shall~~) must be equal to the percentage of that producer's share of Washington vinifera wine production in the prior year.

(d) After July 1, 1993, assessment amounts under subsection (1)(b) of this section may be changed pursuant to a referendum conducted by the Washington wine commission and approved by a majority vote of grape growers. The weight of each grower's vote (~~shall~~) must be equal to the percentage of that grower's share of Washington vinifera grape sales in the prior year.

(e) After July 1, 2015, the assessment amounts under this section may not be levied on the production of cider as defined in RCW 66.24.210.

(2) Assessments collected under this section (~~shall~~) must be disbursed quarterly to the Washington wine commission for use in carrying out the purposes of chapter 15.88 RCW.

(3) Prior to July 1, 1996, a referendum (~~shall~~) must be conducted to determine whether to continue the Washington wine commission as representing both wine producers and grape growers. The voting (~~shall~~) may not be weighted. The wine producers (~~shall~~) must vote whether to continue the commission's coverage of wineries and wine production. The grape producers (~~shall~~) must vote whether to continue the commission's coverage of issues pertaining to grape growing. If a majority of both wine and grape producers favor the continuation of the commission, the assessments (~~shall~~) must continue as provided in subsection (2)(b) and (d) of this section. If only one group of producers favors the continuation, the assessments (~~shall~~) may only be levied on the group which favored the continuation.

NEW SECTION. Sec. 3. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

Passed by the House March 3, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 77

[Substitute House Bill 1184]

UNIVERSITY OF WASHINGTON HEALTH SCIENCES LIBRARY--ONLINE ACCESS

AN ACT Relating to increasing the health professions participating in online access to the University of Washington health sciences library; reenacting and amending RCW 43.70.110; and providing an effective date.

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

Sec. 1. RCW 43.70.110 and 2013 c 249 s 1 and 2013 c 77 s 1 are each reenacted and amended to read as follows:

(1) The secretary shall charge fees to the licensee for obtaining a license. Physicians regulated pursuant to chapter 18.71 RCW who reside and practice in Washington and obtain or renew a retired active license are exempt from such fees. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Except as provided in subsection (3) of this section, fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) License fees shall include amounts in addition to the cost of licensure activities in the following circumstances:

(a) For registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, support of a central nursing resource center as provided in RCW 18.79.202;

(b) For all health care providers licensed under RCW 18.130.040, the cost of regulatory activities for retired volunteer medical worker licensees as provided in RCW 18.130.360; and

(c) For physicians licensed under chapter 18.71 RCW, physician assistants licensed under chapter 18.71A RCW, osteopathic physicians licensed under chapter 18.57 RCW, osteopathic physicians' assistants licensed under chapter 18.57A RCW, naturopaths licensed under chapter 18.36A RCW, podiatrists licensed under chapter 18.22 RCW, chiropractors licensed under chapter 18.25 RCW, psychologists licensed under chapter 18.83 RCW, registered nurses and licensed practical nurses licensed under chapter 18.79 RCW, optometrists licensed under chapter 18.53 RCW, mental health counselors licensed under chapter 18.225 RCW, massage therapists licensed under chapter 18.108 RCW, ~~((clinical social workers))~~ advanced social workers licensed under chapter 18.225 RCW, independent clinical social workers and independent clinical social worker associates licensed under chapter 18.225 RCW, midwives licensed under chapter 18.50 RCW, ~~((licensed))~~ marriage and family therapists and marriage and family therapist associates licensed under chapter 18.225 RCW, occupational therapists and occupational therapy assistants licensed under chapter 18.59 RCW, dietitians and nutritionists certified under chapter 18.138

RCW, speech-language pathologists licensed under chapter 18.35 RCW, and East Asian medicine practitioners licensed under chapter 18.06 RCW, the license fees shall include up to an additional twenty-five dollars to be transferred by the department to the University of Washington for the purposes of RCW 43.70.112.

(4) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

NEW SECTION. Sec. 2. This act takes effect August 1, 2015.

Passed by the House February 9, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 78

[Substitute House Bill 1194]

RETIREMENT SYSTEMS--DEATH BENEFITS

AN ACT Relating to the death benefits of a surviving spouse of a member of the law enforcement officers' and firefighters' retirement system or the state patrol retirement system; and amending RCW 41.26.510 and 43.43.285.

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

Sec. 1. RCW 41.26.510 and 2010 c 261 s 1 are each amended to read as follows:

(1) Except as provided in RCW 11.07.010, if a member or a vested member who has not completed at least ten years of service dies, the amount of the accumulated contributions standing to such member's credit in the retirement system at the time of such member's death, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's estate, or such person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's accumulated contributions standing to such member's credit in the retirement system, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2) Except as provided in subsection (4) of this section, if a member who is killed in the course of employment or a member who is eligible for retirement or a member who has completed at least ten years of service dies, the surviving spouse, domestic partner, or eligible child or children shall elect to receive either:

(a) A retirement allowance computed as provided for in RCW 41.26.430, actuarially reduced by the amount of any lump sum benefit identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670 and actuarially adjusted to reflect a joint and

one hundred percent survivor option under RCW 41.26.460 and if the member was not eligible for normal retirement at the date of death a further reduction as described in RCW 41.26.430; if a surviving spouse or domestic partner who is receiving a retirement allowance dies leaving a child or children of the member under the age of majority, then such child or children shall continue to receive an allowance in an amount equal to that which was being received by the surviving spouse or domestic partner, share and share alike, until such child or children reach the age of majority; if there is no surviving spouse or domestic partner eligible to receive an allowance at the time of the member's death, such member's child or children under the age of majority shall receive an allowance share and share alike calculated as herein provided making the assumption that the ages of the spouse or domestic partner and member were equal at the time of the member's death; or

(b)(i) The member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670; or

(ii) If the member dies on or after July 25, 1993, one hundred fifty percent of the member's accumulated contributions, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670. Any accumulated contributions attributable to restorations made under RCW 41.50.165(2) shall be refunded at one hundred percent.

(3) If a member who is eligible for retirement or a member who has completed at least ten years of service dies after October 1, 1977, and is not survived by a spouse, domestic partner, or an eligible child, then the accumulated contributions standing to the member's credit, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid:

(a) To an estate, a person or persons, trust, or organization as the member shall have nominated by written designation duly executed and filed with the department; or

(b) If there is no such designated person or persons still living at the time of the member's death, then to the member's legal representatives.

(4) The retirement allowance of a member who is killed in the course of employment, as determined by the director of the department of labor and industries, or the retirement allowance of a member who has left the employ of an employer due to service in the national guard or military reserves and dies while honorably serving in the national guard or military reserves during a period of war as defined in RCW 41.04.005, is not subject to an actuarial reduction for early retirement as provided in RCW 41.26.430 or an actuarial reduction to reflect a joint and one hundred percent survivor option under RCW 41.26.460. The member's retirement allowance is computed under RCW 41.26.420, except that the member shall be entitled to a minimum retirement allowance equal to ten percent of such member's final average salary. The member shall additionally receive a retirement allowance equal to two percent of such member's average final salary for each year of service beyond five.

(5) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(~~((+6))~~) (5), shall include reimbursement for any

payments of premium rates to the Washington state health care authority pursuant to RCW 41.05.080.

(6) In addition to the benefits provided in subsection (4) of this section, if the surviving spouse or domestic partner of a member who is killed in the course of employment is not eligible to receive industrial insurance payments pursuant to RCW 51.32.050 due to remarriage, the surviving spouse or domestic partner shall receive an amount equal to the benefit they would receive pursuant to RCW 51.32.050 but for the remarriage. This subsection applies to surviving spouses and domestic partners whose benefits pursuant to RCW 51.32.050 were suspended or terminated due to remarriage prior to the effective date of this section. The monthly payments to any surviving spouse or domestic partner who received a lump sum payment pursuant to RCW 51.32.050 shall be actuarially reduced to reflect the amount of the lump sum payment.

Sec. 2. RCW 43.43.285 and 2010 c 261 s 7 are each amended to read as follows:

(1) A two hundred fourteen thousand dollar death benefit shall be paid to the member's estate, or such person or persons, trust or organization as the member shall have nominated by written designation duly executed and filed with the department. If there be no such designated person or persons still living at the time of the member's death, such member's death benefit shall be paid to the member's surviving spouse or domestic partner as if in fact such spouse or domestic partner had been nominated by written designation, or if there be no such surviving spouse or domestic partner, then to such member's legal representatives.

(2)(a) The benefit under this section shall be paid only where death occurs as a result of (i) injuries sustained in the course of employment; or (ii) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter. The determination of eligibility for the benefit shall be made consistent with Title 51 RCW by the department of labor and industries. The department of labor and industries shall notify the department of retirement systems by order under RCW 51.52.050.

(b) The retirement allowance paid to the spouse or domestic partner and dependent children of a member who is killed in the course of employment, as set forth in RCW 41.05.011(~~((46))~~) (5), shall include reimbursement for any payments of premium rates to the Washington state health care authority under RCW 41.05.080.

(3)(a) Beginning July 1, 2010, and every year thereafter, the department shall determine the following information:

- (i) The index for the 2008 calendar year, to be known as "index A";
 - (ii) The index for the calendar year prior to the date of determination, to be known as "index B"; and
 - (iii) The ratio obtained when index B is divided by index A.
- (b) The value of the ratio obtained shall be the annual adjustment to the original death benefit and shall be applied beginning every July 1st. In no event, however, shall the annual adjustment:

- (i) Produce a benefit which is lower than two hundred fourteen thousand dollars;
- (ii) Exceed three percent in the initial annual adjustment; or

(iii) Differ from the previous year's annual adjustment by more than three percent.

(c) For the purposes of this section, "index" means, for any calendar year, that year's average consumer price index —Seattle, Washington area for urban wage earners and clerical workers, all items, compiled by the bureau of labor statistics, United States department of labor.

(4) In addition to the survivor benefit payable under RCW 43.43.270 or 43.43.271, if the surviving spouse or domestic partner of a member whose death occurs as a result of (a) injuries sustained in the course of employment; or (b) an occupational disease or infection that arises naturally and proximately out of employment covered under this chapter is not eligible to receive industrial insurance payments pursuant to RCW 51.32.050 due to remarriage, the surviving spouse or domestic partner shall receive an amount equal to the benefit they would receive pursuant to RCW 51.32.050 but for the remarriage. This subsection applies to surviving spouses whose benefits under RCW 51.32.050 were suspended or terminated due to remarriage prior to the effective date of this section. The monthly payments to any surviving spouse or domestic partner who received a lump sum payment pursuant to RCW 51.32.050 shall be actuarially reduced to reflect the amount of the lump sum payment.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 79

[Senate Bill 5075]

PROCUREMENT--TECHNICAL CHANGES

AN ACT Relating to making nonsubstantive changes to procurement law; amending RCW 28B.10.029, 35.57.080, 36.100.190, 39.04.190, 39.26.070, 39.26.251, 39.26.255, 39.26.271, 39.35C.050, 39.35C.090, and 43.19.1919; reenacting and amending RCW 39.26.010; and repealing RCW 43.19.520, 43.19.525, and 43.19.533.

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

Sec. 1. RCW 28B.10.029 and 2013 c 291 s 27 are each amended to read as follows:

(1)(a) An institution of higher education may, consistent with RCW 28B.10.925 and 28B.10.926, exercise independently those powers otherwise granted to the director of enterprise services in chapters 43.19 and 39.26 RCW in connection with the purchase and disposition of all material, supplies, services, and equipment needed for the support, maintenance, and use of the respective institution of higher education.

(b) Property disposition policies followed by institutions of higher education shall be consistent with policies followed by the department of enterprise services.

(c)(i) Except as provided in (c)(ii) and (iii) of this subsection and elsewhere as provided by law, purchasing policies and procedures followed by institutions of higher education shall be in compliance with chapters 39.19, ~~((39.29))~~ 39.26, and 43.03 RCW, and RCW 43.19.1917, 43.19.685, ~~((39.26.260 through 39.26.271;))~~ and 43.19.560 through 43.19.637.

(ii) Institutions of higher education may use all appropriate means for making and paying for travel arrangements including, but not limited to, electronic booking and reservations, advance payment and deposits for tours, lodging, and other necessary expenses, and other travel transactions based on standard industry practices and federal accountable plan requirements. Such arrangements shall support student, faculty, staff, and other participants' travel, by groups and individuals, both domestic and international, in the most cost-effective and efficient manner possible, regardless of the source of funds.

(iii) Formal sealed, electronic, or web-based competitive bidding is not necessary for purchases or personal services contracts by institutions of higher education for less than one hundred thousand dollars. However, for purchases and personal services contracts of ten thousand dollars or more and less than one hundred thousand dollars, quotations must be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone, electronic, or written quotations, or any combination thereof. As part of securing the three vendor quotations, institutions of higher education must invite at least one quotation each from a certified minority and a certified woman-owned vendor that otherwise qualifies to perform the work. A record of competition for all such purchases and personal services contracts of ten thousand dollars or more and less than one hundred thousand dollars must be documented for audit purposes.

(d) Purchases under chapter (~~(39.29)~~) 39.26, 43.19, or 43.105 RCW by institutions of higher education may be made by using contracts for materials, supplies, services, or equipment negotiated or entered into by, for, or through group purchasing organizations.

(e) The community and technical colleges shall comply with RCW 43.19.450.

(f) Except for the University of Washington, institutions of higher education shall comply with RCW 43.19.769, 43.19.763, and 43.19.781.

(g) If an institution of higher education can satisfactorily demonstrate to the director of the office of financial management that the cost of compliance is greater than the value of benefits from any of the following statutes, then it shall be exempt from them: RCW 43.19.685 and 43.19.637.

(h) Any institution of higher education that chooses to exercise independent purchasing authority for a commodity or group of commodities shall notify the director of enterprise services. Thereafter the director of enterprise services shall not be required to provide those services for that institution for the duration of the enterprise services contract term for that commodity or group of commodities.

(2) The council of presidents and the state board for community and technical colleges shall convene its correctional industries business development advisory committee, and work collaboratively with correctional industries, to:

(a) Reaffirm purchasing criteria and ensure that quality, service, and timely delivery result in the best value for expenditure of state dollars;

(b) Update the approved list of correctional industries products from which higher education shall purchase; and

(c) Develop recommendations on ways to continue to build correctional industries' business with institutions of higher education.

(3) Higher education and correctional industries shall develop a plan to build higher education business with correctional industries to increase higher education purchases of correctional industries products, based upon the criteria established in subsection (2) of this section. The plan shall include the correctional industries' production and sales goals for higher education and an approved list of products from which higher education institutions shall purchase, based on the criteria established in subsection (2) of this section. Higher education and correctional industries shall report to the legislature regarding the plan and its implementation no later than January 30, 2005.

(4)(a) Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2006, to purchase one percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections. Institutions of higher education shall set as a target to contract, beginning not later than June 30, 2008, to purchase two percent of the total goods and services required by the institutions each year produced or provided in whole or in part from class II inmate work programs operated by the department of corrections.

(b) Institutions of higher education shall endeavor to assure the department of corrections has notifications of bid opportunities with the goal of meeting or exceeding the purchasing target in (a) of this subsection.

Sec. 2. RCW 35.57.080 and 1999 c 165 s 8 are each amended to read as follows:

In addition to provisions contained in chapter 39.04 RCW, the public facilities district is authorized to follow procedures contained in chapter 39.26 RCW (~~43.19.1906 and 43.19.1911~~) for all purchases, contracts for purchase, and sales.

Sec. 3. RCW 36.100.190 and 1995 c 396 s 16 are each amended to read as follows:

In addition to provisions contained in chapter 39.04 RCW, the public facilities district is authorized to follow procedures contained in chapter 39.26 RCW (~~43.19.1906 and 43.19.1911~~) for all purchases, contracts for purchase, and sales.

Sec. 4. RCW 39.04.190 and 1993 c 198 s 2 are each amended to read as follows:

(1) This section provides a uniform process to award contracts for the purchase of any materials, equipment, supplies, or services by those municipalities that are authorized to use this process in lieu of the requirements for formal sealed bidding. The state statutes governing a specific type of municipality shall establish the maximum dollar thresholds of the contracts that can be awarded under this process, and may include other matters concerning the awarding of contracts for purchases, for the municipality.

(2) At least twice per year, the municipality shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of vendor lists and solicit the names of vendors for the lists. Municipalities shall by resolution establish a procedure for securing telephone or written quotations, or both, from at least three different vendors whenever possible to assure that a competitive price is established and for awarding the contracts for the purchase of any

materials, equipment, supplies, or services to the lowest responsible bidder as defined in chapter 39.26 RCW (~~(43-19-1911)~~). Immediately after the award is made, the bid quotations obtained shall be recorded, open to public inspection, and shall be available by telephone inquiry. A contract awarded pursuant to this section need not be advertised.

Sec. 5. RCW 39.26.010 and 2014 c 135 s 2 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" means any state office or activity of the executive and judicial branches of state government, including state agencies, departments, offices, divisions, boards, commissions, institutions of higher education as defined in RCW 28B.10.016, and correctional and other types of institutions.

(2) "Bid" means an offer, proposal, or quote for goods or services in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

(3) "Bidder" means an individual or entity who submits a bid, quotation, or proposal in response to a solicitation issued for such goods or services by the department or an agency of Washington state government.

~~(4) ("Businesses owned and operated by persons with disabilities" means any for-profit business certified under chapter 39.19 RCW as being owned and controlled by persons who have been either:~~

~~(a) Determined by the department of social and health services to have a developmental disability, as defined in RCW 71A.10.020;~~

~~(b) Determined by an agency established under Title I of the federal vocational rehabilitation act to be or have been eligible for vocational rehabilitation services;~~

~~(c) Determined by the federal social security administration to be or have been eligible for either social security disability insurance or supplemental security income; or~~

~~(d) Determined by the United States department of veterans affairs to be or have been eligible for vocational rehabilitation services due to service-connected disabilities, under 38 U.S.C. Sec. 3100 et seq.~~

~~(5))~~ "Client services" means services provided directly to agency clients including, but not limited to, medical and dental services, employment and training programs, residential care, and subsidized housing.

~~((6))~~ (5) "Community rehabilitation program of the department of social and health services" means any entity that:

(a) Is registered as a nonprofit corporation with the secretary of state; and

(b) Is recognized by the department of social and health services, division of vocational rehabilitation as eligible to do business as a community rehabilitation program.

~~((7))~~ (6) "Competitive solicitation" means a documented formal process providing an equal and open opportunity to bidders and culminating in a selection based on predetermined criteria.

~~((8))~~ (7) "Contractor" means an individual or entity awarded a contract with an agency to perform a service or provide goods.

~~((9))~~ (8) "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time as set forth in a debarment order.

~~((10))~~ (9) "Department" means the department of enterprise services.

~~((11))~~ (10) "Director" means the director of the department of enterprise services.

~~((12))~~ (11) "Estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner.

~~((13))~~ (12) "Goods" means products, materials, supplies, or equipment provided by a contractor.

~~((14))~~ (13) "In-state business" means a business that has its principal office located in Washington.

~~((15))~~ (14) "Life-cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life.

~~((16))~~ (15) "Master contracts" means a contract for specific goods or services, or both, that is solicited and established by the department in accordance with procurement laws and rules on behalf of and for general use by agencies as specified by the department.

~~((17))~~ (16) "Microbusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than one million dollars annually as reported on its federal tax return or on its return filed with the department of revenue.

~~((18))~~ (17) "Minibusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) Is owned and operated independently from all other businesses; and (b) has a gross revenue of less than three million dollars, but one million dollars or more annually as reported on its federal tax return or on its return filed with the department of revenue.

~~((19))~~ (18) "Polychlorinated biphenyls" means any polychlorinated biphenyl congeners and homologs.

~~((20))~~ (19) "Practical quantification limit" means the lowest concentration that can be reliably measured within specified limits of precision, accuracy, representativeness, completeness, and comparability during routine laboratory operating conditions.

~~((21))~~ (20) "Purchase" means the acquisition of goods or services, including the leasing or renting of goods.

~~((22))~~ (21) "Services" means labor, work, analysis, or similar activities provided by a contractor to accomplish a specific scope of work.

~~((23))~~ (22) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

(a) Certifies, under penalty of perjury, that it is owned and operated independently from all other businesses and has either:

(i) Fifty or fewer employees; or

(ii) A gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or

(b) Is certified with the office of women and minority business enterprises under chapter 39.19 RCW.

~~((24))~~ (23) "Sole source" means a contractor providing goods or services of such a unique nature or sole availability at the location required that the contractor is clearly and justifiably the only practicable source to provide the goods or services.

~~((25))~~ (24) "Washington grown" has the definition in RCW 15.64.060.

Sec. 6. RCW 39.26.070 and 2012 c 224 s 8 are each amended to read as follows:

A convenience contract is a contract for specific goods or services, or both, that is solicited and established ~~((by the department))~~ in accordance with procurement laws and rules ~~((on behalf of and))~~ for use by a specific agency or a specified group of agencies as needed from time to time. A convenience contract is not available for general use and may only be used as specified by the department. Convenience contracts are not intended to replace or supersede master contracts as defined in this chapter.

Sec. 7. RCW 39.26.251 and 2012 c 220 s 1 are each amended to read as follows:

(1) State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (a) The department finds that the articles or products do not meet the reasonable requirements of the agency or department, (b) are not of equal or better quality, or (c) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (a), (b), and (c) of this subsection for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department shall adopt administrative rules that implement this section.

~~(2) ((During the 2009-2011 and 2011-2013 fiscal biennia, and in conformance with section 223(11), chapter 470, Laws of 2009 and section 221(2), chapter 367, Laws of 2011, this section does not apply to the purchase of uniforms by the Washington state ferries.~~

~~(3))~~ Effective July 1, 2012, this section does not apply to the purchase of uniforms for correctional officers employed with the Washington state department of corrections.

Sec. 8. RCW 39.26.255 and 2011 1st sp.s. c 43 s 228 are each amended to read as follows:

(1) The director shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled ~~((material))~~ material. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that have a master contract with the department that supply products containing significant quantities of recycled materials. This directory may be combined with and made accessible through the database of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020.

Sec. 9. RCW 39.26.271 and 2011 1st sp.s. c 43 s 241 are each amended to read as follows:

The director shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW ~~((43.19.702))~~ 39.26.270. The director shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW ~~((43.19.1914))~~ 39.26.160, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted.

Sec. 10. RCW 39.35C.050 and 1996 c 186 s 409 are each amended to read as follows:

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency or school district responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department ~~((of general administration))~~ or as otherwise authorized by law, may:

(a) Develop and finance conservation at public facilities in accordance with express provisions of this chapter;

(b) Contract for energy services, including performance-based contracts;

(c) Contract to sell energy savings from a conservation project at public facilities to local utilities or the Bonneville power administration.

(2) A state or regional university acting independently, and any other state agency acting through the department ~~((of general administration))~~ or as

otherwise authorized by law, may undertake procurements for third-party development of conservation at its facilities.

(3) A school district may:

(a) Develop and finance conservation at school district facilities;

(b) Contract for energy services, including performance-based contracts at school district facilities; and

(c) Contract to sell energy savings from energy conservation projects at school district facilities to local utilities or the Bonneville power administration directly or to local utilities or the Bonneville power administration through third parties.

(4) In exercising the authority granted by subsections (1), (2), and (3) of this section, a school district or state agency must comply with the provisions of RCW 39.35C.040.

Sec. 11. RCW 39.35C.090 and 1996 c 186 s 413 are each amended to read as follows:

In addition to any other authorities conferred by law:

(1) The department, with the consent of the state agency responsible for a facility, a state or regional university acting independently, and any other state agency acting through the department (~~(of general administration)~~) or as otherwise authorized by law, may:

(a) Contract to sell electric energy generated at state facilities to a utility; and

(b) Contract to sell thermal energy produced at state facilities to a utility.

(2) A state or regional university acting independently, and any other state agency acting through the department (~~(of general administration)~~) or as otherwise authorized by law, may:

(a) Acquire, install, permit, construct, own, operate, and maintain cogeneration and facility heating and cooling measures or equipment, or both, at its facilities;

(b) Lease state property for the installation and operation of cogeneration and facility heating and cooling equipment at its facilities;

(c) Contract to purchase all or part of the electric or thermal output of cogeneration plants at its facilities;

(d) Contract to purchase or otherwise acquire fuel or other energy sources needed to operate cogeneration plants at its facilities; and

(e) Undertake procurements for third-party development of cogeneration projects at its facilities, with successful bidders to be selected based on the responsible bid, including nonprice elements listed in RCW (~~(43.19.191)~~) 39.26.160, that offers the greatest net achievable benefits to the state and its agencies.

(3) After July 28, 1991, a state agency shall consult with the department prior to exercising any authority granted by this section.

(4) In exercising the authority granted by subsections (1) and (2) of this section, a state agency must comply with the provisions of RCW 39.35C.080.

Sec. 12. RCW 43.19.1919 and 2013 c 291 s 5 are each amended to read as follows:

(1) The department shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having

custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund. This requirement is subject to the following exceptions and limitations:

(a) This section does not apply to property under RCW 27.53.045, 28A.335.180, or 43.19.1920;

(b) Sales of capital assets may be made by the department and a credit established for future purchases of capital items as provided for in chapter 39.26 RCW (~~(43.19.190 through 43.19.1939)~~);

(c) Personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the department to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director to be in the best interest of the state. The department shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property;

(d) This section does not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts;

(e) A state agency having a surplus personal property asset with a fair market value of less than five hundred dollars may transfer the asset to another state agency without charging fair market value. A state agency conducting this action must maintain adequate records to comply with agency inventory procedures and state audit requirements.

(2)(a) Prior to transferring ownership of a department-owned vessel, the department shall conduct a thorough review of the physical condition of the vessel, the vessel's operating capability, and any containers and other materials that are not fixed to the vessel.

(b) If the department determines that the vessel is in a state of advanced deterioration or poses a reasonably imminent threat to human health or safety, including a threat of environmental contamination, the department may: (i) Not transfer the vessel until the conditions identified under this subsection have been corrected; or (ii) permanently dispose of the vessel by landfill, deconstruction, or other related method.

NEW SECTION. Sec. 13. The following acts or parts of acts are each repealed:

(1) RCW 43.19.520 (Purchase of products and services from entities serving or providing opportunities for disadvantaged or disabled persons--Intent) and 2005 c 204 s 1, 2003 c 136 s 1, & 1974 ex.s. c 40 s 1;

(2) RCW 43.19.525 (Purchases from entities serving or providing opportunities for disadvantaged or disabled persons--Definitions) and 2003 c 136 s 2 & 1974 ex.s. c 40 s 2; and

(3) RCW 43.19.533 (Purchases from entities serving or providing opportunities for disadvantaged or disabled persons--Existing contracts not impaired--Solicitation of vendors in good standing) and 2005 c 204 s 4 & 2003 c 136 s 5.

Passed by the Senate February 24, 2015.
Passed by the House April 14, 2015.
Approved by the Governor April 24, 2015.
Filed in Office of Secretary of State April 25, 2015.

CHAPTER 80

[Senate Bill 5101]

SENTENCING--MENTAL STATUS EVALUATION OR TREATMENT--ORDER

AN ACT Relating to mental status evaluations; and amending RCW 9.94B.080.

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

Sec. 1. RCW 9.94B.080 and 2008 c 231 s 53 are each amended to read as follows:

The court may order an offender whose sentence includes community placement or community supervision to undergo a mental status evaluation and to participate in available outpatient mental health treatment, if the court finds that reasonable grounds exist to believe that the offender is a mentally ill person as defined in RCW 71.24.025, and that this condition is likely to have influenced the offense. An order requiring mental status evaluation or treatment (~~(must)~~) may be based on a presentence report and, if applicable, mental status evaluations that have been filed with the court to determine the offender's competency or eligibility for a defense of insanity. The court may order additional evaluations at a later date if deemed appropriate.

Passed by the Senate February 24, 2015.
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CHAPTER 81

[Senate Bill 5104]

SENTENCING PROVISIONS--USE OF ALCOHOL OR CONTROLLED SUBSTANCES

AN ACT Relating to possession or use of alcohol and controlled substances in sentencing provisions; amending RCW 9.94A.505 and 9.94A.607; and reenacting and amending RCW 9.94A.703.

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

Sec. 1. RCW 9.94A.505 and 2010 c 224 s 4 are each amended to read as follows:

(1) When a person is convicted of a felony, the court shall impose punishment as provided in this chapter.

(2)(a) The court shall impose a sentence as provided in the following sections and as applicable in the case:

- (i) Unless another term of confinement applies, a sentence within the standard sentence range established in RCW 9.94A.510 or 9.94A.517;
- (ii) RCW 9.94A.701 and 9.94A.702, relating to community custody;
- (iii) RCW 9.94A.570, relating to persistent offenders;
- (iv) RCW 9.94A.540, relating to mandatory minimum terms;
- (v) RCW 9.94A.650, relating to the first-time offender waiver;

- (vi) RCW 9.94A.660, relating to the drug offender sentencing alternative;
- (vii) RCW 9.94A.670, relating to the special sex offender sentencing alternative;
- (viii) RCW 9.94A.655, relating to the parenting sentencing alternative;
- (ix) RCW 9.94A.507, relating to certain sex offenses;
- (x) RCW 9.94A.535, relating to exceptional sentences;
- (xi) RCW 9.94A.589, relating to consecutive and concurrent sentences;
- (xii) RCW 9.94A.603, relating to felony driving while under the influence of intoxicating liquor or any drug and felony physical control of a vehicle while under the influence of intoxicating liquor or any drug.

(b) If a standard sentencing range has not been established for the offender's crime, the court shall impose a determinate sentence which may include not more than one year of confinement; community restitution work; a term of community custody under RCW 9.94A.702 not to exceed one year; and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement and a community custody term under RCW 9.94A.701 if the court finds reasons justifying an exceptional sentence as provided in RCW 9.94A.535.

(3) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(4) If a sentence imposed includes payment of a legal financial obligation, it shall be imposed as provided in RCW 9.94A.750, 9.94A.753, 9.94A.760, and 43.43.7541.

(5) Except as provided under RCW 9.94A.750(4) and 9.94A.753(4), a court may not impose a sentence providing for a term of confinement or community custody that exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(6) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(7) The court shall order restitution as provided in RCW 9.94A.750 and 9.94A.753.

(8) As a part of any sentence, the court may impose and enforce crime-related prohibitions and affirmative conditions as provided in this chapter. "Crime-related prohibitions" may include a prohibition on the use or possession of alcohol or controlled substances if the court finds that any chemical dependency or substance abuse contributed to the offense.

(9) In any sentence of partial confinement, the court may require the offender to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

Sec. 2. RCW 9.94A.607 and 1999 c 197 s 2 are each amended to read as follows:

(1) Where the court finds that the offender has ((&)) any chemical dependency that has contributed to his or her offense, the court may, as a condition of the sentence and subject to available resources, order the offender to

participate in rehabilitative programs or otherwise to perform affirmative conduct reasonably related to the circumstances of the crime for which the offender has been convicted and reasonably necessary or beneficial to the offender and the community in rehabilitating the offender. A rehabilitative program may include a directive that the offender obtain an evaluation as to the need for chemical dependency treatment related to the use of alcohol or controlled substances, regardless of the particular substance that contributed to the commission of the offense. The court may also impose a prohibition on the use or possession of alcohol or controlled substances regardless of whether a chemical dependency evaluation is ordered.

(2) This section applies to sentences which include any term other than, or in addition to, a term of total confinement, including suspended sentences.

Sec. 3. RCW 9.94A.703 and 2009 c 214 s 3 and 2009 c 28 s 11 are each reenacted and amended to read as follows:

When a court sentences a person to a term of community custody, the court shall impose conditions of community custody as provided in this section.

(1) **Mandatory conditions.** As part of any term of community custody, the court shall:

(a) Require the offender to inform the department of court-ordered treatment upon request by the department;

(b) Require the offender to comply with any conditions imposed by the department under RCW 9.94A.704;

(c) If the offender was sentenced under RCW 9.94A.507 for an offense listed in RCW 9.94A.507(1)(a), and the victim of the offense was under eighteen years of age at the time of the offense, prohibit the offender from residing in a community protection zone;

(d) If the offender was sentenced under RCW 9A.36.120, prohibit the offender from serving in any paid or volunteer capacity where he or she has control or supervision of minors under the age of thirteen.

(2) **Waivable conditions.** Unless waived by the court, as part of any term of community custody, the court shall order an offender to:

(a) Report to and be available for contact with the assigned community corrections officer as directed;

(b) Work at department-approved education, employment, or community restitution, or any combination thereof;

(c) Refrain from possessing or consuming controlled substances except pursuant to lawfully issued prescriptions;

(d) Pay supervision fees as determined by the department; and

(e) Obtain prior approval of the department for the offender's residence location and living arrangements.

(3) **Discretionary conditions.** As part of any term of community custody, the court may order an offender to:

(a) Remain within, or outside of, a specified geographical boundary;

(b) Refrain from direct or indirect contact with the victim of the crime or a specified class of individuals;

(c) Participate in crime-related treatment or counseling services;

(d) Participate in rehabilitative programs or otherwise perform affirmative conduct reasonably related to the circumstances of the offense, the offender's risk of reoffending, or the safety of the community;

- (e) Refrain from possessing or consuming alcohol; or
- (f) Comply with any crime-related prohibitions.

(4) Special conditions.

(a) In sentencing an offender convicted of a crime of domestic violence, as defined in RCW 10.99.020, if the offender has a minor child, or if the victim of the offense for which the offender was convicted has a minor child, the court may order the offender to participate in a domestic violence perpetrator program approved under RCW 26.50.150.

(b)(i) In sentencing an offender convicted of an alcohol or drug-related traffic offense, the court shall require the offender to complete a diagnostic evaluation by an alcohol or drug dependency agency approved by the department of social and health services or a qualified probation department, defined under RCW 46.61.516, that has been approved by the department of social and health services. If the offense was pursuant to chapter 46.61 RCW, the report shall be forwarded to the department of licensing. If the offender is found to have an alcohol or drug problem that requires treatment, the offender shall complete treatment in a program approved by the department of social and health services under chapter 70.96A RCW. If the offender is found not to have an alcohol or drug problem that requires treatment, the offender shall complete a course in an information school approved by the department of social and health services under chapter 70.96A RCW. The offender shall pay all costs for any evaluation, education, or treatment required by this section, unless the offender is eligible for an existing program offered or approved by the department of social and health services.

(ii) For purposes of this section, "alcohol or drug-related traffic offense" means the following: Driving while under the influence as defined by RCW 46.61.502, actual physical control while under the influence as defined by RCW 46.61.504, vehicular homicide as defined by RCW 46.61.520(1)(a), vehicular assault as defined by RCW 46.61.522(1)(b), homicide by watercraft as defined by RCW 79A.60.050, or assault by watercraft as defined by RCW 79A.60.060.

(iii) This subsection (4)(b) does not require the department of social and health services to add new treatment or assessment facilities nor affect its use of existing programs and facilities authorized by law.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 82

[Senate Bill 5120]

K-12 EDUCATION--SCHOOL DISTRICT DISSOLUTIONS

AN ACT Relating to school district dissolutions; amending RCW 28A.315.225; and providing an effective date.

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

Sec. 1. RCW 28A.315.225 and 2012 c 186 s 9 are each amended to read as follows:

(1) In case any school district has an average enrollment of fewer than five kindergarten through eighth grade pupils during the preceding three consecutive school years or has not made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report that fact to the regional committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts. For the purposes of this section, in addition to any other finding, "reasonable effort" shall be deemed to mean the attempt to make up whatever days are short of the legal requirement by conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15th of that year. School districts operating an extended school year program, most commonly implemented as a 4515 plan, shall be deemed to be making a reasonable effort. In the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by any of its employees that district shall not be subject to this section.

(2) A financially insolvent school district may be dissolved and annexed to one or more contiguous districts, in accordance with an agreement between the insolvent district and at least one other contiguous district, that has been approved by the financial oversight committee, or in accordance with the decision of the regional committee. A financially insolvent district may file bankruptcy only if it is recommended by the financial oversight committee.

(3)(a) A petition to dissolve a financially insolvent school district may be filed with the educational service district superintendent by the superintendent of public instruction if, before signing and filing the petition, the financial oversight committee was convened and recommended that the district be dissolved.

(b) A petition for dissolution under this subsection (3) must include the name of the financially insolvent district, the legal boundaries of the district, the names of contiguous school districts, the basis for concluding the district is financially insolvent, a map with legal description of the proposed annexation of the financially insolvent school district to one or more contiguous school districts, and any proposed equitable adjustments of assets and liabilities for the affected districts. The proposed annexation and equitable adjustment of assets and liabilities must be based on the factors in RCW 28A.315.015(2), 28A.315.205(4), and 28A.315.245.

(c) The superintendent of public instruction, at the recommendation of the financial oversight committee, may take the following actions upon filing a petition to dissolve a financially insolvent school district: Authorize liquidation or disposition of fixed assets and contractual liabilities by any reasonable and documented method.

(d) A petition to dissolve a financially insolvent school district shall be processed in accordance with RCW 28A.315.199 and 28A.315.205.

(4) The superintendent of public instruction may request an appropriation to address matters associated with the dissolution of a financially insolvent school district.

(5) The superintendent of public instruction may adopt rules governing actions that may be taken to prevent a school district from being dissolved and to

assist in the orderly and timely dissolution and annexation of school districts that are unable to avoid financial insolvency.

(6) In case any territory is not a part of any school district, the educational service district superintendent shall present to the regional committee a proposal for the annexation of the territory to some contiguous district or districts.

NEW SECTION. Sec. 2. This act takes effect September 1, 2015.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 83

[Senate Bill 5122]

HIGHER EDUCATION--PRECOLLEGE PLACEMENT MEASURES

AN ACT Relating to precollege placement measures; amending RCW 28B.77.020; and adding a new section to chapter 28B.10 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.10 RCW to read as follows:

State universities, regional universities, and The Evergreen State College may use multiple measures to determine whether a student must enroll in a precollege course including, but not limited to, placement tests, the SAT, high school transcripts, college transcripts, or initial class performance. Additionally, state universities, regional universities, and The Evergreen State College must post all the available options for course placement on their web sites and in their admissions materials.

Sec. 2. RCW 28B.77.020 and 2013 2nd sp.s. c 25 s 6 are each amended to read as follows:

(1) Aligned with the state's biennial budget and policy cycles, the council shall propose educational attainment goals and priorities to meet the state's evolving needs. The council shall identify strategies for meeting the goals and priorities by means of a short-term strategic action plan and a ten-year plan that serves as a roadmap.

(a) The goals must address the needs of Washington residents to reach higher levels of educational attainment and Washington's workforce needs for certificates and degrees in particular fields of study.

(b) The council shall identify the resources it deems appropriate to meet statewide goals and also recognize current state economic conditions and state resources.

(c) In proposing goals, the council shall collaborate with the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the four-year institutions of higher education, independent colleges and degree-granting institutions, certificate-granting institutions, and the workforce training and education coordinating board.

(2) The council shall update the strategic action plan every two years with the first strategic action plan to be submitted to the governor and the legislature

by December 1, 2012. The ten-year roadmap must be updated every two years with the first roadmap to be submitted to the governor and the legislature by December 1, 2013. The council must provide regular updates to the joint higher education committee created in RCW 44.04.360 as needed.

(3) In order to develop the ten-year roadmap, the council shall conduct strategic planning in collaboration with agencies and stakeholders and include input from the legislature. The council must also consult with the STEM education innovation alliance established under RCW 28A.188.030 in order to align strategies under the roadmap with the STEM framework for education and accountability developed by the alliance. The roadmap must encompass all sectors of higher education, including secondary to postsecondary transitions. The roadmap must outline strategies that address:

(a) Strategic planning, which includes setting benchmarks and goals for long-term degree production generally and in particular fields of study;

(b) Expanding access, affordability, quality, efficiency, and accountability among the various institutions of higher education;

(c) Higher education finance planning and strategic investments including budget recommendations necessary to meet statewide goals;

(d) System design and coordination;

(e) Improving student transitions;

(f) Higher education data and analysis, in collaboration with the education data center, which includes outcomes for recruitment, retention, and success of students;

(g) College and career access preparedness, in collaboration with the office of the superintendent of public instruction and the state board of education;

(h) Expanding participation and success for racial and ethnic minorities in higher education;

(i) Development and expansion of innovations in higher education including innovations to increase attainment of postsecondary certificates, and associate, baccalaureate, graduate, and professional degrees; and innovations to improve precollege education in terms of cost-effectiveness and transitions to college-level education;

(j) Strengthening the education pipeline and degree production in science, technology, engineering, and mathematics fields, and aligning strategies under the roadmap with the STEM framework for action and accountability developed under RCW 28A.188.030; and

(k) Relevant policy research.

(4) As needed, the council must conduct system reviews consistent with RCW 28B.77.080.

(5) The council shall facilitate the development and expansion of innovative practices within, between, and among the sectors to increase educational attainment and assess the effectiveness of the innovations.

(6) The council shall use the data and analysis produced by, and in consultation with, the education data center created in RCW 43.41.400 in developing policy recommendations and proposing goals. In conducting research and analysis the council at a minimum must:

(a) Identify barriers to increasing educational attainment, evaluate effectiveness of various educational models, identify best practices, and recommend methods to overcome barriers;

(b) Analyze data from multiple sources including data from academic research and from areas and agencies outside of education including but not limited to data from the department of health, the department of corrections, and the department of social and health services to determine best practices to remove barriers and to improve educational attainment;

(c) Assess educational achievement disaggregated by income level, age, gender, race and ethnicity, country of origin, and other relevant demographic groups working with data from the education data center;

(d) Track progress toward meeting the state's goals;

(e) Communicate results and provide access to data analysis to policymakers, the superintendent of public instruction, institutions of higher education, students, and the public; and

(f) Use data from the education data center wherever appropriate to conduct duties in (a) through (e) of this subsection.

(7) The council shall collaborate with the appropriate state agencies and stakeholders, including the state board of education, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, and the four-year institutions of higher education to improve student transitions and success including but not limited to:

(a) Setting minimum college admission standards for four-year institutions of higher education, including:

(i) A requirement that coursework in American sign language or an American Indian language satisfies any requirement for instruction in a language other than English that the council or the institutions may establish as a general undergraduate admissions requirement; and

(ii) Encouragement of the use of multiple measures to determine whether a student must enroll in a precollege course, such as placement tests, the SAT, high school transcripts, college transcripts, or initial class performance;

(b) Proposing comprehensive policies and programs to encourage students to prepare for, understand how to access, and pursue postsecondary college and career programs, including specific policies and programs for students with disabilities;

(c) Recommending policies that require coordination between or among sectors such as dual high school-college programs, awarding college credit for advanced high school work, and transfer between two and four-year institutions of higher education or between different four-year institutions of higher education; and

(d) Identifying transitions issues and solutions for students, from high school to postsecondary education including community and technical colleges, four-year institutions of higher education, apprenticeships, training, or workplace education; between two-year and four-year institutions of higher education; and from postsecondary education to career. In addressing these issues the council must recognize that these transitions may occur multiple times as students continue their education.

(8) The council directs the work of the office, which includes administration of student financial aid programs under RCW 28B.76.090, including the state need grant and other scholarships, the Washington advanced college tuition payment program, and work-study programs.

(9) The council may administer state and federal grants and programs including but not limited to those programs that provide incentives for improvements related to increased access and success in postsecondary education.

(10) The council shall protect higher education consumers including:

(a) Approving degree-granting postsecondary institutions consistent with existing statutory criteria;

(b) Establishing minimum criteria to assess whether students who attend proprietary institutions of higher education shall be eligible for the state need grant and other forms of state financial aid.

(i) The criteria shall include retention rates, completion rates, loan default rates, and annual tuition increases, among other criteria for students who receive state need grant as in chapter 28B.92 RCW and any other state financial aid.

(ii) The council may remove proprietary institutions of higher education from eligibility for the state need grant or other form of state financial aid if it finds that the institution or college does not meet minimum criteria.

(iii) The council shall report by December 1, 2014, to the joint higher education committee in RCW 44.04.360 on the outcomes of students receiving state need grants, impacts on meeting the state's higher education goals for educational attainment, and options for prioritization of the state need grant and possible consequences of implementing each option. When examining options for prioritizing the state need grant the council shall consider awarding grants based on need rather than date of application and making awards based on other criteria selected by the council.

(11) The council shall adopt residency requirements by rule.

(12) The council shall arbitrate disputes between and among four-year institutions of higher education and the state board for community and technical colleges at the request of one or more of the institutions involved, or at the request of the governor, or from a resolution adopted by the legislature. The decision of the council shall be binding on the participants in the dispute.

(13) The council may solicit, accept, receive, and administer federal funds or private funds, in trust, or otherwise, and contract with foundations or with for-profit or nonprofit organizations to support the purposes and functions of the council.

(14) The council shall represent the broad public interest above the interests of the individual institutions of higher education.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 84

[Second Substitute Senate Bill 5215]

INTERNET CRIMES AGAINST CHILDREN ACCOUNT

AN ACT Relating to establishing the Washington internet crimes against children account; and adding new sections to chapter 43.101 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.101 RCW to read as follows:

(1) The legislature finds that the internet crimes against children task force program, through the United States department of justice, helps state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and internet crimes against children. This help encompasses forensic and investigative components, training and technical assistance, victim services, and community education. The program is a national network of sixty-one coordinated task forces representing over three thousand five hundred federal, state, and local law enforcement and prosecutorial agencies. In 2013, the program's investigations contributed to the arrests of more than seven thousand four hundred individuals and task forces conducted over sixty thousand forensic examinations. Additionally, the program trained over thirty thousand law enforcement personnel, over three thousand five hundred prosecutors, and more than five thousand three hundred other professionals working in the program's field.

(2) The legislature finds that there is a lack of dedicated state resources to combat internet-facilitated crimes against children. As a result, many of the cases involving internet-facilitated crimes are not adequately investigated. The legislature further finds that a minimum of fifteen full-time affiliate investigators and three forensic examiners are currently needed to just investigate the very worst of these cases in Washington. It is the intent of the legislature to create an account dedicated to combating internet-facilitated crimes against children, promoting education on internet safety to the public and to minors, and rescuing child victims from abuse and exploitation.

NEW SECTION. Sec. 2. A new section is added to chapter 43.101 RCW to read as follows:

The Washington internet crimes against children account is created in the custody of the state treasurer. All receipts from legislative appropriations, donations, gifts, grants, and funds from federal or private sources must be deposited into the account. Expenditures from the account must be used exclusively by the Washington internet crimes against children task force and its affiliate agencies for combating internet-facilitated crimes against children, promoting education on internet safety to the public and to minors, and rescuing child victims from abuse and exploitation. Only the criminal justice training commission or the commission's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. The commission may enter into agreements with the Washington association of sheriffs and police chiefs to administer grants and other activities funded by the account and be paid an administrative fee not to exceed three percent of expenditures.

Passed by the Senate March 4, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 85

[Substitute Senate Bill 5268]

PHARMACISTS--EYE DROP REFILLS

AN ACT Relating to refilling eye drop prescriptions; and adding a new section to chapter 18.64 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 18.64 RCW to read as follows:

A pharmacist is authorized, without consulting a physician or obtaining a new prescription or refill from a physician, to provide for one early refill of a prescription for topical ophthalmic products if all of the following criteria are met:

(1) The refill is requested by a patient at or after seventy percent of the predicted days of use of:

(a) The date the original prescription was dispensed to the patient; or

(b) The date that the last refill of the prescription was dispensed to the patient;

(2) The prescriber indicates on the original prescription that a specific number of refills will be needed; and

(3) The refill does not exceed the number of refills that the prescriber indicated under subsection (2) of this section.

Passed by the Senate February 4, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 86

[Substitute Senate Bill 5275]

TAXES--TECHNICAL CHANGES

AN ACT Relating to tax code improvements that do not affect state revenue collections; amending RCW 84.41.030, 84.41.041, 84.48.034, 46.71.090, 82.08.900, 82.04.627, 82.04.750, 82.08.9995, 82.12.9995, 82.08.0262, 82.12.0254, 82.24.550, 82.26.220, 82.32.020, 82.32.070, 82.32.080, 84.36.041, 84.38.030, 84.39.010, 84.64.060, 84.64.070, and 82.32.740; and repealing RCW 82.04.395, 82.04.397, 82.04.4333, 82.04.4485, 82.08.0265, 82.14.220, and 82.24.235.

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

Part I

Eliminating obsolete and redundant statutory provisions

NEW SECTION. Sec. 101. The following acts or parts of acts are each repealed:

1RCW 82.04.395 (Exemptions—Certain materials printed in school district and educational service district printing facilities) and 1979 ex.s. c 196 s 12;

2RCW 82.04.397 (Exemptions—Certain materials printed in county, city, or town printing facilities) and 1979 ex.s. c 196 s 14;

3RCW 82.04.4333 (Credit—Job training services—Approval) and 1996 c 1 s 4;

4RCW 82.04.4485 (Credit—Mechanical lifting devices purchased by hospitals) and 2006 c 165 s 5;

5RCW 82.08.0265 (Exemptions—Sales to nonresidents of tangible personal property which becomes a component of property of the nonresident by installing, repairing, etc.—Labor and services for installing, repairing, etc.) and 1980 c 37 s 32;

6RCW 82.14.220 (Figures for apportionments and distributions under RCW 82.14.200 and 82.14.210) and 1984 c 225 s 4; and

7RCW 82.24.235 (Rules) and 1995 c 278 s 15.

Sec. 102. RCW 84.41.030 and 2009 c 308 s 1 are each amended to read as follows:

(1) Each county assessor (~~(shall)~~) must maintain an active and systematic program of revaluation on a continuous basis(~~(, and shall establish a revaluation schedule which will result in revaluation of all taxable real property within the county at least once each four years and physical inspection of all taxable real property within the county at least once each six years)~~). All taxable real property within a county must be revalued annually, and all taxable real property within a county must be physically inspected at least once every six years. Each county assessor may disregard any program of revaluation, if requested by a property owner, and change, as appropriate, the valuation of real property upon the receipt of a notice of decision received under RCW 36.70B.130 or chapter 35.22, 35.63, 35A.63, or 36.70 RCW pertaining to the value of the real property.

(2) (~~(Not later than January 1, 2014, all taxable real property within a county must be revalued annually and all taxable real property within a county must be physically inspected at least once each six years. This mandate is conditional upon the department of revenue providing the necessary guidance and financial assistance to those counties that are not on an annual revaluation cycle so that they may convert to an annual revaluation cycle including, but not limited to, appropriate data collection methods and coding, neighborhood and market delineation, statistical analysis, valuation guidelines, and training.)~~) The department will provide advisory appraisals of industrial properties valued at twenty-five million dollars or more in real and personal property value when requested by the county assessor.

~~((3) In recognition of the need for immediate action, the department of revenue is directed to conduct a pilot project on at least one county that is prepared to move from cyclical to annual revaluation by December 31, 2009. The pilot project will develop the expertise necessary to provide counties with neighborhood and market delineation, statistical analysis, valuation guidelines, and training. The department of revenue must use the expertise gained in this pilot project to facilitate the conversion of cyclical counties to annual revaluation and ongoing refinement of assessment processes statewide. The department may contract with a local government association representing county assessors and other county elected officials in carrying out the requirements of this subsection.))~~

Sec. 103. RCW 84.41.041 and 2009 c 308 s 2 are each amended to read as follows:

(1) Each county assessor (~~(shall)~~) must cause taxable real property to be physically inspected and valued at least once every six years in accordance with RCW 84.41.030, and in accordance with a plan filed with and approved by the department of revenue. Such revaluation plan (~~(shall)~~) must provide that ((a

~~reasonable portion of~~) all taxable real property within a county ~~((shall))~~ must be revalued and these newly determined values placed on the assessment rolls each year. ~~((Until January 1, 2014, the department may approve a plan that provides that all property in the county be revalued every two years. If the revaluation plan provides for physical inspection at least once each four years,))~~ Property must be valued at one hundred percent of its true and fair value and assessed on the same basis, in accordance with RCW 84.40.030, unless specifically provided otherwise by law. During the intervals between each physical inspection of real property, the valuation of such property may be adjusted to its current true and fair value, such adjustments to be based upon appropriate statistical data. If the revaluation plan provides for physical inspection less frequently than once each four years, during the intervals between each physical inspection of real property, the valuation of such property ~~((shall))~~ must be adjusted to its current true and fair value, such adjustments to be made once each year and to be based upon appropriate statistical data.

(2) The assessor may require property owners to submit pertinent data respecting taxable property in their control including data respecting any sale or purchase of said property within the past five years, the cost and characteristics of any improvement on the property and other facts necessary for appraisal of the property.

Sec. 104. RCW 84.48.034 and 1994 c 301 s 47 are each amended to read as follows:

The board of equalization may enter an order that has effect up to the end of the assessment ~~((cycle used by the assessor))~~ year, if there has been no intervening change in the value during that time.

Part II

Promoting administrative efficiencies

Sec. 201. RCW 46.71.090 and 1993 c 424 s 13 are each amended to read as follows:

When the department of revenue issues a registration certificate under RCW 82.32.030 to an automotive repair facility, it ~~((shall))~~ must give written notice to the person of the requirements of this chapter in a manner prescribed by the director of revenue, including by electronic means. The department of revenue ~~((shall thereafter give the notice on an annual basis in conjunction with the business and occupation tax return provided to each person holding a registration certificate as an automotive repair facility))~~ must also post information about the requirements of this chapter on its public web site.

Sec. 202. RCW 82.08.900 and 2006 c 151 s 4 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to sales to an eligible person establishing or operating an anaerobic digester or to services rendered in respect to installing, constructing, repairing, cleaning, altering, or improving an anaerobic digester, or to sales of tangible personal property that becomes an ingredient or component of the anaerobic digester. The anaerobic digester must be used primarily to treat livestock manure.

~~((a))~~ The department of revenue must provide an exemption certificate to an eligible person upon application by that person. The application must be in a form and manner prescribed by the department and must contain information

regarding the location of the facility and other information as the department may require.

~~(b))~~ A person claiming an exemption under this section must keep records necessary for the department to verify eligibility under this section. ~~((The exemption is available only when))~~ Sellers may make tax exempt sales under this section only if the buyer provides the seller with an exemption certificate in a form and manner prescribed by the department. The seller must retain a copy of the certificate for the seller's files.

(3) The definitions in this subsection apply to this section and RCW 82.12.900 unless the context clearly requires otherwise:

(a) "Anaerobic digester" means a facility that processes manure from livestock into biogas and dried manure using microorganisms in a decomposition process within a closed, oxygen-free container.

(b) "Eligible person" means any person establishing or operating an anaerobic digester to treat primarily livestock manure.

(c) "Primarily" means more than fifty percent measured by volume or weight.

Part III

Providing greater clarity and consistency

Sec. 301. RCW 82.04.627 and 2008 c 81 s 15 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, for purposes of the taxes imposed under this chapter on the sale of parts to the manufacturer of a commercial airplane, the sale is deemed to take place at the site of the final testing or inspection ~~((as required by:~~

~~(a) An approved production inspection system))~~ under federal aviation regulation part 21, subpart F ~~((; or~~

~~(b) A quality control system for which a production certificate has been issued under federal aviation regulation part 21, subpart))~~ or G.

(2) This section does not apply to:

(a) Sales of ~~((the types of parts listed in federal aviation regulation part 21, section 303(b)(2) through (4) or parts for which certification or approval under federal aviation regulation part 21 is not required; or~~

~~(b) Sales of parts in respect to which final testing or inspection as required by the approved production inspection system or quality control system))~~ a standard part, such as a nut or bolt, manufactured in compliance with a government or established industry specification;

(b) Sales of a product produced under a technical standard order authorization or letter of technical standard order design approval pursuant to federal aviation regulation part 21, subpart O; or

(c) Sales of parts in respect to which final testing or inspection under federal aviation regulation part 21, subpart F or G takes place in this state.

(3) "Commercial airplane" has the same meaning given in RCW 82.32.550.

Sec. 302. RCW 82.04.750 and 2011 c 55 s 1 are each amended to read as follows:

(1) This chapter does not apply ~~((to restaurants))~~ in respect to meals provided by a restaurant without specific charge to its employees.

(2) For the purposes of this section, the definitions in RCW 82.08.9995 apply.

Sec. 303. RCW 82.08.9995 and 2011 c 55 s 2 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to a meal provided without specific charge (~~(to an employee)~~) by a restaurant to its employees.

(2) For the purposes of this section, the following definitions apply unless the context clearly requires otherwise.

(a) "Meal" means one or more items of prepared food or beverages other than alcoholic beverages. For the purposes of this subsection, "alcoholic beverage" and "prepared food" have the same meanings as provided in RCW 82.08.0293.

(b) "Restaurant" means any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily onsite, consumption, but excluding grocery stores, minimarkets, and convenience stores. Restaurant includes, but is not limited to, lunch counters, diners, coffee shops, espresso shops or bars, concession stands or counters, delicatessens, and cafeterias. It also includes space and accommodations where food and beverages are sold to the public for immediate consumption that are located within hotels, motels, lodges, boarding houses, bed and breakfast facilities, hospitals, office buildings, movie theaters, and schools, colleges, or universities, if a separate charge is made for such food or beverages. Mobile sales units that sell food or beverages for immediate consumption within a place, the entrance to which is subject to an admission charge, are "restaurants." So too are public and private carriers, such as trains and vessels, that sell food or beverages for immediate consumption if a separate charge for the food and/or beverages is made. A restaurant is open to the public for purposes of this section if members of the public can be served as guests. "Restaurant" does not include businesses making sales through vending machines or through mobile sales units such as catering trucks or sidewalk vendors of food or beverage items.

Sec. 304. RCW 82.12.9995 and 2011 c 55 s 3 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to a meal provided without specific charge (~~(to an employee)~~) by a restaurant to its employees.

(2) For the purposes of this section, the definitions in RCW 82.08.9995 apply.

Sec. 305. RCW 82.08.0262 and 2009 c 503 s 1 are each amended to read as follows:

(1) The tax levied by RCW 82.08.020 does not apply to:

(a) Sales of airplanes (i) to the United States government; (ii) for use in conducting interstate or foreign commerce by transporting property or persons for hire or by performing services under a contract with the United States government; or (iii) for use in providing intrastate air transportation by a commuter air carrier;

(b) Sales of locomotives, railroad cars, or watercraft for use in conducting interstate or foreign commerce by transporting (~~(therein or therewith)~~) property

~~((and))~~ or persons for hire or for use in conducting commercial deep sea fishing operations outside the territorial waters of the state;

(c) Sales of tangible personal property that becomes a component part of such airplanes, locomotives, railroad cars, or watercraft, and of motor vehicles or trailers whether owned by or leased with or without drivers and used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state, in the course of constructing, repairing, cleaning, altering, or improving the same; and

(d) Sales of or charges made for labor and services rendered in respect to such constructing, repairing, cleaning, altering, or improving.

(2) The term "commuter air carrier" means an air carrier holding authority under Title 14, Part 298 of the code of federal regulations that carries passengers on at least five round trips per week on at least one route between two or more points according to its published flight schedules that specify the times, days of the week, and places between which those flights are performed.

Sec. 306. RCW 82.12.0254 and 2010 c 161 s 905 are each amended to read as follows:

(1) The provisions of this chapter do not apply in respect to the use of:

(a) Any airplane used primarily in (i) conducting interstate or foreign commerce by transporting property or persons for hire or by performing services under a contract with the United States government or (ii) providing intrastate air transportation by a commuter air carrier as defined in RCW 82.08.0262;

(b) Any locomotive, railroad car, or watercraft used primarily in conducting interstate or foreign commerce by transporting ~~((therein or therewith))~~ property ~~((and))~~ or persons for hire or used primarily in commercial deep sea fishing operations outside the territorial waters of the state;

(c) Tangible personal property that becomes a component part of any such airplane, locomotive, railroad car, or watercraft in the course of repairing, cleaning, altering, or improving the same; and

(d) Labor and services rendered in respect to such repairing, cleaning, altering, or improving.

(2) The provisions of this chapter do not apply in respect to the use by a nonresident of this state of any vehicle used exclusively in transporting persons or property across the boundaries of this state and in intrastate operations incidental thereto when such vehicle is registered in a foreign state and in respect to the use by a nonresident of this state of any vehicle so registered and used within this state for a period not exceeding fifteen consecutive days under such rules as the department must adopt. However, under circumstances determined to be justifiable by the department a second fifteen day period may be authorized consecutive with the first fifteen day period; and for the purposes of this exemption the term "nonresident" as used herein includes a user who has one or more places of business in this state as well as in one or more other states, but the exemption for nonresidents applies only to those vehicles which are most frequently dispatched, garaged, serviced, maintained, and operated from the user's place of business in another state.

(3) The provisions of this chapter do not apply in respect to the use by the holder of a carrier permit issued by the interstate commerce commission or its successor agency of any vehicle whether owned by or leased with or without

driver to the permit holder and used in substantial part in the normal and ordinary course of the user's business for transporting therein persons or property for hire across the boundaries of this state; and in respect to the use of any vehicle while being operated under the authority of a trip permit issued by the director of licensing pursuant to RCW 46.16A.320 and moving upon the highways from the point of delivery in this state to a point outside this state; and in respect to the use of tangible personal property which becomes a component part of any vehicle used by the holder of a carrier permit issued by the interstate commerce commission or its successor agency authorizing transportation by motor vehicle across the boundaries of this state whether such vehicle is owned by or leased with or without driver to the permit holder, in the course of repairing, cleaning, altering, or improving the same; also the use of labor and services rendered in respect to such repairing, cleaning, altering, or improving.

Sec. 307. RCW 82.24.550 and 2009 c 154 s 2 are each amended to read as follows:

(1) The board (~~((shall))~~) must enforce the provisions of this chapter. The board may adopt, amend, and repeal rules necessary to enforce (~~((and administer))~~) the provisions of this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer the provisions of this chapter. The board may revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee to comply with any of the provisions of this chapter.

(3) A license (~~((shall))~~) may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or any rule adopted under this chapter, (~~((shall))~~) must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and, in the case of a second or further offense, (~~((shall))~~) must suspend the license or licenses for a period of not less than ninety consecutive business days nor more than twelve months, and, in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.26 RCW to a person whose license or licenses have been suspended or revoked under this section (~~((shall))~~) must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year from the date of revocation of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under this chapter.

(6) A person whose license has been suspended or revoked (~~((shall))~~) may not sell cigarettes or tobacco products or permit cigarettes or tobacco products to be sold during the period of such suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form whatever.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation (~~((shall be))~~) is reviewable by an appeal to the superior court of Thurston county. The superior court (~~((shall))~~) must review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

(9) For purposes of this section, "tobacco products" has the same meaning as in RCW 82.26.010.

Sec. 308. RCW 82.26.220 and 2009 c 154 s 8 are each amended to read as follows:

(1) The board (~~((shall))~~) must enforce this chapter. The board may adopt, amend, and repeal rules necessary to enforce (~~((and administer))~~) this chapter.

(2) The department may adopt, amend, and repeal rules necessary to administer this chapter. The board may revoke or suspend the distributor's or retailer's license of any distributor or retailer of tobacco products in the state upon sufficient cause showing a violation of this chapter or upon the failure of the licensee to comply with any of the rules adopted under it.

(3) A license (~~((shall))~~) may not be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by the board. The board, upon finding that the licensee has failed to comply with any provision of this chapter or of any rule adopted under it, (~~((shall))~~) must, in the case of the first offense, suspend the license or licenses of the licensee for a period of not less than thirty consecutive business days, and in the case of a second or further offense, suspend the license or licenses for a period of not less than ninety consecutive business days but not more than twelve months, and in the event the board finds the licensee has been guilty of willful and persistent violations, it may revoke the license or licenses.

(4) Any licenses issued under chapter 82.24 RCW to a person whose license or licenses have been suspended or revoked under this section (~~((shall))~~) must also be suspended or revoked during the period of suspension or revocation under this section.

(5) Any person whose license or licenses have been revoked under this section may reapply to the board at the expiration of one year of the license or licenses. The license or licenses may be approved by the board if it appears to the satisfaction of the board that the licensee will comply with the provisions of this chapter and the rules adopted under it.

(6) A person whose license has been suspended or revoked (~~((shall))~~) may not sell tobacco products or cigarettes or permit tobacco products or cigarettes to be sold during the period of suspension or revocation on the premises occupied by the person or upon other premises controlled by the person or others or in any other manner or form.

(7) Any determination and order by the board, and any order of suspension or revocation by the board of the license or licenses issued under this chapter, or refusal to reinstate a license or licenses after revocation is reviewable by an appeal to the superior court of Thurston county. The superior court (~~((shall))~~) must

review the order or ruling of the board and may hear the matter de novo, having due regard to the provisions of this chapter and the duties imposed upon the board.

(8) If the board makes an initial decision to deny a license or renewal, or suspend or revoke a license, the applicant may request a hearing subject to the applicable provisions under Title 34 RCW.

Sec. 309. RCW 82.32.020 and 2009 c 535 s 1111 are each amended to read as follows:

For the purposes of this chapter:

(1) The meaning attributed in chapters 82.01 through 82.27 RCW to the words and phrases "tax year," "taxable year," "person," "company," "gross proceeds of sales," "gross income of the business," "business," "engaging in business," "successor," "gross operating revenue," "gross income," "taxpayer," "retail sale," "seller," "buyer," "purchaser," "extended warranty," and "value of products" (~~shall~~) apply equally to the provisions of this chapter.

(2) Unless the context clearly requires otherwise, the term "tax" includes any monetary exaction, regardless of its label, that the department is responsible for collecting, but not including interest, penalties, the surcharge imposed in RCW 40.14.027, or fees incurred by the department and recouped from taxpayers.

(3) Whenever "property" or "personal property" is used, those terms must be construed to include digital goods and digital codes unless: (a) It is clear from the context that the term "personal property" is intended only to refer to tangible personal property; (b) it is clear from the context that the term "property" is intended only to refer to tangible personal property, real property, or both; or (c) to construe the term "property" or "personal property" as including digital goods and digital codes would yield unlikely, absurd, or strained consequences.

~~((3))~~ (4) The definitions in this subsection apply throughout this chapter, unless the context clearly requires otherwise.

(a) "Agreement" means the streamlined sales and use tax agreement.

(b) "Associate member" means a petitioning state that is found to be in compliance with the agreement and changes to its laws, rules, or other authorities necessary to bring it into compliance are not in effect, but are scheduled to take effect on or before January 1, 2008. The petitioning states, by majority vote, may also grant associate member status to a petitioning state that does not receive an affirmative vote of three-fourths of the petitioning states upon a finding that the state has achieved substantial compliance with the terms of the agreement as a whole, but not necessarily each required provision, measured qualitatively, and there is a reasonable expectation that the state will achieve compliance by January 1, 2008.

(c) "Certified automated system" means software certified under the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

(d) "Certified service provider" means an agent certified under the agreement to perform all of the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(e)(i) "Member state" means a state that:

(A) Has petitioned for membership in the agreement and submitted a certificate of compliance; and

(B) Before the effective date of the agreement, has been found to be in compliance with the requirements of the agreement by an affirmative vote of three-fourths of the other petitioning states; or

(C) After the effective date of the agreement, has been found to be in compliance with the agreement by a three-fourths vote of the entire governing board of the agreement.

(ii) Membership by reason of (e)(i)(A) and (B) of this subsection is effective on the first day of a calendar quarter at least sixty days after at least ten states comprising at least twenty percent of the total population, as determined by the 2000 federal census, of all states imposing a state sales tax have petitioned for membership and have either been found in compliance with the agreement or have been found to be an associate member under section 704 of the agreement.

(iii) Membership by reason of (e)(i)(A) and (C) of this subsection is effective on the state's proposed date of entry or the first day of the calendar quarter after its petition is approved by the governing board, whichever is later, and is at least sixty days after its petition is approved.

(f) "Model 1 seller" means a seller that has selected a certified service provider as its agent to perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on its own purchases.

(g) "Model 2 seller" means a seller that has selected a certified automated system to perform part of its sales and use tax functions, but retains responsibility for remitting the tax.

(h) "Model 3 seller" means a seller that has sales in at least five member states, has total annual sales revenue of at least five hundred million dollars, has a proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a performance agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection ~~((3))~~ (4)(h), a seller includes an affiliated group of sellers using the same proprietary system.

(i) "Source" means the location in which the sale or use of tangible personal property, a digital good or digital code, an extended warranty, or a digital automated service or other service, subject to tax under chapter 82.08, 82.12, 82.14, or 82.14B RCW, is deemed to occur.

Sec. 310. RCW 82.32.070 and 2013 c 23 s 322 are each amended to read as follows:

(1) Every ~~((person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW shall))~~ taxpayer liable for any tax collected by the department must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of any tax for which ((he or she)) the taxpayer may be liable((- which records shall)) . Such records must include copies of all of the taxpayer's federal income tax and state tax returns and reports ((made by him or her. All his or her)) . All of the taxpayer's books, records, and invoices ((shall)) must be open for examination at any time by the department of revenue. In the case of an out-of-state ((person or concern which)) taxpayer that does not keep the necessary books and records within this state, it ((shall be)) is sufficient if ((#)) the taxpayer produces within the state such books and records as ((shall be)) are required by the department of revenue, or permits the

examination by an agent authorized or designated by the department of revenue at the place where such books and records are kept. Any (~~(person)~~) taxpayer who fails to comply with the requirements of this section (~~(shall be)~~) is forever barred from questioning, in any court action or proceedings, the correctness of any assessment of taxes made by the department of revenue based upon any period for which such books, records, and invoices have not been so kept and preserved.

(2) A person liable for any fee or tax imposed by chapters 82.04 through 82.27 RCW who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW (~~(shall)~~) must obtain and preserve a record of the unified business identifier account number for the person or entity performing the work. Failure to obtain or maintain the record is subject to RCW 39.06.010 and to a penalty determined by the director, but not to exceed two hundred fifty dollars. The department (~~(shall)~~) must notify the taxpayer and collect the penalty in the same manner as penalties under RCW 82.32.100.

Sec. 311. RCW 82.32.080 and 2012 c 39 s 2 are each amended to read as follows:

(1) When authorized by the department, payment of the tax may be made by uncertified check under such rules as the department prescribes, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, will remain liable for payment of the tax and for all legal penalties and interest, the same as if such check had not been tendered.

(2)(a) Except as otherwise provided in this subsection, payment of the tax must be made by electronic funds transfer, as defined in RCW 82.32.085. As an alternative to electronic funds transfer, the department may authorize other forms of electronic payment, such as payment by credit card. All taxes administered by this chapter are subject to this requirement, except that the department may exclude any taxes not reported on the combined excise tax return or any successor return from the electronic payment requirement in this subsection.

(b) The department may waive the electronic payment requirement in this subsection for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to accept payment of taxes by electronic funds transfer or other acceptable forms of electronic payment from taxpayers that are not subject to the mandatory electronic payment requirements in this subsection.

(3)(a) Except as otherwise provided in this subsection, returns must be filed electronically using the department's online tax filing service or other method of electronic reporting as the department may authorize.

(b) The department may waive the electronic filing requirement in this subsection for any taxpayer or class of taxpayers, for good cause or for whom the department has assigned a reporting frequency that is less than quarterly. In the discretion of the department, a waiver under this subsection may be made temporary or permanent, and may be made on the department's own motion.

(c) The department is authorized to allow electronic filing of returns from taxpayers that are not subject to the mandatory electronic filing requirements in this subsection.

(4)(a)(i) The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days must be conditional on deposit with the department of an amount to be determined by the department which is approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit must be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

(ii) The department must review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

(b) During a state of emergency declared under RCW 43.06.010(12), the department, on its own motion or at the request of any taxpayer affected by the emergency, may extend the time for making or filing any return as the department deems proper. The department may not require any deposit as a condition for granting an extension under this subsection (4)(b).

(5)(a) The department must keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105, 82.32.052, and 82.32.350, the department must apply the payment of the taxpayer in the following order, without regard to any direction of the taxpayer: (i) Interest; (ii) penalties; (iii) fees that are not within the definition of tax in RCW 82.32.020; (iv) other nontax amounts; (v) taxes, except spirits taxes; and (vi) spirits taxes.

(b) For purposes of this subsection, "spirits taxes" has the same meaning as in RCW 82.08.155.

(6) The department may refuse to accept any return that is not accompanied by a remittance of the tax shown to be due thereon or that is not filed electronically as required in this section. When such return is not accepted, the taxpayer is deemed to have failed or refused to file a return and is subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return may not apply when a return is timely filed electronically and a timely payment has been made by electronic funds transfer or other form of electronic payment as authorized by the department.

(7) Except for returns and remittances required to be transmitted to the department electronically under this section and except as otherwise provided in this chapter, a return or remittance that is transmitted to the department by United States mail is deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it. A return or

remittance that is transmitted to the department electronically is deemed filed or received according to procedures set forth by the department.

(8)(a) For purposes of subsections (2) and (3) of this section, "good cause" means the inability of a taxpayer to comply with the requirements of subsection (2) or (3) of this section because:

(i) The taxpayer does not have the equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section;

(ii) The equipment or software necessary to enable the taxpayer to comply with subsection (2) or (3) of this section is not functioning properly;

(iii) The taxpayer does not have access to the internet using the taxpayer's own equipment;

(iv) The taxpayer does not have a bank account or a credit card;

(v) The taxpayer's bank is unable to send or receive electronic funds transfer transactions; or

(vi) Some other circumstance or condition exists that, in the department's judgment, prevents the taxpayer from complying with the requirements of subsection (2) or (3) of this section.

(b) "Good cause" also includes any circumstance that, in the department's judgment, supports the efficient or effective administration of the tax laws of this state, including providing relief from the requirements of subsection (2) or (3) of this section to any taxpayer that is voluntarily collecting and remitting this state's sales or use taxes on sales to Washington customers but has no legal requirement to be registered with the department.

Sec. 312. RCW 84.36.041 and 2008 c 6 s 707 are each amended to read as follows:

(1) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and:

(a) At least fifty percent of the occupied dwelling units in the home are occupied by eligible residents; or

(b) The home is subsidized under a federal department of housing and urban development program. The department of revenue (~~shall~~) must provide by rule a definition of homes eligible for exemption under this subsection (1)(b), consistent with the purposes of this section.

(2) All real and personal property used by a nonprofit home for the aging that is reasonably necessary for the purposes of the home is exempt from taxation if the benefit of the exemption inures to the home and the construction, rehabilitation, acquisition, or refinancing of the home is financed under a program using bonds exempt from federal income tax if at least seventy-five percent of the total amount financed uses the tax exempt bonds and the financing program requires the home to reserve a percentage of all dwelling units so financed for low-income residents. The initial term of the exemption under this subsection (~~shall~~) must equal the term of the tax exempt bond used in connection with the financing program, or the term of the requirement to reserve dwelling units for low-income residents, whichever is shorter. If the financing program involves less than the entire home, only those dwelling units included in the financing program are eligible for total exemption. The department of revenue (~~shall~~) must provide by rule the requirements for monitoring

compliance with the provisions of this subsection and the requirements for exemption including:

(a) The number or percentage of dwelling units required to be occupied by low-income residents, and a definition of low income;

(b) The type and character of the dwelling units, whether independent units or otherwise; and

(c) Any particular requirements for continuing care retirement communities.

(3) A home for the aging is eligible for a partial exemption on the real property and a total exemption for the home's personal property if the home does not meet the requirements of subsection (1) of this section because fewer than fifty percent of the occupied dwelling units are occupied by eligible residents, as follows:

(a) A partial exemption (~~(shall)~~ must) be allowed for each dwelling unit in a home occupied by a resident requiring assistance with activities of daily living.

(b) A partial exemption (~~(shall)~~ must) be allowed for each dwelling unit in a home occupied by an eligible resident.

(c) A partial exemption (~~(shall)~~ must) be allowed for an area jointly used by a home for the aging and by a nonprofit organization, association, or corporation currently exempt from property taxation under one of the other provisions of this chapter. The shared area must be reasonably necessary for the purposes of the nonprofit organization, association, or corporation exempt from property taxation under one of the other provisions of this chapter, such as kitchen, dining, and laundry areas.

(d) The amount of exemption (~~(shall)~~ must) be calculated by multiplying the assessed value of the property reasonably necessary for the purposes of the home, less the assessed value of any area exempt under (c) of this subsection, by a fraction. The numerator of the fraction is the number of dwelling units occupied by eligible residents and by residents requiring assistance with activities of daily living. The denominator of the fraction is the total number of occupied dwelling units as of December 31st of the first assessment year the home becomes operational for which exemption is claimed and January 1st of each subsequent assessment year for which exemption is claimed.

(4) To be exempt under this section, the property must be used exclusively for the purposes for which the exemption is granted, except as provided in RCW 84.36.805.

(5) A home for the aging is exempt from taxation only if the organization operating the home is exempt from income tax under section 501(c) of the federal internal revenue code as existing on January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purposes of this section.

(6) In order for the home to be eligible for exemption under subsections (1)(a) and (3)(b) of this section, each eligible resident of a home for the aging (~~(shall)~~ must) submit an income verification form to the county assessor by July 1st of the assessment year for which exemption is claimed. However, during the first year a home becomes operational, the county assessor (~~(shall)~~ must) accept income verification forms from eligible residents up to December 31st of the assessment year. The income verification form (~~(shall)~~ must) be prescribed and furnished by the department of revenue. An eligible resident who has filed a

form for a previous year need not file a new form until there is a change in status affecting the person's eligibility.

(7) In determining the true and fair value of a home for the aging for purposes of the partial exemption provided by subsection (3) of this section, the assessor (~~shall~~) must apply the computation method provided by RCW 84.34.060 and (~~shall~~) may consider only the use to which such property is applied during the years for which such partial exemptions are available and (~~shall~~) may not consider potential uses of such property.

(8) As used in this section:

(a) "Eligible resident" means a person who:

(i) Occupied the dwelling unit as a principal place of residence as of December 31st of the first assessment year the home becomes operational. In each subsequent year, the eligible resident must occupy the dwelling unit as a principal place of residence as of January 1st of the assessment year for which the exemption is claimed. Confinement of the person to a hospital or nursing home does not disqualify the claim of exemption if the dwelling unit is temporarily unoccupied or if the dwelling unit is occupied by a spouse or a domestic partner, a person financially dependent on the claimant for support, or both; and

(ii) Is sixty-one years of age or older on December 31st of the year in which the exemption claim is filed, or is, at the time of filing, retired from regular gainful employment by reason of (~~physical~~) disability as defined in RCW 84.36.383. Any surviving spouse or surviving domestic partner of a person who was receiving an exemption at the time of the person's death (~~shall qualify~~) qualifies if the surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this subsection; and

(iii) Has a combined disposable income of no more than the greater of twenty-two thousand dollars or eighty percent of the median income adjusted for family size as most recently determined by the federal department of housing and urban development for the county in which the person resides. For the purposes of determining eligibility under this section, a "cotenant" means a person who resides with an eligible resident and who shares personal financial resources with the eligible resident.

(b) "Combined disposable income" means the disposable income of the person submitting the income verification form, plus the disposable income of his or her spouse or domestic partner, and the disposable income of each cotenant occupying the dwelling unit for the preceding calendar year, less amounts paid by the person submitting the income verification form or his or her spouse or domestic partner or cotenant during the previous year for the treatment or care of either person received in the dwelling unit or in a nursing home. If the person submitting the income verification form was retired for two months or more of the preceding year, the combined disposable income of such person (~~shall~~) must be calculated by multiplying the average monthly combined disposable income of such person during the months such person was retired by twelve. If the income of the person submitting the income verification form is reduced for two or more months of the preceding year by reason of the death of the person's spouse or domestic partner, the combined disposable income of such person (~~shall~~) must be calculated by multiplying the average monthly

combined disposable income of such person after the death of the spouse or domestic partner by twelve.

(c) "Disposable income" means adjusted gross income as defined in the federal internal revenue code, as amended prior to January 1, 1989, or such subsequent date as the director may provide by rule consistent with the purpose of this section, plus all of the following items to the extent they are not included in or have been deducted from adjusted gross income:

(i) Capital gains, other than gain excluded from income under section 121 of the federal internal revenue code to the extent it is reinvested in a new principal residence;

(ii) Amounts deducted for loss;

(iii) Amounts deducted for depreciation;

(iv) Pension and annuity receipts;

(v) Military pay and benefits other than attendant-care and medical-aid payments;

(vi) Veterans benefits other than attendant-care and medical-aid payments;

(vii) Federal social security act and railroad retirement benefits;

(viii) Dividend receipts; and

(ix) Interest received on state and municipal bonds.

(d) "Resident requiring assistance with activities of daily living" means a person who requires significant assistance with the activities of daily living and who would be at risk of nursing home placement without this assistance.

(e) "Home for the aging" means a residential housing facility that (i) provides a housing arrangement chosen voluntarily by the resident, the resident's guardian or conservator, or another responsible person; (ii) has only residents who are at least sixty-one years of age or who have needs for care generally compatible with persons who are at least sixty-one years of age; and (iii) provides varying levels of care and supervision, as agreed to at the time of admission or as determined necessary at subsequent times of reappraisal.

(9) A for-profit home for the aging that converts to nonprofit status after June 11, 1992, and would otherwise be eligible for tax exemption under this section may not receive the tax exemption until five years have elapsed since the conversion. The exemption (~~shall~~) must then be ratably granted over the next five years.

Sec. 313. RCW 84.38.030 and 2008 c 6 s 702 are each amended to read as follows:

A claimant may defer payment of special assessments and/or real property taxes on up to eighty percent of the amount of the claimant's equity value in the claimant's residence if the following conditions are met:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the age and income limits under RCW 84.36.381.

(2) The claimant must be sixty years of age or older on December 31st of the year in which the deferral claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of (~~physical~~) disability (~~(- PROVIDED, That)~~) as defined in RCW 84.36.383. However, any surviving spouse or surviving domestic partner of a person who was receiving a deferral at the time of the person's death (~~shall qualify~~) qualifies if the

surviving spouse or surviving domestic partner is fifty-seven years of age or older and otherwise meets the requirements of this section.

(3) The claimant must have a combined disposable income, as defined in RCW 84.36.383, of forty thousand dollars or less.

(4) The claimant must have owned, at the time of filing, the residence on which the special assessment and/or real property taxes have been imposed. For purposes of this subsection, a residence owned by a marital community, owned by domestic partners, or owned by cotenants (~~(shall be)~~) is deemed to be owned by each spouse, each domestic partner, or each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) The claimant must have and keep in force fire and casualty insurance in sufficient amount to protect the interest of the state in the claimant's equity value(~~(- PROVIDED, That)~~), However, if the claimant fails to keep fire and casualty insurance in force to the extent of the state's interest in the claimant's equity value, the amount deferred (~~(shall)~~) may not exceed one hundred percent of the claimant's equity value in the land or lot only.

(6) In the case of special assessment deferral, the claimant must have opted for payment of such special assessments on the installment method if such method was available.

Sec. 314. RCW 84.39.010 and 2005 c 253 s 1 are each amended to read as follows:

A person is entitled to a property tax exemption in the form of a grant as provided in this chapter. The person is entitled to assistance for the payment of all or a portion of the amount of excess and regular real property taxes imposed on the person's residence in the year in which a claim is filed in accordance with the following:

(1) The claimant must meet all requirements for an exemption for the residence under RCW 84.36.381, other than the income limits under RCW 84.36.381.

(2)(a) The person making the claim must be:

(i) Sixty-two years of age or older on December 31st of the year in which the claim is filed, or must have been, at the time of filing, retired from regular gainful employment by reason of (~~(physical)~~) disability; and

(ii) A widow or widower of a veteran who:

(A) Died as a result of a service-connected disability;

(B) Was rated as one hundred percent disabled by the United States veterans' administration for the ten years prior to his or her death;

(C) Was a former prisoner of war as substantiated by the United States veterans' administration and was rated as one hundred percent disabled by the United States veterans' administration for one or more years prior to his or her death; or

(D) Died on active duty or in active training status as a member of the United States uniformed services, reserves, or national guard; and

(b) The person making the claim must not have remarried.

(3) The claimant must have a combined disposable income of forty thousand dollars or less.

(4) The claimant must have owned, at the time of filing, the residence on which the real property taxes have been imposed. For purposes of this

subsection, a residence owned by cotenants (~~(shall be)~~) is deemed to be owned by each cotenant. A claimant who has only a share ownership in cooperative housing, a life estate, a lease for life, or a revocable trust does not satisfy the ownership requirement.

(5) A person who otherwise qualifies under this section is entitled to assistance in an amount equal to regular and excess property taxes imposed on the difference between the value of the residence eligible for exemption under RCW 84.36.381(5) and:

(a) The first one hundred thousand dollars of assessed value of the residence for a person who has a combined disposable income of thirty thousand dollars or less;

(b) The first seventy-five thousand dollars of assessed value of the residence for a person who has a combined disposable income of thirty-five thousand dollars or less but greater than thirty thousand dollars; or

(c) The first fifty thousand dollars of assessed value of the residence for a person who has a combined disposable income of forty thousand dollars or less but greater than thirty-five thousand dollars.

(6) As used in this section:

(a) "Veteran" has the same meaning as provided under RCW 41.04.005.

(b) The meanings attributed in RCW 84.36.383 to the terms "residence," "combined disposable income," "disposable income," and "disability" apply equally to this section.

Sec. 315. RCW 84.64.060 and 2003 c 23 s 4 are each amended to read as follows:

(1) Any person owning a recorded interest in lands or lots upon which judgment is prayed, as provided in this chapter, may in person or by agent pay the taxes, interest and costs due thereon to the county treasurer of the county in which the same are situated, at any time before the day of the sale; and for the amount so paid he or she (~~(shall)~~) will have a lien on the property liable for taxes, interest, and costs for which judgment is prayed; and the person or authority who (~~(shall)~~) collects or receives the same (~~(shall)~~) must give a receipt for such payment, or issue to such person a certificate showing such payment. If paying by agent, the agent (~~(shall)~~) must provide notarized documentation of the agency relationship.

(2) Notwithstanding anything to the contrary in this section, a person need not pay the amount of any outstanding liens for amounts deferred under chapter 84.37 or 84.38 RCW, if such amounts have not become payable under RCW 84.37.080 or 84.38.130.

Sec. 316. RCW 84.64.070 and 2002 c 168 s 10 are each amended to read as follows:

(1) Real property upon which certificates of delinquency have been issued under the provisions of this chapter, may be redeemed at any time before the close of business the day before the day of the sale, by payment, as prescribed by the county treasurer, to the county treasurer of the proper county, of the amount for which the certificate of delinquency was issued, together with interest at the statutory rate per annum charged on delinquent general real and personal property taxes from date of issuance of the certificate of delinquency until paid.

(2) The person redeeming such property (~~shall~~) must also pay the amount of all taxes, interest and costs accruing after the issuance of such certificate of delinquency, together with interest at the statutory rate per annum charged on delinquent general real and personal property taxes on such payment from the day the same was made.

(3) No fee (~~shall~~) may be charged for any redemption.

(4) Tenants in common or joint tenants (~~shall~~) must be allowed to redeem their individual interest in real property for which certificates of delinquency have been issued under the provisions of this chapter, in the manner and under the terms specified in RCW 84.64.060 for the redemption of real property other than that of persons adjudicated to be legally incompetent or minors for purposes of this section.

(5) If the real property of any minor, or any person adjudicated to be legally incompetent, be sold for nonpayment of taxes, the same may be redeemed at any time within three years after the date of sale upon the terms specified in this section, on the payment of interest at the statutory rate per annum charged on delinquent general real and personal property taxes on the amount for which the same was sold, from and after the date of sale, and in addition the redemptioner (~~shall~~) must pay the reasonable value of all improvements made in good faith on the property, less the value of the use thereof, which redemption may be made by themselves or by any person in their behalf.

(6) Notwithstanding anything to the contrary in this section, a person may redeem real property under this section without the payment of any outstanding liens for amounts deferred under chapter 84.37 or 84.38 RCW, if such amounts have not become payable under RCW 84.37.080 or 84.38.130.

Part IV

Taxability matrix

Sec. 401. RCW 82.32.740 and 2007 c 6 s 701 are each amended to read as follows:

(1) The department (~~shall~~) must complete a taxability matrix maintained by the member states of the agreement in downloadable format. The matrix contains terms defined in the agreement and the disclosure of the state's practices in the administration of sales and use taxes as required under section 335 of the agreement. The department (~~shall~~) must provide notice of changes in the taxability of products or services listed in the matrix. The department must also provide notice of changes in the state's treatment of practices identified in the matrix.

(2)(a) Sellers and certified service providers are relieved from liability to the state and to local jurisdictions for having charged or collected the incorrect amount of sales or use tax if the error resulted from reliance on erroneous information provided by the department in the taxability matrix.

(b) Beginning July 1, 2015, if the taxability matrix is amended, sellers and certified service providers are relieved from liability to the state and to local jurisdictions to the extent that the seller or certified service provider relied on the immediately preceding version of the state's taxability matrix. Relief under this subsection (2)(b) is available until the first day of the calendar month that is at least thirty days after the department submits notice of a change to the state's taxability matrix to the streamlined sales tax governing board.

Passed by the Senate March 2, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 87

[Second Substitute Senate Bill 5311]

LAW ENFORCEMENT--CRISIS INTERVENTION TRAINING

AN ACT Relating to requiring crisis intervention training for peace officers; adding a new section to chapter 43.101 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.101 RCW to read as follows:

(1) The commission shall provide crisis intervention training to every new full-time law enforcement officer employed after July 1, 2017, by a general authority Washington law enforcement agency. The training shall consist of not less than eight hours and shall be incorporated into the basic training academy as provided in RCW 43.101.200.

(2) The commission must ensure that:

(a) All full-time, general authority Washington peace officers who are certified after July 1, 2017, complete a two-hour online crisis intervention course as part of the annual training required by the commission for all full-time, general authority Washington peace officers employed by a general authority Washington law enforcement agency.

(b) Each full-time general authority Washington peace officer certified before July 1, 2017, receives crisis intervention training by July 1, 2021. The training shall consist of not less than eight hours and shall be substantially similar in hours and content to the training offered through the basic training academy. Each attendee of the program shall be required to obtain written proof of completion of the program as provided by rules of the commission.

(3) The commission shall make efforts to provide enhanced crisis intervention training for at least twenty-five percent of all full-time, general authority Washington peace officers assigned to patrol duties. The enhanced training may be (a) comprised of forty hours of commission-certified training and (b) accomplished within any funds remaining after appropriation is made for purposes of this section.

(4) By July 1, 2017, the commission shall establish by rule:

(a) A program and standards to certify organizations, other than the commission, that may provide crisis intervention training as required under this section. Certified organizations must use a commission-certified training or curriculum to facilitate the training. The commission shall consider geographic training needs when considering programs and standards. The commission shall provide grants to general authority Washington law enforcement agencies to reimburse those law enforcement agencies for the cost of sending officers to crisis intervention training;

(b) Standards for successful completion of the annual two hours of crisis intervention training as provided in subsection (2) of this section. The standards

shall include, at a minimum, the requirement of successful completion of a written exam.

(5) For the purposes of this section, "crisis intervention training" means training designed to provide tools and resources to full-time, general authority Washington peace officers in order to respond effectively to individuals who may be experiencing an emotional, mental, physical, behavioral, or chemical dependency crisis, distress, or problem and that are designed to increase the safety of both law enforcement and individuals in crisis.

(6) This section is subject to the availability of amounts appropriated for this specific purpose.

NEW SECTION. Sec. 2. This act may be known and cited as the Douglas M. Ostling act.

Passed by the Senate March 4, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 88

[Substitute Senate Bill 5322]

CONSERVATION DISTRICTS--RATES AND CHARGES

AN ACT Relating to conservation districts' rates and charges; and amending RCW 89.08.405.

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

Sec. 1. RCW 89.08.405 and 2012 c 60 s 1 are each amended to read as follows:

(1) Any county legislative authority may approve by resolution revenues to a conservation district by fixing rates and charges. The county legislative authority may provide for this system of rates and charges as an alternative to, but not in addition to, a special assessment provided by RCW 89.08.400. In fixing rates and charges, the county legislative authority may in its discretion consider the information proposed to the county legislative authority by a conservation district consistent with this section.

(2) A conservation district, in proposing a system of rates and charges, may consider:

(a) Services furnished, to be furnished, or available to the landowner;

(b) Benefits received, to be received, or available to the property;

(c) The character and use of land;

(d) The nonprofit public benefit status, as defined in RCW 24.03.490, of the land user;

(e) The income level of persons served or provided benefits under this chapter, including senior citizens and disabled persons; or

(f) Any other matters that present a reasonable difference as a ground for distinction, including the natural resource needs within the district and the capacity of the district to provide either services or improvements, or both.

(3)(a) The system of rates and charges may include an annual per acre amount, an annual per parcel amount, or an annual per parcel amount plus an annual per acre amount. If included in the system of rates and charges, the maximum annual per acre rate or charge shall not exceed ten cents per acre. The

maximum annual per parcel rate shall not exceed five dollars, except that for counties with a population of over ~~((one million five))~~ four hundred eighty thousand persons, the maximum annual per parcel rate shall not exceed ten dollars, and for counties with a population of over one million five hundred thousand persons, the maximum annual per parcel rate shall not exceed fifteen dollars.

(b) Public land, including lands owned or held by the state, shall be subject to rates and charges to the same extent as privately owned lands. The procedures provided in chapter 79.44 RCW shall be followed if lands owned or held by the state are subject to the rates and charges of a conservation district.

(c) Forest lands used solely for the planting, growing, or harvesting of trees may be subject to rates and charges if such lands are served by the activities of the conservation district. However, if the system of rates and charges includes an annual per acre amount or an annual per parcel amount plus an annual per acre amount, the per acre rate or charge on such forest lands shall not exceed onetenth of the weighted average per acre rate or charge on all other lands within the conservation district that are subject to rates and charges. The calculation of the weighted average per acre shall be a ratio calculated as follows: (i) The numerator shall be the total amount of money estimated to be derived from the per acre special rates and charges on the nonforest lands in the conservation district; and (ii) the denominator shall be the total number of nonforest land acres in the conservation district that are served by the activities of the conservation district and that are subject to the rates or charges of the conservation district. No more than ten thousand acres of such forest lands that is both owned by the same person or entity and is located in the same conservation district may be subject to the rates and charges that are imposed for that conservation district in any year. Per parcel charges shall not be imposed on forest land parcels. However, in lieu of a per parcel charge, a charge of up to three dollars per forest landowner may be imposed on each owner of forest lands whose forest lands are subject to a per acre rate or charge.

(4) The consideration, development, adoption, and implementation of a system of rates and charges shall follow the same public notice and hearing process and be subject to the same procedure and authority of RCW 89.08.400(2).

(5)(a) Following the adoption of a system of rates and charges, the conservation district board of supervisors shall establish by resolution a process providing for landowner appeals of the individual rates and charges as applicable to a parcel or parcels.

(b) Any appeal must be filed by the landowner with the conservation district no later than twenty-one days after the date property taxes are due. The decision of the board of supervisors regarding any appeal shall be final and conclusive.

(c) Any appeal of the decision of the board shall be to the superior court of the county in which the district is located, and served and filed within twenty-one days of the date of the board's written decision.

(6) A conservation district shall prepare a roll that implements the system of rates and charges approved by the county legislative authority. The rates and charges from the roll shall be spread by the county assessor as a separate item on the tax rolls and shall be collected and accounted for with property taxes by the county treasurer. The amount of the rates and charges shall constitute a lien

against the land that shall be subject to the same conditions as a tax lien, and collected by the treasurer in the same manner as delinquent real property taxes, and subject to the same interest and penalty as for delinquent property taxes. The county treasurer shall deduct an amount from the collected rates and charges, as established by the county legislative authority, to cover the costs incurred by the county assessor and county treasurer in spreading and collecting the rates and charges, but not to exceed the actual costs of such work. All remaining funds collected under this section shall be transferred to the conservation district and used by the conservation district in accordance with this section.

(7) The rates and charges for a conservation district shall not be spread on the tax rolls and shall not be allocated with property tax collections in the following year if, after the system of rates and charges has been approved by the county legislative authority but before the fifteenth day of December in that year, a petition has been filed with the county legislative authority objecting to the imposition of such rates and charges, which petition has been signed by at least twenty percent of the owners of land that would be subject to the rate or charge to be imposed for a conservation district.

Passed by the Senate March 2, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 89

[Substitute Senate Bill 5448]

LYME DISEASE--STUDY

AN ACT Relating to the treatment of Lyme disease; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The medical quality assurance commission shall do a study of the effects of long-term antibiotic therapy on patients who have been diagnosed with posttreatment Lyme disease syndrome. The study should include a review of:

(a) The antibiotics that are commonly used, prescribed, and administered for the long-term treatment of Lyme disease;

(b) The side effects associated with long-term antibiotic therapy;

(c) The effectiveness of long-term antibiotic therapy of controlling symptoms for patients who have posttreatment Lyme disease syndrome;

(d) Whether allowing physicians in Washington state to administer long-term antibiotic therapy for treating Lyme disease would be beneficial to the health and safety of Washington residents; and

(e) Any other aspects of long-term antibiotic therapy that the commission deems important for the health and safety of patients who may receive these treatments.

(2) The medical quality assurance commission shall report its findings to the governor and the health care committees of the legislature by December 1, 2015.

(3) This section expires July 1, 2016.

Passed by the Senate March 3, 2015.

Passed by the House April 10, 2015.
Approved by the Governor April 24, 2015.
Filed in Office of Secretary of State April 25, 2015.

CHAPTER 90

[Senate Bill 5464]

FISHING GUIDES--ILLEGAL ACTIVITIES

AN ACT Relating to unlawfully engaging in fishing guide activity; adding a new section to chapter 77.15 RCW; and prescribing penalties.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 77.15 RCW to read as follows:

(1) A person is guilty of unlawfully engaging in fishing guide activity if the person holds a game fish guide license issued under RCW 77.65.480 or has a license issued under RCW 77.65.010 to operate a charter boat or act as a food fish guide, and the person:

(a) Fails to perform any duty of a charter boat or guide operator established in RCW 77.32.430; or

(b) Violates any rule of the commission or director regarding the sale, possession, issuance, or reporting of temporary fishing licenses, temporary short-term charter stamps, or catch record cards.

(2) Unlawfully engaging in fishing guide activity is a gross misdemeanor.

Passed by the Senate February 13, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 91

[Senate Bill 5482]

PUBLIC DISCLOSURE--EXEMPTIONS--CRIMINAL JUSTICE AGENCY WORKER INFORMATION

AN ACT Relating to the disclosure of global positioning system data by law enforcement officers; and reenacting and amending RCW 42.56.240.

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

Sec. 1. RCW 42.56.240 and 2013 c 315 s 2, 2013 c 190 s 7, and 2013 c 183 s 1 are each reenacted and amended to read as follows:

The following investigative, law enforcement, and crime victim information is exempt from public inspection and copying under this chapter:

(1) Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy;

(2) Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any

person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath;

(3) Any records of investigative reports prepared by any state, county, municipal, or other law enforcement agency pertaining to sex offenses contained in chapter 9A.44 RCW or sexually violent offenses as defined in RCW 71.09.020, which have been transferred to the Washington association of sheriffs and police chiefs for permanent electronic retention and retrieval pursuant to RCW 40.14.070(2)(b);

(4) License applications under RCW 9.41.070; copies of license applications or information on the applications may be released to law enforcement or corrections agencies;

(5) Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator;

(6) The statewide gang database referenced in RCW 43.43.762;

(7) Data from the electronic sales tracking system established in RCW 69.43.165;

(8) Information submitted to the statewide unified sex offender notification and registration program under RCW 36.28A.040(6) by a person for the purpose of receiving notification regarding a registered sex offender, including the person's name, residential address, and e-mail address;

(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs. Nothing in this subsection shall be interpreted so as to prohibit the legal owner of a residence or business from accessing information regarding his or her residence or business; ~~((and))~~

(10) The felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822; ~~((and))~~

(11) The identity of a state employee or officer who has in good faith filed a complaint with an ethics board, as provided in RCW 42.52.410, or who has in good faith reported improper governmental action, as defined in RCW 42.40.020, to the auditor or other public official, as defined in RCW 42.40.020; ~~((and))~~

(12) The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates; and

(13) The global positioning system data that would indicate the location of the residence of an employee or worker of a criminal justice agency as defined in RCW 10.97.030.

Passed by the Senate March 5, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 92

[Substitute Senate Bill 5518]

HIGHER EDUCATION--CAMPUS SEXUAL VIOLENCE

AN ACT Relating to campus sexual violence; amending RCW 28B.110.030; adding a new chapter to Title 28B RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. Sec. 1. The legislature finds that the issue of campus sexual violence is a serious issue for many students as well as poses a challenge to all of our institutions of higher education. Several high profile cases in recent years garnered national attention, with more than ninety colleges and universities nationwide currently under investigation by the United States department of education's office for civil rights for violation of Title IX relating to how they have handled sexual violence cases.

In 2014, the White House convened a task force designed to protect students from sexual assault. The task force has recommended that schools conduct campus climate assessments and provided a sample memorandum of understanding for institutions to enter into with local law enforcement.

At the same time, the federal government and several states have moved forward to address campus sexual violence policies regarding prevention, investigation, and disciplinary action. These actions include the statewide adoption of policies at the public four-year universities in New York and all schools receiving state financial aid in California. It also includes new requirements included in the federal violence against women act amendments to the Clery act, 20 U.S.C. Sec. 1092(f).

The legislature further finds the state's public two and four-year institutions of higher education are taking steps to improve their institutional policies around campus sexual violence, including being represented at a statewide conference held in October 2014.

In order to complement federal policy and ensure the safety of all our students, the legislature finds it necessary to establish minimum standards for all institutions pertaining to campus sexual violence policies and procedures and encourages institutions of higher education to share with all students and current employees, especially survivors of sexual violence, the protections, resources, and services available to them if they are a victim of sexual assault, domestic violence, dating violence, or stalking. Institutions should endeavor to prevent retaliation and prevent the student from having to undergo unnecessary or duplicative retellings of the incident.

NEW SECTION. Sec. 2. All institutions of higher education shall refrain from establishing a different disciplinary process on the same campus for a matter of sexual violence, based on the status or characteristics of the student involved in that disciplinary proceeding, including characteristics such as a student's membership on an athletic team, membership in a fraternity or sorority, academic year, or any other characteristics or status of a student.

NEW SECTION. Sec. 3. (1) Institutions of higher education shall make information available on an annual basis to all current and prospective students and employees regarding the institution's policy and procedures, the responsible employee to receive complaints, and compliance with campus sexual violence confidentiality and reporting requirements set forth in 34 C.F.R. Sec. 668.46(b)(11)(iii).

(2) Institutions of higher education shall make the resources in subsection (1) of this section and other information and support available on a confidential basis to all campus sexual assault survivors, regardless of whether the survivor chooses to proceed with a formal report of sexual assault.

NEW SECTION. Sec. 4. (1)(a) The four-year institutions of higher education as defined in RCW 28B.10.016 shall conduct a campus climate assessment to gauge the prevalence of sexual assault on their campuses.

(b) The state board for community and technical colleges shall conduct a uniform campus climate assessment of community and technical colleges to gauge the prevalence of sexual assault on community and technical college campuses.

(c) The assessment in this section should include, but is not limited to:

(i) The prevalence of sexual assault, domestic violence, dating violence, and stalking on and off campus;

(ii) Student and employee knowledge of:

(A) Their institution's Title IX coordinator's role;

(B) Campus policies and procedures addressing sexual assault and violence;

(C) Options for reporting sexual violence as a survivor or witness; and

(D) The availability of resources on and off campus, such as counseling, health, and academic assistance;

(iii) Student and employee bystander attitudes and behavior;

(iv) Whether survivors reported to the institutions, law enforcement, or both, whether campus police or a local law enforcement agency, and reasons why they did or did not report; or

(v) An evaluation of student and employee attitudes and awareness of the campus sexual violence issue and any recommendations for better addressing and preventing sexual violence on and off campus.

(2) Findings shall include an evaluation of student and employee attitudes and awareness of campus sexual violence issues and, if needed, should provide recommendations for making improvements in addressing and preventing sexual violence on and off campus.

(3) The four-year institutions of higher education and the state board for community and technical colleges shall report their findings to the governor and the higher education committees of the legislature by December 31, 2016. The report must also include a plan or proposal to undertake a statewide public awareness campaign on campus sexual violence.

(4) An assessment conducted to comply with new federal requirements pertaining to campus climate assessments fulfills the requirements in this section.

(5) This section expires July 1, 2017.

NEW SECTION. Sec. 5. (1) The state board for community and technical colleges, the council of presidents, and independent colleges of Washington shall

submit reports to the governor and the legislature's higher education committees by July 1, 2016, on steps taken by their institutions to enter into memoranda of understanding with local law enforcement that set forth each party's respective roles and responsibilities related to the prevention and response to sexual assault.

(2) This section expires December 31, 2016.

Sec. 6. RCW 28B.110.030 and 2012 c 229 s 566 are each amended to read as follows:

In consultation with institutions of higher education, the student achievement council shall develop rules and guidelines to eliminate possible gender discrimination to students, including sexual harassment, at institutions of higher education as defined in RCW 28B.10.016. The rules and guidelines shall include but not be limited to access to academic programs, student employment, counseling and guidance services, financial aid, recreational activities including club sports, and intercollegiate athletics.

(1) With respect to higher education student employment, all institutions shall be required to:

(a) Make no differentiation in pay scales on the basis of gender;

(b) Assign duties without regard to gender except where there is a bona fide occupational qualification as approved by the Washington human rights commission;

(c) Provide the same opportunities for advancement to males and females; and

(d) Make no difference in the conditions of employment on the basis of gender in areas including, but not limited to, hiring practices, leaves of absence, and hours of employment.

(2) With respect to admission standards, admissions to academic programs shall be made without regard to gender.

(3) Counseling and guidance services for students shall be made available to all students without regard to gender. All academic and counseling personnel shall be required to stress access to all career and vocational opportunities to students without regard to gender.

(4) All academic programs shall be available to students without regard to gender.

(5) With respect to recreational activities, recreational activities shall be offered to meet the interests of students. Institutions which provide the following shall do so with no disparities based on gender: Equipment and supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for recreational purposes shall provide comparable facilities for both males and females.

(6) With respect to financial aid, financial aid shall be equitably awarded by type of aid, with no disparities based on gender.

(7) With respect to intercollegiate athletics, institutions that provide the following shall do so with no disparities based on gender:

(a) Benefits and services including, but not limited to, equipment and supplies; medical services; services and insurance; transportation and per diem

allowances; opportunities to receive coaching and instruction; scholarships and other forms of financial aid; conditioning programs; laundry services; assignment of game officials; opportunities for competition, publicity, and awards; and scheduling of games and practice times, including use of courts, gyms, and pools. Each institution which provides showers, toilets, lockers, or training room facilities for athletic purposes shall provide comparable facilities for both males and females.

(b) Opportunities to participate in intercollegiate athletics. Institutions shall provide equitable opportunities to male and female students.

(c) Male and female coaches and administrators. Institutions shall attempt to provide some coaches and administrators of each gender to act as role models for male and female athletes.

(8) Each institution shall develop and distribute policies and procedures for handling complaints of sexual harassment and sexual violence. Institutional sexual violence policies should include, but are not limited to, information about the institution's Title IX compliance officer or other individuals at the institution responsible for handling sexual violence violations and potential criminal conduct. Institutions shall annually distribute these policies and procedures in writing or electronically to all students and employees.

NEW SECTION. Sec. 7. Sections 1 through 3 of this act constitute a new chapter in Title 28B RCW.

Passed by the Senate March 4, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 93

[Substitute Senate Bill 5591]

EMERGENCY MEDICAL SERVICES--COMMUNITY ASSISTANCE REFERRAL AND EDUCATION SERVICES PROGRAMS

AN ACT Relating to allowing emergency medical services to develop community assistance referral and education services programs; amending RCW 35.21.930, 18.71.200, 18.71.205, and 18.71.210; and reenacting and amending RCW 18.73.030.

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

Sec. 1. RCW 35.21.930 and 2013 c 247 s 1 are each amended to read as follows:

(1) Any fire department may develop a community assistance referral and education services program to provide community outreach and assistance to residents of its ~~((district))~~ jurisdiction in order to improve population health and advance injury and illness prevention within its community. The program should identify members of the community who use the 911 system or emergency department for low acuity assistance calls (calls that are nonemergency or nonurgent) and connect them to their primary care providers, other health care professionals, lowcost medication programs, and other social services. The program may partner with hospitals to reduce readmissions. The program may also provide ~~((a fire department-based.))~~ nonemergency contact information in order to provide an alternative resource to the 911 system. The program may hire

or contract with health care professionals as needed to provide these services, including emergency medical technicians certified under chapter 18.73 RCW and advanced emergency medical technicians and paramedics certified under chapter 18.71 RCW. The services provided by emergency medical technicians, advanced emergency medical technicians, and paramedics must be under the responsible supervision and direction of an approved medical program director. Nothing in this section authorizes an emergency medical technician, advanced emergency medical technician, or paramedic to perform medical procedures they are not trained and certified to perform.

(2) A participating fire department may seek grant opportunities and private gifts in order to support its community assistance referral and education services program.

(3) In developing a community assistance referral and education services program, a fire department may consult with the health ~~((care personnel shortage task force))~~ workforce council to identify health care professionals capable of working in a nontraditional setting and providing assistance, referral, and education services.

(4) Community assistance referral and education services programs implemented under this section must, at least annually, measure any reduction of repeated use of the 911 emergency system and any reduction in avoidable emergency room trips attributable to implementation of the program. Results of findings under this subsection must be reportable to the legislature or other local governments upon request. Findings should include estimated amounts of medicaid dollars that would have been spent on emergency room visits had the program not been in existence.

(5) For purposes of this section, "fire department" includes city and town fire departments, fire protection districts organized under Title 52 RCW, ~~((and))~~ regional fire ~~((protection service))~~ protection service authorities organized under chapter 52.26 RCW, providers of emergency medical services that levy a tax under RCW 84.52.069, and federally recognized Indian tribes.

Sec. 2. RCW 18.71.200 and 1995 c 65 s 2 are each amended to read as follows:

As used in this chapter, a "physician's trained advanced emergency medical ~~((service intermediate life support))~~ technician and paramedic" means a person who:

(1) Has successfully completed an emergency medical technician course as described in chapter 18.73 RCW;

(2) Is trained under the supervision of an approved medical program director according to training standards prescribed in rule to perform specific phases of advanced cardiac and trauma life support under written or oral authorization of an approved licensed physician; and

(3) Has been examined and certified as a physician's trained advanced emergency medical ~~((service intermediate life support))~~ technician and paramedic, by level, by the University of Washington's school of medicine or the department of health.

Sec. 3. RCW 18.71.205 and 2010 1st sp.s. c 7 s 24 are each amended to read as follows:

(1) The secretary of the department of health shall prescribe:

(a) Practice parameters, training standards for, and levels of, physician's trained advanced emergency medical (~~(service intermediate life support)~~) technicians and paramedics;

(b) Minimum standards and performance requirements for the certification and recertification of physician's trained advanced emergency medical (~~(service intermediate life support)~~) technicians and paramedics; and

(c) Procedures for certification, recertification, and decertification of physician's trained advanced emergency medical (~~(service intermediate life support)~~) technicians and paramedics.

(2) Initial certification shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(3) Recertification shall be granted upon proof of continuing satisfactory performance and education, and shall be for a period established by the secretary pursuant to RCW 43.70.250 and 43.70.280.

(4) As used in this chapter(~~(s-18.71)~~) and chapter 18.73 RCW, "approved medical program director" means a person who:

(a) Is licensed to practice medicine and surgery pursuant to this chapter (~~(18.71 RCW)~~) or osteopathic medicine and surgery pursuant to chapter 18.57 RCW; and

(b) Is qualified and knowledgeable in the administration and management of emergency care and services; and

(c) Is so certified by the department of health for a county, group of counties, or cities with populations over four hundred thousand in coordination with the recommendations of the local medical community and local emergency medical services and trauma care council.

(5) The uniform disciplinary act, chapter 18.130 RCW, governs uncertified practice, the issuance and denial of certificates, and the disciplining of certificate holders under this section. The secretary shall be the disciplining authority under this section. Disciplinary action shall be initiated against a person credentialed under this chapter in a manner consistent with the responsibilities and duties of the medical program director under whom such person is responsible.

(6) Such activities of physician's trained advanced emergency medical (~~(service intermediate life support)~~) technicians and paramedics shall be limited to actions taken under the express written or oral order of medical program directors and shall not be construed at any time to include freestanding or nondirected actions, for actions not presenting an emergency or life-threatening condition, except nonemergency activities performed pursuant to subsection (7) of this section.

(7) Nothing in this section prohibits a physician's trained advanced emergency medical technician or paramedic, acting under the responsible supervision and direction of an approved medical program director, from participating in a community assistance referral and education services program established under RCW 35.21.930 if such participation does not exceed the participant's training and certification.

Sec. 4. RCW 18.71.210 and 1997 c 275 s 1 are each amended to read as follows:

No act or omission of any physician's trained advanced emergency medical (~~(service intermediate life support)~~) technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as

defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

(1) The physician's trained advanced emergency medical (~~(service intermediate life support)~~) technician and paramedic, emergency medical technician, or first responder;

(2) The medical program director;

(3) The supervising physician(s);

(4) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

(5) Any training agency or training physician(s);

(6) Any licensed ambulance service; or

(7) Any federal, state, county, city, or other local governmental unit or employees of such a governmental unit.

This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical expertise of the physician's trained advanced emergency medical (~~(service intermediate life support)~~) technician and paramedic, emergency medical technician, or first responder, as the case may be.

This section shall apply also to emergency medical technicians, advanced emergency medical technicians, paramedics, and medical program directors participating in a community assistance referral and education services program established under RCW 35.21.930.

This section shall apply also, as to the entities and personnel described in subsections (1) through (7) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency medical service personnel for certification or recertification pursuant to this chapter.

This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct.

Sec. 5. RCW 18.73.030 and 2010 1st sp.s. c 7 s 25 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advanced life support" means invasive emergency medical services requiring advanced medical treatment skills as defined by chapter 18.71 RCW.

(2) "Aid service" means an organization that operates one or more aid vehicles.

(3) "Aid vehicle" means a vehicle used to carry aid equipment and individuals trained in first aid or emergency medical procedure.

(4) "Ambulance" means a ground or air vehicle designed and used to transport the ill and injured and to provide personnel, facilities, and equipment to treat patients before and during transportation.

(5) "Ambulance service" means an organization that operates one or more ambulances.

(6) "Basic life support" means noninvasive emergency medical services requiring basic medical treatment skills as defined in chapter 18.73 RCW.

(7) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(8) "Council" means the local or regional emergency medical services and trauma care council as authorized under chapter 70.168 RCW.

(9) "Department" means the department of health.

(10) "Emergency medical service" means medical treatment and care which may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(11) "Emergency medical services medical program director" means a person who is an approved medical program director as defined by RCW 18.71.205(4).

(12) "Emergency medical technician" means a person who is authorized by the secretary to render emergency medical care pursuant to RCW 18.73.081 or, under the responsible supervision and direction of an approved medical program director, to participate in a community assistance referral and education services program established under RCW 35.21.930 if the participation does not exceed the participant's training and certification.

(13) "First responder" means a person who is authorized by the secretary to render emergency medical care as defined by RCW 18.73.081.

(14) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with the local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with statewide minimum standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility to first receive the patient, and the name and location of other trauma care facilities to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures in chapter 70.170 RCW.

(15) "Prehospital patient care protocols" means the written procedure adopted by the emergency medical services medical program director which direct the out-of-hospital emergency care of the emergency patient which includes the trauma care patient. These procedures shall be based upon the assessment of the patient's medical needs and what treatment will be provided for emergency conditions. The protocols shall meet or exceed statewide minimum standards developed by the department in rule as authorized in chapter 70.168 RCW.

(16) "Secretary" means the secretary of the department of health.

(17) "Stretcher" means a cart designed to serve as a litter for the transportation of a patient in a prone or supine position as is commonly used in the ambulance industry, such as wheeled stretchers, portable stretchers, stair chairs, solid backboards, scoop stretchers, basket stretchers, or flexible stretchers. The term does not include personal mobility aids that recline at an

angle or remain at a flat position, that are owned or leased for a period of at least one week by the individual using the equipment or the individual's guardian or representative, such as wheelchairs, personal gurneys, or banana carts.

Passed by the Senate March 3, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 94

[Senate Bill 5662]

BREWERIES--PROMOTIONAL ITEMS--NONPROFIT CHARITIES

AN ACT Relating to providing promotional items to a nonprofit charitable corporation or association; and amending RCW 66.28.310.

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

Sec. 1. RCW 66.28.310 and 2014 c 92 s 5 are each amended to read as follows:

(1)(a) Nothing in RCW 66.28.305 prohibits an industry member from providing retailers branded promotional items which are of nominal value, singly or in the aggregate. Such items include but are not limited to: Trays, lighters, blotters, postcards, pencils, coasters, menu cards, meal checks, napkins, clocks, mugs, glasses, bottles or can openers, corkscrews, matches, printed recipes, shirts, hats, visors, and other similar items. Branded promotional items:

(i) Must be used exclusively by the retailer or its employees in a manner consistent with its license;

(ii) Must bear imprinted advertising matter of the industry member only, except imprinted advertising matter of the industry member can include the logo of a professional sports team which the industry member is licensed to use;

(iii) May be provided by industry members only to retailers and their employees and may not be provided by or through retailers or their employees to retail customers; and

(iv) May not be targeted to or appeal principally to youth.

(b) An industry member is not obligated to provide any such branded promotional items, and a retailer may not require an industry member to provide such branded promotional items as a condition for selling any alcohol to the retailer.

(c) Any industry member or retailer or any other person asserting that the provision of branded promotional items as allowed in (a) of this subsection has resulted or is more likely than not to result in undue influence or an adverse impact on public health and safety, or is otherwise inconsistent with the criteria in (a) of this subsection may file a complaint with the board. Upon receipt of a complaint the board may conduct such investigation as it deems appropriate in the circumstances. If the investigation reveals the provision of branded promotional items has resulted in or is more likely than not to result in undue influence or has resulted or is more likely than not to result in an adverse impact on public health and safety or is otherwise inconsistent with (a) of this subsection the board may issue an administrative violation notice to the industry

member, to the retailer, or both. The recipient of the administrative violation notice may request a hearing under chapter 34.05 RCW.

(2) Nothing in RCW 66.28.305 prohibits:

(a) An industry member from providing to a special occasion licensee and a special occasion licensee from receiving services for:

(i) Installation of draft beer dispensing equipment or advertising;

(ii) Advertising, pouring, or dispensing of beer or wine at a beer or wine tasting exhibition or judging event; or

(iii) Pouring or dispensing of spirits by a licensed domestic distiller or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor licensed under RCW 66.24.310; or

(b) Special occasion licensees from paying for beer, wine, or spirits immediately following the end of the special occasion event; or

(c) Wineries, breweries, or distilleries that are participating in a special occasion event from paying reasonable booth fees to the special occasion licensee.

(3) Nothing in RCW 66.28.305 prohibits industry members from performing, and retailers from accepting the service of building, rotating, and restocking displays and stockroom inventories; rotating and rearranging can and bottle displays of their own products; providing point of sale material and brand signs; pricing case goods of their own brands; and performing such similar business services consistent with board rules, or personal services as described in subsection (5) of this section.

(4) Nothing in RCW 66.28.305 prohibits:

(a) Industry members from listing on their internet web sites information related to retailers who sell or promote their products, including direct links to the retailers' internet web sites; and

(b) Retailers from listing on their internet web sites information related to industry members whose products those retailers sell or promote, including direct links to the industry members' web sites; or

(c) Industry members and retailers from producing, jointly or together with regional, state, or local industry associations, brochures and materials promoting tourism in Washington state which contain information regarding retail licensees, industry members, and their products.

(5) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic winery or certificate of approval holder to retailers when the personal services are (a) conducted at a licensed premises, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities at the premises of a retailer holding a spirits, beer, and wine restaurant license, a wine and/or beer restaurant license, a specialty wine shop license, a special occasion license, a grocery store license with a tasting endorsement, or a private club license. A domestic winery or certificate of approval holder is not obligated to perform any such personal services, and a retail licensee may not require a domestic winery or certificate of approval holder to conduct any personal service as a condition for selling any alcohol to the retail licensee, or as a condition for including any product of the domestic winery or certificate of approval holder in any tasting

conducted by the licensee. Except as provided in RCW 66.28.150, the cost of sampling may not be borne, directly or indirectly, by any domestic winery or certificate of approval holder or any distributor. Nothing in this section prohibits wineries, breweries, microbreweries, certificate of approval holders, and retail licensees from identifying the producers on private labels authorized under RCW 66.24.400, 66.24.425, 66.24.450, 66.24.360, and 66.24.371.

(6) Nothing in RCW 66.28.305 prohibits an industry member from entering into an arrangement with any holder of a sports entertainment facility license or an affiliated business for brand advertising at the licensed facility or promoting events held at the sports entertainment facility as authorized under RCW 66.24.570.

(7) Nothing in RCW 66.28.305 prohibits the performance of personal services offered from time to time by a domestic brewery, microbrewery, or beer certificate of approval holder to grocery store licensees with a tasting endorsement when the personal services are (a) conducted at a licensed premises in conjunction with a tasting event, and (b) intended to inform, educate, or enhance customers' knowledge or experience of the manufacturer's products. The performance of personal services may include participation and pouring, bottle signing events, and other similar informational or educational activities. A domestic brewery, microbrewery, or beer certificate of approval holder is not obligated to perform any such personal services, and a grocery store licensee may not require the performance of any personal service as a condition for including any product in any tasting conducted by the licensee.

(8) Nothing in RCW 66.28.305 prohibits an arrangement between a domestic winery and a restaurant licensed under RCW 66.24.320 or 66.24.400 to waive a corkage fee.

(9) Nothing in this section prohibits professional sports teams who hold a retail liquor license or their agents from accepting bona fide liquor advertising from manufacturers, importers, distributors, or their agents for use in the sporting arena. Professional sports teams who hold a retail liquor license or their agents may license the manufacturer, importer, distributor, or their agents to use the name and trademarks of the professional sports team in their advertising and promotions, under the following conditions:

(a) Such advertising must be paid for by said manufacturer, importer, distributor, or their agent at the published advertising rate or at a reasonable fair market value.

(b) Such advertising may carry with it no express or implied offer on the part of the manufacturer, importer, distributor, or their agent, or promise on the part of the retail licensee whose operation is directly or indirectly part of the sporting arena, to stock or list any particular brand of liquor to the total or partial exclusion of any other brand.

(10) Nothing in RCW 66.28.305 prohibits a licensed domestic brewery or microbrewery from providing branded promotional items which are of nominal value, singly or in the aggregate, to a nonprofit charitable corporation or association exempt from taxation under 26 U.S.C. Sec. 501(c)(3) of the internal revenue code as it existed on the effective date of this section for use consistent with the purpose or purposes entitling it to such exemption.

Passed by the Senate March 6, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 24, 2015.
Filed in Office of Secretary of State April 25, 2015.

CHAPTER 95

[Senate Bill 5768]

COUNTIES--ELECTRONIC PUBLIC AUCTIONS

AN ACT Relating to county electronic public auctions; amending RCW 36.34.060, 36.34.080, 36.34.090, 36.35.120, 84.56.070, 84.56.090, 84.64.005, 84.64.080, and 84.64.200; reenacting and amending RCW 36.16.140; adding a new section to chapter 36.16 RCW; adding a new section to chapter 84.64 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature intends to grant counties in Washington clear authority to conduct public auctions via the internet, potentially reducing sale costs and enabling more bidders to participate.

Sec. 2. RCW 36.16.140 and 1991 c 363 s 50 and 1991 c 245 s 3 are each reenacted and amended to read as follows:

Public auction sales of property conducted by or for the county (~~shall~~) must be held at such places as the county legislative authority may direct. A county may conduct a public auction sale by electronic media pursuant to section 3 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 36.16 RCW to read as follows:

(1) A county treasurer may conduct a public auction sale by electronic media.

(2) In a public auction sale by electronic media, the county treasurer may:

(a) Require persons to provide a deposit to participate;

(b) Accept bids for as long as the treasurer deems necessary; and

(c) Require electronic funds transfers to pay any deposits and a winning bid.

(3) At least fourteen days prior to the beginning of a public auction sale by electronic media, the county treasurer must:

(a) Publish notice of the sale once a week during two successive weeks in a newspaper of general circulation in the county; and

(b) Post notice of the sale in a conspicuous place in the county courthouse and on the county's internet web site.

(4) A deposit paid by a winning bidder in a public auction sale by electronic media must be applied to the balance due. If a winning bidder does not comply with the terms of the sale, the winning bidder's deposit will be forfeited and credited to the county treasurer's operations and maintenance fund. Deposits paid by nonwinning bidders must be refunded within ten business days of the close of the sale.

(5) All property sold at a public auction sale by electronic media is offered and sold as is.

(6) In a public auction sale by electronic media, a county treasurer is not liable for:

(a) Known or unknown conditions of the property, including but not limited to errors in the assessor's records; or

(b) Failure of an electronic device not owned, operated, or managed by the county that prevents a person from participating in the sale.

(7) For purposes of this section:

(a) "Electronic funds transfer" has the same meaning as provided in RCW 82.32.085.

(b) "Internet" has the same meaning as provided in RCW 19.270.010.

(c) "Public auction sale by electronic media" means a transaction conducted via the internet that includes invitations for bids to purchase property submitted by an auctioneer and bids to purchase property submitted by sale participants, culminating in an auctioneer's acceptance of the highest or most favorable bid. Invitations and bids are submitted through an electronic device, including but not limited to a computer.

Sec. 4. RCW 36.34.060 and 1963 c 4 s 36.34.060 are each amended to read as follows:

Sales of personal property must be for cash except when:

(1) ~~((When))~~ A public auction sale by electronic media is conducted pursuant to section 3 of this act:

(2) Property is transferred to a governmental agency; or

~~((2) When))~~ (3) The county property is to be traded in on the purchase of a like article, in which case the proposed cash allowance for the trade-in must be part of the proposition to be submitted by the seller in the transaction.

Sec. 5. RCW 36.34.080 and 1993 c 8 s 1 are each amended to read as follows:

(1) All sales of county property ordered after a public hearing upon the proposal to dispose ((thereof)) of the property must be supervised by the county treasurer and may be sold;

(a) At a county or other government agency's public auction, including a public auction sale by electronic media conducted pursuant to section 3 of this act;

(b) At a privately operated consignment auction that is open to the public((:)); or

(c) By sealed bid to the highest and best bidder ((meeting or exceeding));

(2) All sales of county property must meet or exceed the minimum sale price as directed by the county legislative authority.

Sec. 6. RCW 36.34.090 and 1997 c 393 s 5 are each amended to read as follows:

(1) Whenever county property is to be sold at public auction, consignment auction, or sealed bid, the county treasurer or the county treasurer's designee ((shall)) must:

(a) Publish notice ((thereof)) of the sale once during each of two successive calendar weeks in a newspaper of general circulation in the county((--Notice thereof must also be posted in a conspicuous place in the courthouse.));

(b) Post notice of the sale in a conspicuous place in the county courthouse; and

(c) If a public auction sale by electronic media will be conducted pursuant to section 3 of this act, post notice of the sale on the county's internet web site.

(2) The posting and date of first publication must be at least ten days before the day fixed for the sale.

Sec. 7. RCW 36.35.120 and 2001 c 299 s 10 are each amended to read as follows:

(1) Real property acquired by any county of this state by foreclosure of delinquent taxes may be sold by order of the county legislative authority (~~(of the county)~~) when in the judgment of the county legislative authority it is deemed in the county's best interests (~~(of the county)~~) to sell the real property.

(2) When the county legislative authority desires to sell any such property it may, if deemed advantageous to the county, combine any or all of the several lots and tracts of (~~such~~) the property in one or more units, and (~~may~~) reserve from sale coal, oil, gas, gravel, minerals, ores, fossils, timber, or other resources on or in the lands, and the right to mine for and remove the same(~~, and it shall~~). It must then enter an order on its records fixing the unit or units in which the property (~~shall~~) will be sold (~~and~~), the minimum price for each of (~~such~~) the units, and whether the sale will be for cash or whether a contract will be offered, and reserving from sale (~~such of~~) the resources as it may determine and from which units (~~such~~) the reservations (~~shall~~) will apply, and directing the county treasurer to sell (~~such~~) the property in the unit or units and at not less than the price or prices and subject to (~~such~~) the reservations so fixed by the county legislative authority. The order (~~shall be~~) is subject to the approval of the county treasurer if several lots or tracts of land are combined in one unit.

(3) Except in cases where the sale is to be by direct negotiation as provided in RCW 36.35.150, (~~it shall be the duty of~~) the county treasurer must, upon receipt of (~~such~~) the order (~~to~~), publish once a week for three consecutive weeks a notice of the sale of (~~such~~) the property in a newspaper of general circulation in the county where the land is situated. The notice (~~shall~~) must describe the property to be sold, the unit or units, the reservations, and the minimum price fixed in the order, together with the time and place and terms of sale, in the same manner as foreclosure sales as provided by RCW 84.64.080. If a public auction sale by electronic media is conducted pursuant to section 3 of this act, notice must conform to requirements for a public auction sale by electronic media.

(4) The person making the bid (~~shall~~) must state whether he or she will pay cash for the amount of his or her bid or accept a real estate contract of purchase in accordance with the provisions hereinafter contained. If a public auction sale by electronic media is conducted pursuant to section 3 of this act, the county may require payment by electronic funds transfer.

(5) The person making the highest bid (~~shall~~) will become the purchaser of the property. If the highest bidder is a contract bidder the purchaser (~~shall be required to~~) must pay thirty percent of the total purchase price at the time of the sale and (~~shall~~) enter into a contract with the county as vendor and the purchaser as vendee (~~which shall~~). The contract must obligate and require the purchaser to pay the balance of the purchase price in ten equal annual installments commencing November 1st and each year following the date of the sale, and (~~shall~~) require the purchaser to pay twelve percent interest on all deferred payments, interest to be paid at the time the annual installment is due(~~; and~~). The contract may contain a provision authorizing the purchaser to make payment in full at any time of any balance due on the total purchase price plus accrued interest on (~~such~~) the balance. The contract (~~shall~~) must contain a provision requiring the purchaser to pay before delinquency all subsequent taxes

and assessments that may be levied or assessed against the property subsequent to the date of the contract(~~(; and shall)~~). The contract must contain a provision that time is of the essence of the contract, and that in the event of a failure of the vendee to make payments at the time and in the manner required and to keep and perform the covenants and conditions therein required of him or her (~~(that)~~), the contract may be forfeited and terminated at the election of the vendor, and that in event of the election all sums theretofore paid by the vendee (~~(shall)~~) will be forfeited as liquidated damages for failure to comply with the provisions of the contract(~~(; and shall)~~). The contract must also require the vendor to execute and deliver to the vendee a deed of conveyance covering the property upon the payment in full of the purchase price, plus accrued interest.

(6) The county legislative authority may, by order entered in its records, direct that the coal, oil, gas, gravel, minerals, ores, timber, or other resources be sold apart from the land, such sale to be conducted in the manner hereinabove prescribed for the sale of the land. Any such reserved minerals or resources not exceeding two hundred dollars in value may be sold, when the county legislative authority deems it advisable, either with or without such publication of the notice of sale, and in such manner as the county legislative authority may determine will be most beneficial to the county.

Sec. 8. RCW 84.56.070 and 2013 c 239 s 4 are each amended to read as follows:

(1) The county treasurer must proceed to collect all personal property taxes after first completing the tax roll for the current year's collection.

(2) The treasurer must give notice by mail to all persons charged with personal property taxes, and if (~~(such)~~) the taxes are not paid before they become delinquent, the treasurer must commence delinquent collection efforts. A delinquent collection charge for costs incurred by the treasurer may be added to the account.

(3) In the event that the treasurer is unable to collect the taxes when due under this section, the treasurer must prepare papers in distraint(~~(; which)~~). The papers must contain a description of the personal property, the amount of taxes, the amount of the accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner.

(a) The treasurer must without demand or notice distraint sufficient goods and chattels belonging to the person charged with (~~(such)~~) the taxes to pay the same, with interest at the rate provided by law from the date of delinquency, together with all accruing costs(~~(; and)~~). The treasurer must proceed to advertise the (~~(same)~~) distraint by posting written notices in three public places in the county in which (~~(such)~~) the property has been distrained, (~~(one of which places must be at)~~) including the county courthouse(~~(; such)~~). The notice (~~(to)~~) must state the time when and place where (~~(such)~~) the property will be sold.

(b) The county treasurer, or the treasurer's deputy, must tax the same fees for making the distraint and sale of goods and chattels for the payment of taxes as are allowed by law to sheriffs for making levy and sale of property on execution(~~(;)~~). Traveling fees (~~(to)~~) must be computed from the county seat of the county to the place of making distraint.

(c) If the taxes for which (~~(such)~~) the property is distrained, and the interest and costs accruing thereon, are not paid before the date appointed for (~~(such)~~) the sale, which may not be less than ten days after the taking of (~~(such)~~) the

property, ~~((such))~~ the treasurer or treasurer's designee must proceed to sell ~~((such))~~ the property at public auction, or so much thereof as is sufficient to pay ~~((such))~~ the taxes, with interest and costs~~((and))~~. If there ((be)) is any excess of money arising from the sale of any personal property, the treasurer must pay ((such)) the excess less any cost of the auction to the owner of the property so sold or to his or her legal representative.

(d) If necessary to distraint any standing timber owned separately from the ownership of the land upon which the same may stand, or any fish trap, pound net, reef net, set net, or drag seine fishing location, or any other personal property as the treasurer determines to be incapable or reasonably impracticable of manual delivery, it is deemed to have been distrained and taken into possession when the treasurer has, at least thirty days before the date fixed for the sale thereof, filed with the auditor of the county wherein ~~((such))~~ the property is located a notice in writing reciting that the treasurer has distrained ~~((such))~~ the property~~((describing it, giving))~~. The notice must describe the property, give the name of the owner or reputed owner, the amount of the tax due, with interest, and the time and place of sale. A copy of the notice must also be sent to the owner or reputed owner at his or her last known address, by registered letter at least thirty days prior to the date of sale.

(e) If the county treasurer has reasonable grounds to believe that any personal property, including mobile homes, manufactured homes, or park model trailers, upon which taxes have been levied, but not paid, is about to be removed from the county where the ~~((same))~~ property has been assessed, or is about to be destroyed, sold, or disposed of, the county treasurer may demand ~~((such))~~ the taxes, without the notice provided for in this section, and if necessary ~~((may))~~ distraint sufficient goods and chattels to pay the same.

(4) As an alternative to the sale procedure specified in this section, the county treasurer may conduct a public auction sale by electronic media pursuant to section 3 of this act.

Sec. 9. RCW 84.56.090 and 2013 c 23 s 369 are each amended to read as follows:

(1) Whenever in the judgment of the assessor or the county treasurer personal property is being removed or is about to be removed ~~((without the limits of))~~ from the state, or is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the treasurer ~~((shall))~~ must immediately prepare papers in distraint~~((, which shall))~~. The papers must contain a description of the personal property, including mobile homes, manufactured homes, or park model trailers, being or about to be removed, dissipated, sold, disposed of, or removed from the county so as to jeopardize collection of taxes, the amount of the tax, the amount of accrued interest at the rate provided by law from the date of delinquency, and the name of the owner or reputed owner~~((, and he or she shall))~~. The treasurer must, without demand or notice, distraint sufficient goods and chattels belonging to the person charged with ~~((such))~~ the taxes to pay the ~~((same))~~ taxes with interest at the rate provided by law from the date of delinquency, together with all accruing costs~~((, and shall))~~. The treasurer must advertise and sell ~~((said))~~ the property as provided in RCW 84.56.070 or subsection (4) of this section.

(2) If ~~((said))~~ the personal property is being removed or is about to be removed from the ~~((limits of the))~~ state, is being dissipated or about to be dissipated, or is being or about to be sold, disposed of, or removed from the county so as to jeopardize collection of taxes, at any time subsequent to the first day of January in any year, and prior to the levy of taxes thereon, the taxes upon ~~((such))~~ the property so distrained ~~((shall))~~ must be computed upon the rate of levy for state, county, and local purposes for the preceding year~~((, and))~~. All taxes collected in advance of levy under this section and RCW 84.56.120, together with the name of the owner and a brief description of the property assessed ~~((shall))~~, must be entered forthwith by the county treasurer upon the personal property tax rolls of such preceding year, and all collections thereon ~~((shall))~~ must be considered and treated in all respects, and without recourse by either the owner or any taxing unit, as collections for such preceding year. Property on which taxes are thus collected ~~((shall thereupon become))~~ are discharged from the lien of any taxes that may thereafter be levied in the year in which payment or collection is made.

(3) Whenever property has been removed from the county wherein it has been assessed, on which the taxes have not been paid, then the county treasurer, or ~~((his or her))~~ the treasurer's deputy, ~~((shall have))~~ has the same power to distraint and sell ~~((said))~~ the property for the satisfaction of ~~((said))~~ the taxes as he or she would have if ~~((said))~~ the property were situated in the county in which the property was taxed~~((, and))~~. In addition ~~((thereto said))~~, the treasurer, or ~~((his or her))~~ the treasurer's deputy, in the distraint and sale of property for the payment of taxes, ~~((shall have))~~ has the same powers ~~((as are now by law given to))~~ as the sheriff in making levy and sale of property on execution.

(4) As an alternative to the sale procedure specified in RCW 84.56.070, the county treasurer may conduct a public auction sale by electronic media pursuant to section 3 of this act.

Sec. 10. RCW 84.64.005 and 2013 c 221 s 11 are each amended to read as follows:

~~((Unless the context clearly requires otherwise, for purposes of this chapter.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Date of delinquency" means the date when taxes first became delinquent.

(2) "Electronic funds transfer" has the same meaning as provided in RCW 82.32.085.

(3) "Interest" means interest and penalties~~((, and))~~.

~~((2))~~ (4) "Taxes;" "taxes, interest, and costs;" and "taxes, interest, or costs" include any assessments and amounts deferred under chapters 84.37 and 84.38 RCW, where ~~((such))~~ the assessments and deferred amounts are included in a certificate of delinquency by the county treasurer.

NEW SECTION. Sec. 11. A new section is added to chapter 84.64 RCW to read as follows:

(1) In lieu of the sale procedure specified in RCW 84.56.070 or 84.64.080, the county treasurer may conduct a public auction sale by electronic media as provided in section 3 of this act.

(2) Notice of a public auction sale by electronic media must be substantially in the following form:

TAX JUDGMENT SALE BY ELECTRONIC MEDIA

Public notice is hereby given that pursuant to a tax judgment of the superior court of the county of in the state of Washington, and an order of sale duly issued by the court, entered the day of,, in proceedings for foreclosure of tax liens, I shall on the day of,, commencing at o'clock, at . . . [specify web site address], sell the property to the highest and best bidder to satisfy the full amount of taxes, interest, and costs adjudged to be due. Prospective bidders must deposit to participate in bidding. A deposit paid by a winning bidder will be applied to the balance due. However, a winning bidder who does not comply with the terms of sale will forfeit the deposit. Deposits paid by nonwinning bidders will be refunded within ten business days of the close of the sale. Payment of deposits and a winning bid must be made by electronic funds transfer.

In witness whereof, I have affixed my hand and seal this day of,

Treasurer of
county.

Sec. 12. RCW 84.64.080 and 2004 c 79 s 7 are each amended to read as follows:

(1) The court (~~shall~~) must examine each application for judgment foreclosing a tax lien, and if a defense (specifying in writing the particular cause of objection) (~~be~~) is offered by any person interested in any of the lands or lots to the entry of judgment (~~against the same~~), the court (~~shall~~) must hear and determine the matter in a summary manner, without other pleadings, and (~~shall~~) pronounce judgment (~~as the right of the case may be; or~~). However, the court may, in its discretion, continue (such individual cases, wherein defense is offered, to such time as may be necessary, in order to secure substantial justice to the contestants therein; but in all other cases the court shall proceed to determine the matter in a summary manner as above specified) a case in which a defense is offered, to secure substantial justice to the contestants.

(2) In all judicial proceedings (~~of any kind~~) for the collection of taxes, and interest and costs thereon, all amendments which by law can be made in any personal action (~~pending in such~~) in the court (~~shall~~) must be allowed (~~and~~). No assessments of property or charge for any of the taxes (~~shall be considered~~) is illegal on account of any irregularity in the tax list or assessment rolls, or on account of the assessment rolls or tax list not having been made, completed, or returned within the time required by law, or on account of the property having been charged or listed in the assessment or tax lists without name, or in any other name than that of the owner, and no error or informality in the proceedings of any of the officers connected with the assessment, levying or collection of the taxes, (~~shall~~) vitiates or in any manner affects the tax or the assessment (~~thereof, and~~) of the tax. Any irregularities or informality in the assessment rolls or tax lists or in any of the proceedings connected with the assessment or levy of (~~such~~) the taxes, or any omission or defective act of any officer (~~or officers~~) connected with the assessment or levying of (~~such~~) the

taxes, may be, in the discretion of the court, corrected, supplied, and made to conform to the law by the court.

(3) The court ~~((shall))~~ must give judgment for ~~((such))~~ the taxes, interest, and costs ~~((as shall))~~ that appear to be due upon the several lots or tracts described in the notice of application for judgment ~~((or complaint, and such))~~. The judgment ~~((shall))~~ must be a several judgment against each tract or lot or part of a tract or lot for each kind of tax included therein, including all interest and costs~~(, and)~~. The court ~~((shall))~~ must order and direct the clerk to make and enter an order for the sale of ~~((such))~~ the real property against which judgment is made, or vacate and set aside the certificate of delinquency, or make such other order or judgment as in ~~((the))~~ law or equity may be just. The order ~~((shall))~~ must be signed by the judge of the superior court~~((, shall be))~~ and delivered to the county treasurer~~((, and shall be))~~. The order is full and sufficient authority for ~~((him or her))~~ the treasurer to proceed to sell the property for the sum ~~((as))~~ set forth in the order and to take ~~((such))~~ further steps ~~((in the matter as are))~~ provided by law.

(4) The county treasurer ~~((shall))~~ must immediately after receiving the order and judgment ~~((of the court))~~ proceed to sell the property as provided in this chapter to the highest and best bidder ~~((for cash))~~. The acceptable minimum bid ~~((shall))~~ must be the total amount of taxes, interest, and costs.

(5) All sales ~~((shall))~~ must be made at a location in the county on a date and time (except Saturdays, Sundays, or legal holidays) as the county treasurer may direct, and ~~((shall))~~ continue from day to day (Saturdays, Sundays, and legal holidays excepted) during the same hours until all lots or tracts are sold~~((, after))~~. The county treasurer must first ~~((giving))~~ give notice of the time~~((,))~~ and place where ~~((such))~~ the sale is to take place for ten days successively by posting notice thereof in three public places in the county, one of which ~~((shall))~~ must be in the office of the treasurer. ~~((The notice shall))~~

(6) Unless a sale is conducted pursuant to section 11 of this act, notice of a sale must be substantially in the following form:

TAX JUDGMENT SALE

Public notice is hereby given that pursuant to real property tax judgment of the superior court of the county of in the state of Washington, and an order of sale duly issued by the court, entered the day of,, in proceedings for foreclosure of tax liens upon real property, as per provisions of law, I shall on the day of,, at . . . o'clock a.m., at in the city of, and county of, state of Washington, sell the real property to the highest and best bidder for cash, to satisfy the full amount of taxes, interest and costs adjudged to be due.

In witness whereof, I have hereunto affixed my hand and seal this day of,

Treasurer of county.

(7) As an alternative to the sale procedure specified in subsections (5) and (6) of this section, the county treasurer may conduct a public auction sale by electronic media pursuant to section 11 of this act.

(8) No county officer or employee ~~((shall))~~ may directly or indirectly be a purchaser of ~~((such))~~ the property at ~~((such))~~ the sale.

(9) If any buildings or improvements are upon an area encompassing more than one tract or lot, the same must be advertised and sold as a single unit.

(10) If the highest amount bid for any (~~such~~) separate unit tract or lot (~~is in excess of~~) exceeds the minimum bid due upon the whole property included in the certificate of delinquency, the excess (~~shall~~) must be refunded, following payment of all recorded water-sewer district liens, on application therefor, to the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. Assignments of interests, deeds, or other documents executed or recorded after filing the certificate of delinquency (~~shall~~) do not affect the payment of excess funds to the record owner. In the event that no claim for the excess is received by the county treasurer within three years after the date of the sale (~~he or she shall~~), the treasurer must at expiration of the three year period deposit (~~such~~) the excess in the current expense fund of the county, which (~~shall~~) extinguishes all claims by any owner to the excess funds.

(11) The county treasurer (~~shall~~) must execute to the purchaser of any piece or parcel of land a tax deed. The tax deed so made by the county treasurer, under the official seal of (~~his or her~~) the treasurer's office, (~~shall~~) must be recorded in the same manner as other conveyances of real property, and (~~shall~~) vests in the grantee, his or her heirs and assigns the title to the property therein described, without further acknowledgment or evidence of (~~such~~) the conveyance(~~, and shall~~).

(12) Tax deeds must be substantially in the following form:

State of Washington }
County of } ss.

This indenture, made this day of , , between , as treasurer of county, state of Washington, party of the first part, and , party of the second part:

Witnesseth, that, whereas, at a public sale of real property held on the day of , , pursuant to a real property tax judgment entered in the superior court in the county of on the day of , , in proceedings to foreclose tax liens upon real property and an order of sale duly issued by the court, duly purchased in compliance with the laws of the state of Washington, the following described real property, to wit: (Here place description of real property conveyed) and that the has complied with the laws of the state of Washington necessary to entitle (him, or her or them) to a deed for the real property.

Now, therefore, know ye, that, I , county treasurer of the county of , state of Washington, in consideration of the premises and by virtue of the statutes of the state of Washington, in such cases provided, do hereby grant and convey unto , his or her heirs and assigns, forever, the real property hereinbefore described.

Given under my hand and seal of office this day of , A.D.
.....
County Treasurer.

Sec. 13. RCW 84.64.200 and 2007 c 295 s 7 are each amended to read as follows:

~~((All lots, tracts and parcels of land upon which taxes levied prior to January 9, 1926 remain due and unpaid at the date when such taxes would have become delinquent as provided in the act under which they were levied shall be deemed to be delinquent under the provisions of this title, and the same proceedings may be had to enforce the payment of such unpaid taxes, with interest and costs, and payment enforced and liens foreclosed under and by virtue of the provisions of this chapter. For the purposes of foreclosure under this chapter, the date of delinquency shall be construed to mean the date when the taxes first became delinquent.))~~

(1) At all sales of property for which certificates of delinquency are held by the county, if no other bids are received, the county ~~((shall))~~ must be considered a bidder for the full area of each tract or lot to the amount of all taxes, interest, and costs due thereon, and where no bidder appears, acquire title in trust for the taxing districts as absolutely as if purchased by an individual under the provisions of this chapter~~((;))~~.

(2) All bidders except the county at sales of property for which certificates of delinquency are held by the county ~~((shall))~~ must pay the full amount of taxes, interest, and costs for which judgment is rendered, together with all taxes, interest, and costs which are delinquent at the time of sale, regardless of whether the taxes, interest, or costs are included in the judgment.

Passed by the Senate March 10, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 96

[Substitute Senate Bill 5795]

MUNICIPALITIES--ASSESSMENT REIMBURSEMENT AREAS--WATER OR SEWER FACILITIES

AN ACT Relating to authorizing municipalities to create assessment reimbursement areas for the construction or improvement of water or sewer facilities; and adding a new section to chapter 35.91 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 35.91 RCW to read as follows:

(1) As an alternative to the procedures provided in RCW 35.91.020 for financing the construction or improvement of water or sewer facilities, a municipality may create an assessment reimbursement area on its own initiative, without the participation of a private property owner, finance all of the costs associated with the construction or improvement, and become the sole beneficiary of reimbursements.

(a) A municipality may only establish an assessment reimbursement area in locations where a municipality's ordinances require water or sewer facilities to be improved or constructed as a prerequisite to further property development or redevelopment.

(b) The boundaries of an assessment reimbursement area must be formulated by the municipality based upon a determination of which parcels in the proposed area would require construction or improvement of water or sewer facilities upon development or redevelopment, or would be allowed connection to or usage of constructed or improved water or sewer facilities.

(c) A preliminary determination of the assessment reimbursement area boundaries and assessments, along with a description of property owners' rights and options, must be sent by certified mail to each owner of record of real property within the proposed assessment reimbursement area. Owners of property within the proposed area may request a public hearing by submitting a written request to the municipality within twenty days of the preliminary determination's mailing. If a written request is submitted, the legislative authority of the municipality must hold a public hearing on the assessment reimbursement area. Notice of the hearing must be provided to all affected property owners. Any rulings of the legislative authority of the municipality are determinative and final, subject to judicial review.

(d) The final determination of the assessment reimbursement area boundaries and assessments must be recorded in the county auditor's office of the county in which the area is situated.

(2) A municipality may be reimbursed in accordance with this section only for the costs associated with construction or improvements that benefit property that will be connected to, and property owners who will use, the water or sewer facilities within the assessment reimbursement area. Reimbursement may only occur when a property is developed or redeveloped in a manner requiring connection to or use of the water or sewer facilities, or when a property is requesting connection to or use of the water or sewer facilities. The reimbursement assessment may be no greater than a property's pro rata share of costs associated with construction of the water or sewer facilities required to meet utility service and fire suppression standards. The municipality must determine the reimbursement share of each property owner by using a method of cost apportionment that is based on the benefit to the property owner from the project and that is consistent with the method used to determine the cost and reimbursement share under RCW 35.91.020(1) (a) and (b). However, the municipality's administrative and legal costs are not subject to reimbursement. A municipality may not receive reimbursement of costs for the portion of construction or improvements that benefit the general public, which means that portion of the water or sewer facilities that only benefit property outside of the assessment reimbursement area.

(3) For the purposes of this section, administrative costs do not include engineering and construction management costs.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 97

[Substitute Senate Bill 5824]

RECREATIONAL GUIDES

AN ACT Relating to certain recreational guides; amending RCW 77.15.510, 77.65.010, 77.65.370, 77.65.440, 77.65.480, 77.65.500, and 77.65.560; and adding new sections to chapter 77.65 RCW.

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

Sec. 1. RCW 77.15.510 and 2009 c 333 s 10 are each amended to read as follows:

(1) A person is guilty of acting as a game fish guide, food fish guide, or chartering without a license if:

(a) The person operates a charter boat and does not hold the charter boat license required for the food fish taken;

(b) The person acts as a food fish guide and does not hold a food fish guide license; or

(c) The person acts as a game fish guide and does not hold a game fish guide license.

(2) Acting without a game fish guide license, food fish guide license, or charter license is a gross misdemeanor. Upon conviction, the department may deny applications submitted by the person for a game fish guide license, food fish guide license, or charter boat license for up to one year from the date of conviction.

NEW SECTION. Sec. 2. A new section is added to chapter 77.65 RCW to read as follows:

(1) In addition to other license suspension provisions provided in this title, the department may suspend a charter boat license, food fish guide license, or game fish guide license if, within a twelvemonth period, a person is convicted of two or more violations of any rule of the commission or director regarding seasons, bag limits, species, size, sex, or other possession restrictions while engaged in charter boat, food fish guide, or game fish guide activities. The department may suspend only the specific type of license or licenses related to the activity or activities for which the person is convicted.

(2) A person who has a food fish guide or game fish guide license suspended under this section may file an appeal with the department pursuant to chapter 34.05 RCW. An appeal must be filed within twenty days of notice of license suspension. If a timely appeal is filed, the suspension issued by the department does not take effect until twenty-one days after the department has delivered an opinion affirming the suspension. If no appeal is filed within twenty days of notice of license suspension, the right to an appeal is waived, and the suspension takes effect twenty-one days following the notice of suspension.

(3) License suspension under this section is in addition to any statutory penalties assigned to the underlying violation.

Sec. 3. RCW 77.65.010 and 2009 c 333 s 7 are each amended to read as follows:

(1) Except as otherwise provided by this title, a person must have a license or permit issued by the director in order to engage in any of the following activities:

(a) Commercially fish for or take food fish or shellfish;

(b) Deliver from a commercial fishing vessel food fish or shellfish taken for commercial purposes in offshore waters. As used in this subsection, "deliver" means arrival at a place or port, and includes arrivals from offshore waters to waters within the state and arrivals from state or offshore waters;

(c) Operate a charter boat or commercial fishing vessel engaged in a fishery;

(d) Engage in processing or wholesaling food fish or shellfish; or

(e) Act as a food fish guide or game fish guide for personal use (~~in freshwater rivers and streams~~), except that a charter boat license is required to operate a vessel from which a person may for a fee fish for food fish in state waters listed in RCW 77.65.150(4)(b).

(2) No person may engage in the activities described in subsection (1) of this section unless the licenses or permits required by this title are in the person's possession, and the person is the named license holder or an alternate operator designated on the license and the person's license is not suspended.

(3) A valid Oregon license that is equivalent to a license under this title is valid in the concurrent waters of the Columbia river if the state of Oregon recognizes as valid the equivalent Washington license. The director may identify by rule what Oregon licenses are equivalent.

(4) No license or permit is required for the production or harvesting of private sector cultured aquatic products as defined in RCW 15.85.020 or for the delivery, processing, or wholesaling of such aquatic products. However, if a means of identifying such products is required by rules adopted under RCW 15.85.060, the exemption from licensing or permit requirements established by this subsection applies only if the aquatic products are identified in conformance with those rules.

Sec. 4. RCW 77.65.370 and 2013 c 314 s 3 are each amended to read as follows:

(1) A person shall not offer or perform the services of a food fish guide without a food fish guide license in the taking of food fish for personal use (~~in freshwater rivers and streams~~), except that a charter boat license is required to operate a vessel from which a person may for a fee fish for food fish in state waters listed in RCW 77.65.150(4)(b).

(2) A person shall not offer or perform the services of a game fish guide without a game fish guide license in the taking of game fish for personal use.

(3) Only an individual at least sixteen years of age may hold a food fish guide or game fish guide license. No individual may hold more than one food fish guide or game fish guide license.

~~((3))~~ (4) An application for a food fish guide or game fish guide license must include the information required in RCW 77.65.560.

NEW SECTION. **Sec. 5.** A new section is added to chapter 77.65 RCW to read as follows:

(1) The department must issue an identifying decal to all food fish guides, game fish guides, and charter boat operators licensed under RCW 77.65.010. The identifying decal must display the license number prominently.

(2) Any person who acts or offers to act as a food fish guide, game fish guide, or charter boat operator must display the identifying decal on vessels in a location easily visible to customers and adjacent vessels.

**Sec. 6. RCW 77.65.440 and 2011 c 339 s 28 are each amended to read as follows:*

The director shall issue the personal licenses listed in this section according to the requirements of this title. The licenses and their annual fees are:

<i>Personal License</i>	<i>Annual Fee (RCW 77.95.090 Surcharge)</i>		<i>Application Fee</i>	<i>Governing Section</i>
	<i>Resident</i>	<i>Nonresident</i>		
<i>(1) Alternate Operator</i>	\$ 35	\$ 35	\$ 70	RCW 77.65.130
<i>(2) Geoduck Diver</i>	\$185	\$295	\$ 70	RCW 77.65.410
<i>(3) Food Fish Guide</i>	\$130 (plus \$ 20)	\$630 (plus \$100)	\$ 70	RCW 77.65.370
<i>(4) Game Fish Guide</i>	\$180	\$600	\$ 70	RCW 77.65.370

Sec. 6 was vetoed. See message at end of chapter.

NEW SECTION. **Sec. 7.** A new section is added to chapter 77.65 RCW to read as follows:

(1) A fish guide combination license allows the holder to offer or perform the services of a food fish guide, game fish guide, salmon charter boat operator, and nonsalmon charter boat operator.

(2) The commission must adopt rules to create and sell a fish guide combination license. The commission may adopt rules to create and sell separate combination licenses, one for food fish and game fish guide activities only and another combination license for all food fish guide, game fish guide, salmon charter boat operator, and nonsalmon charter boat operator activities. The cost of the fish guide combination license or licenses must be below a fee equal to the total cost of the individual licenses contained within the combination.

**Sec. 8. RCW 77.65.480 and 2013 c 314 s 2 are each amended to read as follows:*

(1) A taxidermy license allows the holder to practice taxidermy for commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars. The application fee is seventy dollars.

(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars. The application fee is seventy dollars.

(3) ((A game fish guide license allows the holder to offer or perform the services of a game fish guide in the taking of game fish. The fee for this license is one hundred eighty dollars for a resident and six hundred dollars for a nonresident. The application fee is seventy dollars. An application for a game fish guide license must include the information required in RCW 77.65.560.

(4)) A game farm license allows the holder to operate a game farm to acquire, breed, grow, keep, and sell wildlife under conditions prescribed by the rules adopted pursuant to this title. The fee for this license is seventy-two

dollars for the first year and forty-eight dollars for each following year. The application fee is seventy dollars.

((((5))) (4) A game fish stocking permit allows the holder to release game fish into the waters of the state as prescribed by rule of the commission. The fee for this permit is twenty-four dollars. The application fee is seventy dollars.

((((6))) (5) A fishing or field trial permit allows the holder to promote, conduct, hold, or sponsor a fishing or field trial contest in accordance with rules of the commission. The fee for a fishing contest permit is twenty-four dollars. The fee for a field trial contest permit is twenty-four dollars. The application fee is seventy dollars.

((((7))) (6)(a) An anadromous game fish buyer's license allows the holder to purchase or sell steelhead trout and other anadromous game fish harvested by Indian fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director. The fee for this license is one hundred eighty dollars. The application fee is one hundred five dollars.

(b) An anadromous game fish buyer's license is not required for those businesses that buy steelhead trout and other anadromous game fish from Washington licensed game fish dealers and sell solely at retail.

Sec. 8 was vetoed. See message at end of chapter.

Sec. 9. RCW 77.65.500 and 1987 c 506 s 84 are each amended to read as follows:

Licensed taxidermists, fur dealers, anadromous game fish buyers, (~~(fishing guides,)~~) game farmers, and persons stocking game fish or conducting a hunting, fishing, or field trial contest shall make reports as required by rules of the director.

Sec. 10. RCW 77.65.560 and 2013 c 314 s 1 are each amended to read as follows:

(1) Any application for a food fish guide license (~~(under RCW 77.65.370)~~) or game fish guide license under RCW 77.65.480 must include:

(a) The applicant's driver's license or other government-issued identification card number and the jurisdiction of issuance;

(b) The applicant's unified business identifier number under a (~~(master)~~) business license issued under RCW 19.02.070;

(c) Proof of current certification in first aid and cardiopulmonary resuscitation;

(d) A certificate of insurance demonstrating that the applicant has commercial liability coverage of at least three hundred thousand dollars; (~~(and)~~)

(e) If applicable, an original or notarized copy of a valid license issued by the United States coast guard to the applicant that authorizes the holder to carry passengers for hire; and

(f) A sworn declaration requiring the applicant to certify whether the area of operations will include federally recognized navigable waters with a motorized vessel.

(2) The requirements of this section related to licensure by the United States coast guard apply only to applicants intending to carry passengers for hire with a motorized vessel on federally recognized navigable waters. The license issued by the United States coast guard must be valid in the waters where the game fish

guide or food fish guide license applicant will be carrying passengers for hire in a motorized vessel.

(3) The requirements in this section are in addition to the requirements of RCW 77.65.050.

Passed by the Senate March 4, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 24, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State April 25, 2015.

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

"I am returning herewith, without my approval as to Sections 6, and 8, Substitute Senate Bill 5824 entitled:

"AN ACT Relating to certain recreational guides."

Sections 6 and 8 of this bill are technical changes that are meant to simplify this chapter by placing game fish guide license fees in the same section as food fish guide license fees (RCW 77.64.440) [77.65.440]. However, House Bill 1232 and Senate Bill 5464 both contain a reference to the original location of the game fish guide license (RCW 77.65.480). To avoid creating a reference error, I am vetoing sections 6 and 8.

For these reasons I have vetoed Sections 6, and 8 of Substitute Senate Bill No. 5824.

With the exception of Sections 6, and 8, Substitute Senate Bill No. 5824 is approved."

CHAPTER 98

[Senate Bill 5881]

FISHING PERMITS--GROUPS--AT-RISK YOUTH

AN ACT Relating to providing a group fishing permit for certain programs for at-risk youth; and amending RCW 77.32.550.

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

Sec. 1. RCW 77.32.550 and 2007 c 254 s 4 are each amended to read as follows:

(1) A group fishing permit allows a group of individuals to fish, and harvest shellfish, without individual licenses or the payment of individual license fees. The department must also provide, without charge, any applicable catch record cards.

(2) The director must issue a group fishing permit on a seasonal basis to: A state-operated facility or state-licensed nonprofit facility or program for persons with physical or mental disabilities, hospital patients, seriously or terminally ill persons, persons who are dependent on the state because of emotional or physical developmental disabilities, or senior citizens who are in the care of the facility; or a state or local agency or nonprofit organization operating a program for at-risk youth. The permit is valid only for use during open season.

(3) The director may set conditions and issue a group fishing permit to groups working in partnership with and participating in department outdoor education programs. At the discretion of the director, a processing fee may be applied.

(4) The commission may adopt rules that provide the conditions under which a group fishing permit is issued.

Passed by the Senate March 4, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 99

[Substitute Senate Bill 5887]

DEPARTMENT OF ENTERPRISE SERVICES--LEASES--NORTHERN STATE HOSPITAL SITE

AN ACT Relating to lengthening the maximum terms of leases entered into by the director of enterprise services at the former Northern State Hospital site; and amending RCW 43.82.010.

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

Sec. 1. RCW 43.82.010 and 2013 2nd sp.s. c 4 s 981 are each amended to read as follows:

(1) The director of enterprise services, on behalf of the agency involved and after consultation with the office of financial management, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of enterprise services.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of enterprise services. The director of enterprise services shall report to the office of financial management and the appropriate committees of the legislature annually on any exemptions granted pursuant to this subsection.

(3) Except for leases permitted under subsection (4) of this section, the director of enterprise services may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of enterprise services may enter into a long-term lease greater than ten years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the

lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of enterprise services may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) The director of enterprise services may fix the terms of leases for property under the department of enterprise services' control at the former Northern State Hospital site for up to sixty years.

(5) Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a public offering. Except as permitted under chapter 39.94 RCW, no lease for or on behalf of any state agency may be used or referred to as collateral or security for the payment of securities offered for sale through a private placement without the prior written approval of the state treasurer. However, this limitation shall not prevent a lessor from assigning or encumbering its interest in a lease as security for the repayment of a promissory note provided that the transaction would otherwise be an exempt transaction under RCW 21.20.320. The state treasurer shall adopt rules that establish the criteria under which any such approval may be granted. In establishing such criteria the state treasurer shall give primary consideration to the protection of the state's credit rating and the integrity of the state's debt management program. If it appears to the state treasurer that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection, then he or she may recommend that the governor cause such lease to be terminated. The department of enterprise services shall promptly notify the state treasurer whenever it may appear to the department that any lease has been used or referred to in violation of this subsection or rules adopted under this subsection.

~~((5))~~ (6) It is the policy of the state to encourage the colocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

~~((6))~~ (7) The director of enterprise services shall provide coordinated long-range planning services to identify and evaluate opportunities for colocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of enterprise services shall determine whether an opportunity exists for colocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a colocation opportunity exists, the director of enterprise services shall consult with the affected state agencies and the office of financial management to evaluate the impact colocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of enterprise services, in consultation with the office of financial management, shall develop procedures for implementing colocation and consolidation of state facilities.

~~((7))~~ (8) The director of enterprise services is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal

agencies. The director of enterprise services shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

~~((8))~~ (9) If the director of enterprise services determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or ~~((7))~~ (8) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

~~((9))~~ (10) In order to obtain maximum utilization of space, the director of enterprise services shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for colocation and consolidation of state agency office and support facilities.

~~((10))~~ (11) The director of enterprise services may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of enterprise services shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

~~((11))~~ (12) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of enterprise services or the director's designee, and recorded with the county auditor of the county in which the property is located.

~~((12))~~ (13) The director of enterprise services may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable. By January 1st of each year, beginning January 1, 2008, the department shall submit an annual report to the office of financial management and the appropriate committees of the legislature on all delegated leases.

~~((13))~~ (14) This section does not apply to the acquisition of real estate by:

- (a) The state college and universities for research or experimental purposes;
- (b) The state liquor control board for liquor stores and warehouses;
- (c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes; and

(d) The department of commerce for community college health career training programs, offices for the department of commerce or other appropriate state agencies, and other nonprofit community uses, including community meeting and training facilities, where the real estate is acquired during the 20132015 fiscal biennium.

~~((14))~~ (15) Notwithstanding any provision in this chapter to the contrary, the department of enterprise services may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee.

~~((15))~~ (16) The department of enterprise services shall report annually to the office of financial management and the appropriate fiscal committees of the legislature on facility leases executed for all state agencies for the preceding year, lease terms, and annual lease costs. The report must include leases executed under RCW 43.82.045 and subsection ~~((12))~~ (13) of this section.

Passed by the Senate March 2, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 100

[Substitute Senate Bill 5897]

CHILD ABUSE--EXAMS--FUNDING

AN ACT Relating to providing funding for medical evaluations of suspected victims of child abuse; adding a new section to chapter 7.68 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. **Sec. 1.** The legislature finds medical examinations are important for children who may be victims of physical abuse. The legislature finds that contributing to the cost of these examinations will incentivize timely evaluations, lead to early identification of abuse, and potentially prevent a child from further traumatization or injury.

NEW SECTION. **Sec. 2.** A new section is added to chapter 7.68 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, the department must pay, secondary to other insurance benefits, all costs incurred by an institution as defined by RCW 26.44.020 for the examination of a suspected victim of assault of a child when the examination is conducted within seventy-five days of the filing of a petition for dependency under chapter 13.34 or 26.44 RCW.

NEW SECTION. **Sec. 3.** This act expires June 30, 2019.

Passed by the Senate March 6, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 101

[Substitute Senate Bill 5933]

HUMAN TRAFFICKING--STATEWIDE TRAINING PROGRAM

AN ACT Relating to establishing a statewide training program on human trafficking laws for criminal justice personnel; adding a new section to chapter 43.280 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that in order to reduce instances of human trafficking in our state there needs to be a cohesive and concerted statewide training program provided to those in the law enforcement and legal community. This training is intended to help promote the use of existing laws to initiate sustainable and viable investigations, prosecutions, and adjudications in all jurisdictions across the state.

NEW SECTION. Sec. 2. A new section is added to chapter 43.280 RCW to read as follows:

(1) The office of crime victims advocacy shall establish a statewide training program on Washington's human trafficking laws for criminal justice personnel.

(2) The training shall be provided where possible by an entity that has experience in developing coalitions, training, programs, and policy on human trafficking in Washington.

(3) The entity will provide or coordinate training for law enforcement personnel, prosecutors, and court personnel covering Washington's state antitrafficking laws, the investigation of sex trafficking cases, and the adjudication of sex trafficking cases. The training shall encourage interdisciplinary coordination among criminal justice personnel, build cultural competency, and develop understanding of diverse victim populations including children, youth, and adults.

(4) The office shall provide a biennial report to the appropriate policy committees of the legislature on the statewide training program, with a focus on the effectiveness of the training.

Passed by the Senate March 5, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 24, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 102

[Substitute House Bill 1223]

LODGING TAXES--WORKFORCE HOUSING

AN ACT Relating to allowing the use of lodging taxes for financing workforce housing; and amending RCW 67.28.150, 67.28.160, and 67.28.180.

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

Sec. 1. RCW 67.28.150 and 1997 c 452 s 9 are each amended to read as follows:

To carry out the purposes of this chapter including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities for affordable workforce housing within one-half mile of a transit station, any municipality (~~shall have~~) has the power to issue general obligation bonds

within the limitations now or hereafter prescribed by the laws of this state. Such general obligation bonds (~~(shall)~~ must be authorized, executed, issued, and made payable as other general obligation bonds of such municipality(~~(= PROVIDED, That)~~). However, the governing body of such municipality may provide that such bonds mature in not to exceed forty years from the date of their issue, may provide that such bonds also be made payable from any special taxes provided for in this chapter and may pledge such special taxes to the repayment of the bonds, and may provide that such bonds also be made payable from any otherwise unpledged revenue, which may be derived from the ownership or operation of any properties.

Sec. 2. RCW 67.28.160 and 1997 c 452 s 10 are each amended to read as follows:

(1) To carry out the purposes of this chapter including, but not limited to, financing loans or grants to nonprofit organizations or public housing authorities for affordable workforce housing within one-half mile of a transit station, the legislative body of any municipality (~~(shall have)~~) has the power to issue revenue bonds without submitting the matter to the voters of the municipality(~~(= PROVIDED, That)~~) and may pledge the special taxes provided for in this chapter to the repayment of such revenue bonds. However, the legislative body (~~(shall)~~) must create a special fund or funds for the sole purpose of paying the principal of and interest on the bonds of each such issue, into which fund or funds the legislative body may obligate the municipality to pay all or part of amounts collected from the special taxes provided for in this chapter, and/or to pay such amounts of the gross revenue of all or any part of the facilities constructed, acquired, improved, added to, repaired, or replaced pursuant to this chapter, as the legislative body (~~(shall)~~) determines(~~(= PROVIDED, FURTHER, That)~~). The principal of and interest on such bonds ((shall be)) is payable only out of such special fund or funds, and the owners of such bonds ((shall)) must have a lien and charge against the gross revenue pledged to such fund.

~~((Such)) (a) The~~ revenue bonds and the interest thereon issued against ~~((such)) the~~ fund or funds (~~(shall)~~) constitutes a claim of the owners thereof only as against such fund or funds and the revenue pledged therefor, and ~~((shall)) does~~ not constitute a general indebtedness of the municipality.

~~(b) Each ((such)) revenue bond ((shall)) must~~ state upon its face that it is payable from such special fund or funds, and all revenue bonds issued under this chapter (~~(shall be)~~) are negotiable securities within the provisions of the law of this state. ~~((Such)) The~~ revenue bonds may be registered either as to principal only or as to principal and interest as provided in RCW 39.46.030, or may be bearer bonds(~~(= shall be)~~). The revenue bonds must be:

~~((shall be)) (i) In~~ such denominations as the legislative body (~~(shall)~~) deems proper; ~~((shall be))~~

~~((shall be)) (ii) Payable~~ at such time or times and at such places, as ~~((shall be))~~ determined by the legislative body; ~~((shall be))~~

~~((shall be)) (iii) Executed~~ in such manner and bear interest at such rate or rates, as ~~((shall be))~~ determined by the legislative body(~~(=~~

~~Such revenue bonds shall be)); and~~

~~((shall be)) (iv) Sold~~ in such manner as the legislative body (~~(shall)~~) deems to be for the best interests of the municipality, either at public or private sale.

(c) The legislative body may at the time of the issuance of ~~((such))~~ the revenue bonds make ~~((such))~~ covenants with the owners of ~~((said))~~ such bonds as it may deem necessary to secure and guaranty the payment of the principal thereof and the interest thereon, including but not being limited to covenants to set aside adequate reserves to secure or guaranty the payment of such principal and interest, to pledge and apply thereto part or all of any lawfully authorized special taxes provided for in this chapter, to maintain rates, charges, or rentals sufficient with other available moneys to pay such principal and interest and to maintain adequate coverage over debt service, to appoint a trustee or trustees for the bond owners, to safeguard the expenditure of the proceeds of sale of such bonds and to fix the powers and duties of such trustee or trustees and to make such other covenants as the legislative body may deem necessary to accomplish the most advantageous sale of such bonds. For revenue bonds issued for the purpose of funding affordable workforce housing projects within one-half mile of a transit station, where such revenue bonds are reasonably expected to be awarded to projects that can expend the funds within three years after bond issuance, the legislative body must require that the aggregate debt service on all such outstanding revenue bonds be limited to no more than fifty percent of the revenue collected under RCW 67.28.180(3)(d)(ii), and that at least ten percent of the aggregate proceeds of all such outstanding revenue bonds be committed to finance one or more projects by an authority under chapter 43.167 RCW to promote sustainable workplace opportunities near a community impacted by the construction or operation of tourism-related facilities. The legislative body may also provide that revenue bonds payable out of the same source may later be issued on a parity with revenue bonds being issued and sold.

(d) The legislative body may include in the principal amount of any such revenue bond issue an amount for engineering, architectural, planning, financial, legal, and other services and charges incident to the acquisition or construction of public stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities, an amount to establish necessary reserves, an amount for working capital, and an amount necessary for interest during the period of construction of any facilities to be financed from the proceeds of such issue plus six months. The legislative body may, if it deems it in the best interest of the municipality, provide in any contract for the construction or acquisition of any facilities or additions or improvements thereto or replacements or extensions thereof that payment therefor ~~((shall))~~ may be made only in such revenue bonds.

(e) If the municipality ~~((shall))~~ fails to carry out or perform any of its obligations or covenants made in the authorization, issuance, and sale of such bonds, the owner of any such bond may bring action against the municipality and compel the performance of any or all of such covenants.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 3. RCW 67.28.180 and 2011 1st sp.s. c 38 s 1 are each amended to read as follows:

(1) Subject to the conditions set forth in subsections (2) and (3) of this section, the legislative body of any county or any city, is authorized to levy and collect a special excise tax of not to exceed two percent on the sale of or charge

made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW.

(2) Any levy authorized by this section is subject to the following:

(a) Any county ordinance or resolution adopted pursuant to this section must contain, in addition to all other provisions required to conform to this chapter, a provision allowing a credit against the county tax for the full amount of any city tax imposed pursuant to this section upon the same taxable event.

(b)(i) In the event that any county has levied the tax authorized by this section and has, prior to June 26, 1975, either pledged the tax revenues for payment of principal and interest on city revenue or general obligation bonds authorized and issued pursuant to RCW 67.28.150 through 67.28.160 or has authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such county is exempt from the provisions of (a) of this subsection, to the extent that the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160. However, so much of such pledged tax revenues, together with any investment earnings thereon, not immediately necessary for actual payment of principal and interest on such bonds may be used: (A) In any county with a population of one million five hundred thousand or more, for repayment either of limited tax levy general obligation bonds or of any county fund or account from which a loan was made, the proceeds from the bonds or loan being used to pay for constructing, installing, improving, and equipping stadium capital improvement projects, and to pay for any engineering, planning, financial, legal and professional services incident to the development of such stadium capital improvement projects, regardless of the date the debt for such capital improvement projects was or may be incurred; (B) in any county with a population of one million five hundred thousand or more, for repayment or refinancing of bonded indebtedness incurred prior to January 1, 1997, for any purpose authorized by this section or relating to stadium repairs or rehabilitation, including but not limited to the cost of settling legal claims, reimbursing operating funds, interest payments on short-term loans, and any other purpose for which such debt has been incurred if the county has created a public stadium authority to develop a stadium and exhibition center under RCW 36.102.030; or (C) in other counties, for county-owned facilities for agricultural promotion until January 1, 2009, and thereafter for any purpose authorized in this chapter.

(ii) A county is exempt under this subsection with respect to city revenue or general obligation bonds issued after April 1, 1991, only if such bonds mature before January 1, 2013. If any county located east of the crest of the Cascade mountains has levied the tax authorized by this section and has, prior to June 26, 1975, pledged the tax revenue for payment of principal and interest on city revenue or general obligation bonds, the county is exempt under this subsection with respect to revenue or general obligation bonds issued after January 1, 2007, only if the bonds mature before January 1, 2035. Such a county may only use funds under this subsection (2)(b) for constructing or improving facilities authorized under this chapter, including county-owned facilities for agricultural promotion.

(iii) As used in this subsection (2)(b), "capital improvement projects" may include, but not be limited to a stadium restaurant facility, restroom facilities,

artificial turf system, seating facilities, parking facilities and scoreboard and information system adjacent to or within a county owned stadium, together with equipment, utilities, accessories and appurtenances necessary thereto. The stadium restaurant authorized by this subsection (2)(b) must be operated by a private concessionaire under a contract with the county.

(c)(i) No city within a county exempt under (b) of this subsection may levy the tax authorized by this section so long as said county is so exempt.

(ii) No city within a county with a population of one million five hundred thousand or more may levy the tax authorized by this section.

(iii) However, in the event that any city in a county described in (c)(i) or (ii) of this subsection (2) has levied the tax authorized by this section and has, prior to June 26, 1975, authorized and issued revenue or general obligation bonds pursuant to the provisions of RCW 67.28.150 through 67.28.160, such city may levy the tax so long as the tax revenues are pledged for payment of principal and interest on bonds issued at any time pursuant to the provisions of RCW 67.28.150 through 67.28.160.

(3) Any levy authorized by this section by a county that has a population of one million five hundred thousand or more is subject to the following:

(a) Taxes collected under this section in any calendar year before 2013 in excess of five million three hundred thousand dollars may only be used as follows:

(i) Seventy percent from January 1, 2001, through December 31, 2012, for art museums, cultural museums, heritage museums, the arts, and the performing arts. Moneys spent under this subsection (3)(a)(i) must be used for the purposes of this subsection (3)(a)(i) in all parts of the county.

(ii) Thirty percent from January 1, 2001, through December 31, 2012, for the following purposes and in a manner reflecting the following order of priority: Stadium purposes as authorized under subsection (2)(b) of this section; acquisition of open space lands; youth sports activities; and tourism promotion. If all or part of the debt on the stadium is refinanced, all revenues under this subsection (3)(a)(ii) must be used to retire the debt.

(b) From January 1, 2013, through December 31, 2015, all revenues under this section (~~shall~~) must be used to retire the debt on the stadium, until the debt on the stadium is retired. On and after the date the debt on the stadium is retired, and through December 31, 2015, all revenues under this section in a county of one million five hundred thousand or more must be deposited in the special account under (e) of this subsection.

(c) From January 1, 2016, through December 31, 2020, all revenues under this section must be deposited in the stadium and exhibition center account under RCW 43.99N.060.

(d) On and after January 1, 2021, the revenues under this section must be used as follows:

(i) At least thirty-seven and one-half percent of the revenues under this section must be deposited in the special account under (e) of this subsection.

(ii) At least thirty-seven and one-half percent of the revenues under this section must be used (~~for~~) :

(A) For contracts, loans, or grants to nonprofit organizations or public housing authorities for affordable workforce housing within one-half (~~of a~~)

mile of a transit station, as described under RCW 9.91.025 or for services for homeless youth; or

(B) To repay:

(I) General obligation bonds issued pursuant to RCW 67.28.150 to finance such contracts, loans, or grants; or

(II) Revenue bonds issued pursuant to RCW 67.28.160 to finance a fund to make such contracts, loans, or grants; or

(III) Revenue bonds issued pursuant to RCW 67.28.160 to finance projects authorized by an authority under chapter 43.167 RCW to promote sustainable workplace opportunities near a community impacted by the construction or operation of tourism-related facilities.

(iii) The remainder must be used for capital or operating programs that promote tourism and attract tourists to the county.

(e) At least forty percent of the revenues distributed pursuant to (a)(i) of this subsection must be deposited in a special account. The account may only be used for the purposes of (a)(i) of this subsection.

(f) School districts and schools may not receive revenues distributed pursuant to (a)(i) of this subsection.

(g) Moneys distributed to art museums, cultural museums, heritage museums, the arts, and the performing arts, and moneys distributed for tourism promotion must be in addition to and may not be used to replace or supplant any other funding by the legislative body of the county.

(h) For the purposes of this section:

(i) "Affordable workforce housing" means housing for a single person, family, or unrelated persons living together whose income is between thirty percent and eighty percent of the median income, adjusted for household size, for the county where the housing is located; and

(ii) "Tourism promotion" includes activities intended to attract visitors for overnight stays, arts, heritage, and cultural events, and recreational, professional, and amateur sports events. Moneys allocated to tourism promotion in a county with a population of one million or more must be allocated to local public organizations and nonprofit organizations formed for the express purpose of tourism promotion in the county. Such organizations must use moneys from the taxes to promote events in all parts of the county.

(i) No taxes collected under this section may be used for the operation or maintenance of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged. Expenditures for operation or maintenance include all expenditures other than expenditures that directly result in new fixed assets or that directly increase the capacity, life span, or operating economy of existing fixed assets.

(j) No ad valorem property taxes may be used for debt service on bonds issued for a public stadium that is financed by bonds to which the tax is pledged, unless the taxes collected under this section are or are projected to be insufficient to meet debt service requirements on such bonds.

(k) If a substantial part of the operation and management of a public stadium that is financed directly or indirectly by bonds to which the tax is pledged is performed by a nonpublic entity or if a public stadium is sold that is financed directly or indirectly by bonds to which the tax is pledged, any bonds to which the tax is pledged shall be retired. This subsection (3)(k) does not apply in

respect to a public stadium under chapter 36.102 RCW transferred to, owned by, or constructed by a public facilities district under chapter 36.100 RCW or a stadium and exhibition center.

(1) The county may not lease a public stadium that is financed directly or indirectly by bonds to which the tax is pledged to, or authorize the use of the public stadium by, a professional major league sports franchise unless the sports franchise gives the right of first refusal to purchase the sports franchise, upon its sale, to local government. This subsection (3)(1) does not apply to contracts in existence on April 1, 1986.

(4) If a court of competent jurisdiction declares any provision of subsection (3) of this section invalid, then that invalid provision is null and void and the remainder of this section is not affected.

Passed by the House March 5, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 103

[House Bill 1232]

GAME OR FOOD FISH GUIDE LICENSES--TERMINATION OF EMPLOYMENT--TRANSFER OF LICENSE

AN ACT Relating to employer-purchased fishing guide licenses; amending RCW 77.65.370 and 77.65.480; and adding a new section to chapter 77.65 RCW.

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

NEW SECTION, Sec. 1. A new section is added to chapter 77.65 RCW to read as follows:

(1) Upon termination of the employment relationship by an employee or by an employing person, firm, or business, the employee shall return to the person, firm, or business who purchased the license on the employee's behalf any license described in subsection (2) of this section that the employee possesses.

(2) This section applies to the following types of licenses if the following types of licenses are purchased by a person, firm, or business on behalf of an employee of that person, firm, or business:

(a) A food fish guide license issued under RCW 77.65.370; and

(b) A game fish guide license issued under RCW 77.65.480.

(3) Any license described in subsection (2) of this section that is returned to the person, firm, or business who purchased the license pursuant to this section is transferable to another employee of the person, firm, or business who qualifies for a license under RCW 77.65.050 and 77.65.560.

(4)(a) An employee who fails to return a license as provided in this section shall pay to the person, firm, or business who purchased the license on the employee's behalf an amount equal to the full amount of the license fee and any application fee paid.

(b) A license possessed by an employee who fails to return the license as provided in this section or to pay the person, firm, or business who purchased the license on the employee's behalf as provided in (a) of this subsection is invalidated.

(5) For the purposes of this section, "purchased" means the payment of the full amount of the license fee and any application fee applicable to the license.

Sec. 2. RCW 77.65.370 and 2013 c 314 s 3 are each amended to read as follows:

(1) A person shall not offer or perform the services of a food fish guide without a food fish guide license in the taking of food fish for personal use in freshwater rivers and streams, except that a charter boat license is required to operate a vessel from which a person may for a fee fish for food fish in state waters listed in RCW 77.65.150(4)(b).

(2) Only an individual at least sixteen years of age may hold a food fish guide license. No individual may hold more than one food fish guide license.

(3) An application for a food fish guide license must include the information required in RCW 77.65.560.

(4) A food fish guide license purchased by a person, firm, or business on behalf of an employee is subject to section 1 of this act.

Sec. 3. RCW 77.65.480 and 2013 c 314 s 2 are each amended to read as follows:

(1) A taxidermy license allows the holder to practice taxidermy for commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars. The application fee is seventy dollars.

(2) A fur dealer's license allows the holder to purchase, receive, or resell raw furs for commercial purposes, as that term is defined in RCW 77.15.110. The fee for this license is one hundred eighty dollars. The application fee is seventy dollars.

(3)(a) A game fish guide license allows the holder to offer or perform the services of a game fish guide in the taking of game fish. The fee for this license is one hundred eighty dollars for a resident and six hundred dollars for a nonresident. The application fee is seventy dollars. An application for a game fish guide license must include the information required in RCW 77.65.560.

(b) A game fish guide license purchased by a person, firm, or business on behalf of an employee is subject to section 1 of this act.

(4) A game farm license allows the holder to operate a game farm to acquire, breed, grow, keep, and sell wildlife under conditions prescribed by the rules adopted pursuant to this title. The fee for this license is seventy-two dollars for the first year and forty-eight dollars for each following year. The application fee is seventy dollars.

(5) A game fish stocking permit allows the holder to release game fish into the waters of the state as prescribed by rule of the commission. The fee for this permit is twenty-four dollars. The application fee is seventy dollars.

(6) A fishing or field trial permit allows the holder to promote, conduct, hold, or sponsor a fishing or field trial contest in accordance with rules of the commission. The fee for a fishing contest permit is twenty-four dollars. The fee for a field trial contest permit is twenty-four dollars. The application fee is seventy dollars.

(7)(a) An anadromous game fish buyer's license allows the holder to purchase or sell steelhead trout and other anadromous game fish harvested by Indian fishers lawfully exercising fishing rights reserved by federal statute, treaty, or executive order, under conditions prescribed by rule of the director.

The fee for this license is one hundred eighty dollars. The application fee is one hundred five dollars.

(b) An anadromous game fish buyer's license is not required for those businesses that buy steelhead trout and other anadromous game fish from Washington licensed game fish dealers and sell solely at retail.

Passed by the House March 10, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 104

[House Bill 1259]

**ADVANCED REGISTERED NURSE PRACTITIONERS--SCOPE OF PRACTICE--
DOCUMENTATION**

AN ACT Relating to signatures of advanced registered nurse practitioners on required documentation; and adding a new section to chapter 18.79 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 18.79 RCW to read as follows:

An advanced registered nurse practitioner may sign and attest to any certificates, cards, forms, or other required documentation that a physician may sign, so long as it is within the advanced registered nurse practitioner's scope of practice.

Passed by the House February 9, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 105

[House Bill 1263]

PRIVATE INVESTIGATORS--EXEMPTIONS--ACCOUNTANTS

AN ACT Relating to private investigators; and amending RCW 18.165.020.

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

Sec. 1. RCW 18.165.020 and 2000 c 171 s 37 are each amended to read as follows:

The requirements of this chapter do not apply to:

(1) A person who is employed exclusively or regularly by one employer and performs investigations solely in connection with the affairs of that employer, if the employer is not a private investigator agency;

(2) An officer or employee of the United States or of this state or a political subdivision thereof, while engaged in the performance of the officer's official duties;

(3) A person engaged exclusively in the business of obtaining and furnishing information about the financial rating of persons;

(4) An attorney-at-law while performing the attorney's duties as an attorney;

(5) A licensed collection agency or its employee, while acting within the scope of that person's employment and making an investigation incidental to the business of the agency;

(6) Insurers, agents, and insurance brokers licensed by the state, while performing duties in connection with insurance transacted by them;

(7) A bank subject to the jurisdiction of the department of financial institutions or the comptroller of currency of the United States, or a savings and loan association subject to the jurisdiction of this state or the federal home loan bank board;

(8) A licensed insurance adjuster performing the adjuster's duties within the scope of the adjuster's license;

(9) A secured creditor engaged in the repossession of the creditor's collateral, or a lessor engaged in the repossession of leased property in which it claims an interest;

(10) A person who is a forensic scientist, accident reconstructionist, or other person who performs similar functions and does not hold himself or herself out to be an investigator in any other capacity; ~~((or))~~

(11) A person solely engaged in the business of securing information about persons or property from public records; or

(12) A certified public accountant regulated under chapter 18.04 RCW or the employee of a certified public accountant performing duties within the scope of public accountancy.

Passed by the House February 16, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 106

[House Bill 1268]

DEPARTMENT OF AGRICULTURE--COMMERCIAL FEED--HEMP--STUDY

AN ACT Relating to hemp as a component of commercial animal feed; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that hemp seed is known globally for its high levels of essential fatty acids, such as omega-3, omega-6, omega-9, and gamma-linolenic acid, as well as for its high levels of amino acid-containing protein.

(2) The legislature further finds that international research suggests that hemp seed is an excellent source of nutrition for the major classes of livestock, including cattle, swine, and poultry. This research suggests that hemp is a valuable source of protein, energy, and long-chain fatty acids in animals and, when included into an animal's diet, has no adverse effect on production or health. Research also shows that, when hemp seed meal is included in the feed of laying hens, the omega fatty acid profile in the resulting eggs is favorably influenced.

(3) The legislature further finds that local, state-based markets exist in which consumers are willing to pay a premium price for products that result

from hemp-fed animals. The state should aid its farmers and ranchers in accessing this price premium as a small, but important, step towards helping small scale agriculture remain viable and towards maintaining Washington's agricultural way of life.

NEW SECTION. Sec. 2. (1) The department of agriculture must conduct a study evaluating whether hemp and hemp products should be an allowable component of commercial feed in Washington. In conducting the evaluation, the department of agriculture may focus its efforts as it deems most appropriate and may limit its scope to particular classes of animals where current research indicates that hemp may have the most benefit on the health of the animal, the welfare of the animal, the resulting product, or the overall physical environment.

(2) If the department of agriculture determines that allowing some use of hemp in commercial feed is appropriate, then the department must take the appropriate administrative actions to allow for commercial feed license holders to include hemp in their feed formulations. If not, the department must provide a report to the legislature, consistent with RCW 43.01.036, explaining the department's findings and reasons for not taking administrative action.

(3) If the department of agriculture finds that it cannot satisfy the requirements of this section prior to the expiration date of this section, then the department must bring agency request legislation in the regularly scheduled 2018 legislative session to request an extension of this date.

(4) This section expires June 30, 2018.

Passed by the House March 3, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 107

[Senate Bill 5032]

UNIFORM COMMERCIAL CODE--SECURITY INTERESTS--LEASES--TERMINAL RENTAL ADJUSTMENT PROVISIONS

AN ACT Relating to specifying when a transaction in the form of a lease does not create a security interest for purposes of the uniform commercial code; and amending RCW 62A.1-203.

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

Sec. 1. RCW 62A.1-203 and 2012 c 214 s 111 are each amended to read as follows:

(a) Whether a transaction in the form of a lease creates a lease or security interest is determined by the facts of each case.

(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:

(1) The original term of the lease is equal to or greater than the remaining economic life of the goods;

(2) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;

(3) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or

(4) The lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement.

(c) A transaction in the form of a lease does not create a security interest merely because:

(1) The present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into;

(2) The lessee assumes risk of loss of the goods;

(3) The lessee agrees to pay, with respect to the goods, taxes, insurance, filing, recording, or registration fees, or service or maintenance costs;

(4) The lessee has an option to renew the lease or to become the owner of the goods;

(5) The lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed; ~~((or))~~

(6) The lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed; or

(7) The amount of rental payments may or will be increased or decreased by reference to the amount realized by the lessor upon sale or disposition of the goods.

(d) Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised. Additional consideration is not nominal if:

(1) When the option to renew the lease is granted to the lessee, the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed; or

(2) When the option to become the owner of the goods is granted to the lessee, the price is stated to be the fair market value of the goods determined at the time the option is to be performed.

(e) The "remaining economic life of the goods" and "reasonably predictable" fair market rent, fair market value, or cost of performing under the lease agreement must be determined with reference to the facts and circumstances at the time the transaction is entered into.

Passed by the Senate February 24, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 108

[Substitute Senate Bill 5059]

PATENTS--INFRINGEMENT ASSERTIONS--BAD FAITH

AN ACT Relating to bad faith assertions of patent infringement; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that abusive patent litigation, and especially the assertion of bad faith infringement claims, can harm Washington's economy. A person or business that receives a demand asserting such claims faces the threat of expensive and protracted litigation and may determine that it has no choice but to settle and to pay a licensing fee, even if the claim is meritless. This is especially so for small and medium-sized entities and nonprofits lacking adequate resources to investigate and defend themselves against the infringement claims. Not only do bad faith patent infringement claims impose a significant burden on individual Washington businesses and other entities, they also undermine Washington's efforts to attract and nurture information technology and knowledge-based businesses. Resources expended to avoid the threat of bad faith litigation are no longer available to invest, develop and produce new products, expand, or hire new workers, thereby harming Washington's economy. Through this legislation, the legislature seeks to protect Washington's economy from abusive and bad faith assertions of patent infringement, while not interfering with federal law or legitimate patent enforcement actions.

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

- (1) "Assertion of patent infringement" means:
 - (a) Sending or delivering a demand to a target;
 - (b) Threatening a target with litigation asserting, alleging, or claiming that the target has engaged in patent infringement;
 - (c) Sending or delivering a demand to the customers of a target; or
 - (d) Otherwise making claims or allegations, other than those made in litigation against a target, that a target has engaged in patent infringement or that a target should obtain a license to a patent in order to avoid litigation.
- (2) "Claim" means the scope of the patent owner's exclusive rights to the use and control of the patent owner's invention.
- (3) "Demand" means a letter, an email, or any other communication asserting that a person has engaged in patent infringement.
- (4) "Person" means any individual, corporation, partnership, limited liability company, government, governmental subdivision, institution of higher education, or any other legal or commercial entity.
- (5) "Target" means a person:
 - (a) Who has received a demand or against whom an assertion of patent infringement has been made;
 - (b) Who has been threatened with litigation or against whom a lawsuit has been filed alleging patent infringement; or
 - (c) Who has at least one customer who has received a demand letter asserting that the person's product, service, or technology has infringed a patent.

NEW SECTION. **Sec. 3.** (1) A person may not make assertions of patent infringement in bad faith.

(2) A court may consider the following nonexclusive factors as evidence that a person has made an assertion of patent infringement in bad faith:

(a) The demand does not contain:

(i) The patent number or numbers issued by the United States patent office or foreign agency;

(ii) The name and address of the patent owner or owners or assignee or assignees, if any; and

(iii) Factual allegations relating to the specific areas in which the target's product, service, or technology infringes the patent or is covered by the claims in the patent;

(b) The target requested the information described in (a) of this subsection, and the person failed to provide the information within a reasonable time;

(c) Before making a demand, the person did not conduct any analysis comparing the claims in the patent to the target's product, service, or technology;

(d) The person threatens legal action that cannot legally be taken;

(e) The assertion of patent infringement contains false, misleading, or deceptive information;

(f) The person, or a subsidiary or an affiliate of the person, has previously filed or threatened to file one or more lawsuits based on the same or substantially equivalent assertion of patent infringement, and a court found the person's assertion to be without merit or found the assertion contains false, misleading, or deceptive information; or

(g) Any other factor the court determines to be relevant.

(3) Nothing in the demand letter or patent assertion may be used to move for declaratory judgment in underlying patent infringement litigation.

(4) A court may consider the following factors as evidence that a person has made an assertion of patent infringement in good faith:

(a) If the demand does not contain the information set forth in subsection (2)(a) of this section, the person provides the information to the target within a reasonable period of time after such information is requested by the target;

(b) The person has:

(i) Engaged in reasonable analysis to establish a reasonable, good faith basis for believing the target has infringed the patent; and

(ii) Attempted to negotiate an appropriate remedy in a reasonable manner;

(c) The person has:

(i) Demonstrated reasonable business practices in previous efforts to enforce the patent; or

(ii) Successfully enforced the patent, or a substantially similar patent, through litigation;

(d) The person has made a substantial investment in the use of the patent or in the production or sale of a product covered by the patent;

(e) The person is:

(i) An inventor of the patent or an original assignee;

(ii) An institution of higher education or a technology transfer organization affiliated with an institution of higher education; or

(iii) Any owner or licensee of a patent who is using the patent in connection with substantial research, development, production, manufacturing, processing, or delivery of products or materials; or

(f) Any other factor the court determines to be relevant.

(5) Unless done in bad faith, nothing in this section may be construed to deem it an unfair or deceptive trade practice for any person who owns or has the right to license or enforce a patent to:

(a) Advise others of that ownership or right of license or enforcement;

(b) Communicate to others that the patent is available for license or sale; or

(c) Seek compensation on account of a past or present infringement, or license to the patent, when it is reasonable to believe that the person from whom compensation is sought may owe such compensation or may need or want such a license to practice the patent.

(6) The provisions of this act do not apply to a demand letter or civil action that includes a claim for relief arising under 35 U.S.C. Sec. 271(e)(2), 7 U.S.C. Sec. 136, 7 U.S.C. Sec. 2321, 21 U.S.C. Sec. 301, 35 U.S.C. Sec. 161, 42 U.S.C. Sec. 262, or 35 U.S.C. Sec. 287.

NEW SECTION. Sec. 4. The attorney general may bring an action in the name of the state, or as *parens patriae* on behalf of persons residing in the state, to enforce this chapter. For actions brought by the attorney general to enforce the provisions of this section, the legislature finds that the practices covered by this section are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. For actions brought by the attorney general to enforce this chapter, a violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for purposes of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 6. This chapter may be known and cited as the "patent troll prevention act."

NEW SECTION. Sec. 7. Sections 1 through 4 and 6 of this act constitute a new chapter in Title 19 RCW.

Passed by the Senate February 24, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 109

[Senate Bill 5119]

INSURANCE--NONPROFIT RISK POOLS

AN ACT Relating to nonprofit risk pools; amending RCW 48.01.050, 48.62.031, and 48.62.141; reenacting and amending RCW 48.62.021; adding a new chapter to Title 48 RCW; and repealing RCW 48.62.036.

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

Sec. 1. RCW 48.01.050 and 2009 c 314 s 19 are each amended to read as follows:

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals that join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund are not an "insurer" under this code. Two or more local governmental entities, under any provision of law, that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding are not an "insurer" under this code. Two or more affordable housing entities that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding under chapter 48.64 RCW are not an "insurer" under this code. Two or more persons engaged in the business of commercial fishing who enter into an arrangement with other such persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the business of commercial fishing and owned by a member of the pool are not an "insurer" under this code. Two or more nonprofit corporations that join together and organize to form an organization for the purpose of jointly self-insuring or self-funding for property and liability risks under chapter 48.--- RCW (the new chapter created in section 19 of this act) are not an "insurer" under this code.

Sec. 2. RCW 48.62.021 and 2011 1st sp.s. c 43 s 520 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Health and welfare benefits" means a plan or program established by a local government entity or entities for the purpose of providing its employees and their dependents, and in the case of school districts, its district employees, students, directors, or any of their dependents, with health care, accident, disability, death, and salary protection benefits.

(2) "Local government entity" or "entity" means every unit of local government, both general purpose and special purpose, and includes, but is not limited to, counties, cities, towns, port districts, public utility districts, water-sewer districts, school districts, fire protection districts, irrigation districts, metropolitan municipal corporations, conservation districts, and other political subdivisions, governmental subdivisions, municipal corporations, ~~((and))~~ quasi-municipal corporations, nonprofit corporations comprised of only units of local government, or a group comprised of local governments joined by an interlocal agreement authorized by chapter 39.34 RCW.

(3) "Nonprofit corporation" or "corporation" has the same meaning as defined in RCW 24.03.005(3) or a similar statute with similar intent within the entity's state of domicile.

(4) "Property and liability risks" includes the risk of property damage or loss sustained by a local government entity and the risk of claims arising from the tortious or negligent conduct or any error or omission of the local government

entity, its officers, employees, agents, or volunteers as a result of which a claim may be made against the local government entity.

(5) "Risk assumption" means a decision to absorb the entity's financial exposure to a risk of loss without the creation of a formal program of advance funding of anticipated losses.

(6) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(7) "State risk manager" means the risk manager of the office of risk management within the department of enterprise services.

Sec. 3. RCW 48.62.031 and 2005 c 147 s 1 are each amended to read as follows:

(1) The governing body of a local government entity may individually self-insure, may join or form a self-insurance program together with other entities, and may jointly purchase insurance or reinsurance with other entities for property and liability risks, and health and welfare benefits only as permitted under this chapter. In addition, the entity or entities may contract for or hire personnel to provide risk management, claims, and administrative services in accordance with this chapter.

(2) The agreement to form a joint self-insurance program shall be made under chapter 39.34 RCW and may create a separate legal or administrative entity with powers delegated thereto. ~~((Such entity may include or create a nonprofit corporation organized under chapter 24.03 or 24.06 RCW or a partnership organized under chapter 25.04 RCW.))~~

(3) Every individual and joint self-insurance program is subject to audit by the state auditor.

(4) If provided for in the agreement or contract established under chapter 39.34 RCW, a joint self-insurance program may, in conformance with this chapter:

(a) Contract or otherwise provide for risk management and loss control services;

(b) Contract or otherwise provide legal counsel for the defense of claims and other legal services;

(c) Consult with the state insurance commissioner and the state risk manager;

(d) Jointly purchase insurance and reinsurance coverage in such form and amount as the program's participants agree by contract;

(e) Obligate the program's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the program, including the establishment of a reserve or fund for coverage; and

(f) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

(5) A ~~((local government entity))~~ self-insurance program formed and governed under this chapter that has decided to assume a risk of loss must have available for inspection by the state auditor a written report indicating the class of risk or risks the governing body of the entity has decided to assume.

(6) Every joint self-insurance program governed by this chapter shall appoint the risk manager as its attorney to receive service of, and upon whom

shall be served, all legal process issued against it in this state upon causes of action arising in this state.

(a) Service upon the risk manager as attorney shall constitute service upon the program. Service upon joint insurance programs subject to chapter 30, Laws of 1991 1st sp. sess. can be had only by service upon the risk manager. At the time of service, the plaintiff shall pay to the risk manager a fee to be set by the risk manager, taxable as costs in the action.

(b) With the initial filing for approval with the risk manager, each joint self-insurance program shall designate by name and address the person to whom the risk manager shall forward legal process so served upon him or her. The joint self-insurance program may change such person by filing a new designation.

(c) The appointment of the risk manager as attorney shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the joint self-insurance program, and shall remain in effect as long as there is in force in this state any contract made by the joint self-insurance program or liabilities or duties arising therefrom.

(d) The risk manager shall keep a record of the day and hour of service upon him or her of all legal process. A copy of the process, by registered mail with return receipt requested, shall be sent by the risk manager, to the person designated for the purpose by the joint self-insurance program in its most recent such designation filed with the risk manager. No proceedings shall be had against the joint self-insurance program, and the program shall not be required to appear, plead, or answer, until the expiration of forty days after the date of service upon the risk manager.

Sec. 4. RCW 48.62.141 and 1991 sp.s. c 30 s 14 are each amended to read as follows:

Every joint self-insurance program covering liability or property risks, excluding multistate programs governed by RCW 48.62.081 and nonprofit risk pools formed under RCW 48.62.036 and chapter 48--- RCW (the new chapter created in section 19 of this act), shall provide for the contingent liability of participants in the program if assets of the program are insufficient to cover the program's liabilities.

NEW SECTION. Sec. 5. This chapter is intended to provide authority for two or more nonprofit corporations to participate in a joint self-insurance program covering property or liability risks. This chapter provides nonprofit corporations with the authority to jointly self-insure property and liability risks, jointly purchase insurance or reinsurance, and contract for risk management, claims, and administrative services with other nonprofit corporations. This chapter must be liberally construed to grant nonprofit corporations maximum flexibility in jointly self-insuring to the extent the self-insurance programs are operated in a safe and sound manner. This chapter is intended to require prior approval for the establishment of every joint self-insurance program. In addition, this chapter is intended to require every joint self-insurance program for nonprofit corporations established under this chapter to notify the state of the existence of the program and to comply with the regulatory and statutory standards governing the management and operation of the programs as provided in this chapter. This chapter is not intended to authorize or regulate self-

insurance of unemployment compensation under chapter 50.44 RCW or industrial insurance under chapter 51.14 RCW.

NEW SECTION. Sec. 6. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Nonprofit corporation" or "corporation" has the same meaning as defined in RCW 24.03.005.

(2) "Property and liability risks" includes the risk of property damage or loss sustained by a nonprofit corporation and the risk of claims arising from the tortious or negligent conduct or any error or omission of the entity, its officers, employees, agents, or volunteers as a result of a claim that may be made against the entity.

(3) "Self-insurance" means a formal program of advance funding and management of entity financial exposure to a risk of loss that is not transferred through the purchase of an insurance policy or contract.

(4) "State risk manager" means the risk manager of the office of risk management within the department of enterprise services.

NEW SECTION. Sec. 7. (1) The governing body of a nonprofit corporation may join or form a self-insurance program together with one or more other nonprofit corporations, and may jointly purchase insurance or reinsurance with one or more other nonprofit corporations for property and liability risks only as permitted under this chapter. Nonprofit corporations may contract for or hire personnel to provide risk management, claims, and administrative services in accordance with this chapter.

(2) The agreement to form a joint self-insurance program may include the organization of a separate legal or administrative entity with powers delegated to the entity. The entity may include or create a nonprofit corporation as defined in RCW 48.62.021.

(3) If provided for in the organizational documents, a joint self-insurance program may, in conformance with this chapter:

(a) Contract or otherwise provide for risk management and loss control services;

(b) Contract or otherwise provide legal counsel for the defense of claims and other legal services;

(c) Consult with the state insurance commissioner and the state risk manager;

(d) Jointly purchase insurance and reinsurance coverage in a form and amount as provided for in the organizational documents;

(e) Obligate the program's participants to pledge funds or revenues to secure the obligations or pay the expenses of the program, including the establishment of a reserve fund for coverage, including an additional assessment if the reserve fund or the program's revenue or assets are insufficient to cover the program's liabilities; and

(f) Possess any other powers and perform all other functions reasonably necessary to carry out the purposes of this chapter.

(4) Every joint self-insurance program governed by this chapter must appoint the state risk manager as its attorney to receive service of, and upon whom must be served, all legal process issued against the program in this state upon causes of action arising in this state.

(a) Service upon the state risk manager as attorney constitutes service upon the program. Service upon joint self-insurance programs subject to this chapter may only occur by service upon the state risk manager. At the time of service, the plaintiff shall pay to the state risk manager a fee to be set by the state risk manager, taxable as costs in the action.

(b) With the initial filing for approval with the state risk manager, each joint self-insurance program must designate by name and address the person to whom the state risk manager must forward legal process that is served upon him or her. The joint self-insurance program may change this person by filing a new designation.

(c) The appointment of the state risk manager as attorney is irrevocable, binds any successor in interest or to the assets or liabilities of the joint self-insurance program, and remains in effect as long as there is in force in this state any contract made by the joint self-insurance program or liabilities or duties arising from the contract.

(d) The state risk manager shall keep a record of the day and hour of service upon him or her of all legal process. A copy of the process, by registered mail with return receipt requested, must be sent by the state risk manager to the person designated to receive legal process by the joint self-insurance program in its most recent designation filed with the state risk manager. Proceedings may not commence against the joint self-insurance program, and the program is not required to appear, plead, or answer, until the expiration of forty days after the date of service upon the state risk manager.

(e) For any legal process issued against the program for causes of action arising outside of this state, the program shall provide the state risk manager a copy of such claim.

(5) A nonprofit joint self-insurance program previously established under chapter 48.62 RCW may continue its operations without interruption. All previously approved operating documents under chapter 48.62 RCW including, but not limited to, applications, state-granted authorities, approvals to operate, certificates of incorporation, articles of incorporation, membership documents, executed contracts, and other applicable items or authorities remain in effect without reapproval.

(6) A nonprofit joint self-insurance program previously established under and governed by chapter 48.62 RCW is not required to reapply for authority to operate as previously approved by the state risk manager in its original application.

NEW SECTION. Sec. 8. This chapter does not apply to a nonprofit corporation that:

- (1) Individually self-insures for property and liability risks;
- (2) Participates in a risk pooling arrangement, including a risk retention group or a risk purchasing group, regulated under chapter 48.92 RCW, or is a captive insurer authorized in its state of domicile;
- (3) Comprises only units of local government or is a group that comprises local governments joined by an interlocal agreement authorized by chapter 39.34 RCW; or
- (4) Is a hospital licensed under chapter 70.41 RCW, or an entity owned, operated, controlled by, or affiliated with such a hospital that participates in a self-insurance risk pool or other risk pooling arrangement.

NEW SECTION. Sec. 9. The state risk manager shall adopt rules governing the management and operation of joint self-insurance programs for nonprofit corporations that cover property or liability risks. All rules must be appropriate for the type of program and class of risk covered. The state risk manager's rules must include:

(1) Standards for the management, operation, and solvency of joint self-insurance programs, including the necessity and frequency of actuarial analyses and claims audits;

(2) Standards for claims management procedures;

(3) Standards for contracts between joint self-insurance programs and private businesses, including standards for contracts between third-party administrators and programs; and

(4) Standards requiring pool verification of each member's nonprofit status in their state of domicile.

NEW SECTION. Sec. 10. Before the establishment of a joint self-insurance program covering property or liability risks by nonprofit corporations, the entities must obtain the approval of the state risk manager. The entities proposing the creation of a joint self-insurance program requiring prior approval shall submit a plan of management and operation to the state risk manager that provides at least the following information:

(1) The risk or risks to be covered, including any coverage definitions, terms, conditions, and limitations;

(2) The amount and method of funding the covered risks, including the initial capital and proposed rates and projected premiums;

(3) The proposed claim reserving practices;

(4) The proposed purchase and maintenance of insurance or reinsurance in excess of the amounts retained by the joint self-insurance program;

(5) The legal form of the program including, but not limited to, any articles of incorporation, bylaws, charter, or trust agreement or other agreement among the participating entities;

(6) The agreements with participants in the program defining the responsibilities and benefits of each participant and management;

(7) The proposed accounting, depositing, and investment practices of the program;

(8) The proposed time when actuarial analysis will be first conducted and the frequency of future actuarial analysis;

(9) A designation of the individual to whom service of process must be forwarded by the state risk manager on behalf of the program;

(10) All contracts between the program and private persons providing risk management, claims, or other administrative services;

(11) A professional analysis of the feasibility of the creation and maintenance of the program;

(12) A legal analysis or an internal revenue service opinion on the federal income tax exposure or liability of the program; and

(13) Any other information required by rule of the state risk manager that is necessary to determine the probable financial and management success of the program or that is necessary to determine compliance with this chapter.

NEW SECTION. Sec. 11. A nonprofit corporation may participate in a joint self-insurance program covering property or liability risks with similar nonprofit corporations from other states if the program satisfies the following requirements:

(1) An ownership interest in the program is limited to some or all of the nonprofit corporations of this state and nonprofit corporations of other states that are provided insurance by the program;

(2) The nonprofit corporations of this state and other states shall elect a board of directors to manage the program, all of whom must be affiliated with one or more of the participating nonprofit corporations;

(3) The program must provide coverage through the delivery to each participating nonprofit corporation of one or more written policies affecting insurance of covered risks;

(4) The program must be financed, including the payment of premiums and the contribution of initial capital, in accordance with the plan of management and operation submitted to the state risk manager in accordance with this chapter;

(5) The financial statements of the program must be audited by a certified public accountant, and these audited financial statements must be delivered to the state risk manager not more than one hundred twenty days after the end of each fiscal year of the program;

(6) The investments of the program must be initiated only with financial institutions or broker-dealers, or both, doing business in those states in which participating nonprofit corporations are located, and these investments must be audited annually by the certified public accountants for the program;

(7) The treasurer of a multistate joint self-insurance program must be designated by resolution of the program and the treasurer must be located in the state of one of the participating entities; and

(8) The program must obtain approval from the state risk manager in accordance with this chapter and must remain in compliance with this chapter, unless exempt from application for reapproval, as granted under section 7 of this act.

NEW SECTION. Sec. 12. (1) Within one hundred twenty days of receipt of a plan of management and operation, the state risk manager shall either approve or disapprove of the formation of the joint self-insurance program after reviewing the plan to determine whether the proposed program complies with this chapter and all rules adopted in accordance with this chapter.

(2) If the state risk manager denies a request for approval, the state risk manager shall specify in detail the reasons for denial and the manner in which the program fails to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

(3) If the state risk manager determines that a joint self-insurance program covering property or liability risks is in violation of this chapter or is operating in an unsafe financial condition, the state risk manager may issue and serve upon the program an order to cease and desist from the violation or practice.

(a) The state risk manager shall deliver the order to the appropriate entity or entities directly or mail it to the appropriate entity or entities by certified mail with return receipt requested.

(b) If the program violates the order or has not taken steps to comply with the order after the expiration of twenty days after the cease and desist order has been received by the program, the program is deemed to be operating in violation of this chapter, and the state risk manager shall notify the attorney general of the violation.

(c) After hearing, or with the consent of a program governed under this chapter, and in addition to or in lieu of a continuation of the cease and desist order, the state risk manager may levy a fine upon the program in an amount not less than three hundred dollars and not more than ten thousand dollars. The order levying the fine must specify the period within which the fine must be fully paid. The period within which the fines must be paid must be not less than fifteen and not more than thirty days from the date of the order. Upon failure to pay the fine when due, the state risk manager shall request the attorney general to bring a civil action on the state risk manager's behalf to collect the fine. The state risk manager shall pay any fine collected to the state treasurer for deposit into the general fund.

(4) Each joint self-insurance program approved by the state risk manager shall annually file a report with the state risk manager providing:

(a) Details of any changes in the articles of incorporation, bylaws, charter, trust agreement, or other agreement among the participating nonprofit corporations;

(b) Copies of all the insurance coverage documents;

(c) A description of the program structure, including participants' retention, program retention, and excess insurance limits and attachment point;

(d) An actuarial analysis;

(e) A list of contractors and service providers;

(f) The financial and loss experience of the program; and

(g) Other information as required by rule of the state risk manager.

(5) A joint self-insurance program requiring the state risk manager's approval may not engage in an act or practice that in any respect significantly differs from the management and operation plan that formed the basis for the state risk manager's approval of the program unless the program first notifies the state risk manager in writing and obtains the state risk manager's approval. The state risk manager shall approve or disapprove the proposed change within sixty days of receipt of the notice. If the state risk manager denies a requested change, the state risk manager shall specify in detail the reasons for the denial and the manner in which the program would fail to meet the requirements of this chapter or any rules adopted in accordance with this chapter.

NEW SECTION. Sec. 13. (1) A joint self-insurance program may by resolution of the program designate a person having experience with investments or financial matters as treasurer of the program. The program must require a bond obtained from a surety company in an amount and under the terms and conditions that the program finds will protect against loss arising from mismanagement or malfeasance in investing and managing program funds. The program may pay the premium on the bond.

(2) All interest and earnings collected on joint self-insurance program funds belong to the program and must be deposited to the program's credit in the proper program account.

NEW SECTION. Sec. 14. (1) An employee or official of a participating nonprofit corporation in a joint self-insurance program may not directly or indirectly receive anything of value for services rendered in connection with the operation and management of a self-insurance program other than the salary and benefits provided by his or her employer or the reimbursement of expenses reasonably incurred in furtherance of the operation or management of the program. An employee or official of a participating nonprofit corporation in a joint self-insurance program may not accept or solicit anything of value for personal benefit or for the benefit of others under circumstances in which it can be reasonably inferred that the employee's or official's independence of judgment is impaired with respect to the management and operation of the program.

(2) RCW 48.30.140, 48.30.150, and 48.30.157 apply to the use of insurance producers and surplus line brokers by a joint self-insurance program.

NEW SECTION. Sec. 15. A joint self-insurance program approved in accordance with this chapter is exempt from insurance premium taxes, fees assessed under chapters 48.02, 48.32, and 48.32A RCW, business and occupation taxes imposed under chapter 82.04 RCW, and any assigned risk plan or joint underwriting association otherwise required by law. This section does not apply to or provide exemptions for insurance companies issuing policies to cover program risks and third-party administrators or insurance producers serving the joint self-insurance program.

NEW SECTION. Sec. 16. (1) The state risk manager shall establish and charge an investigation fee in an amount necessary to cover the costs for the initial review and approval of a joint self-insurance program. The fee must accompany the initial submission of the plan of operation and management.

(2) The costs of subsequent reviews and investigations must be charged to the joint self-insurance program being reviewed or investigated in accordance with the actual time and expenses incurred in the review or investigation.

(3) Any program failing to remit its assessment when due is subject to denial of permission to operate or to a cease and desist order until the assessment is paid.

NEW SECTION. Sec. 17. (1) Any person who files, reports, or furnishes other information required under this title, required by the state risk manager under the authority granted under this title, or which is useful to the state risk manager in the administration of this title is immune from liability in any civil action or suit arising from the filing of any such report or furnishing such information to the state risk manager, unless actual malice, fraud, or bad faith is shown.

(2) The state risk manager and his or her agents and employees are immune from liability in any civil action or suit arising from the publication of any report or bulletin or from dissemination of information related to the official activities of the state risk manager unless actual malice, fraud, or bad faith is shown.

(3) The immunity granted under this section is in addition to any common law or statutory privilege or immunity enjoyed by such person. This section is not intended to abrogate or modify in any way such common law or statutory privilege or immunity.

NEW SECTION. **Sec. 18.** RCW 48.62.036 (Authority to form or join a self-insurance risk pool—When section not applicable) and 2004 c 255 s 3 are each repealed.

NEW SECTION. **Sec. 19.** Sections 5 through 17 of this act constitute a new chapter in Title 48 RCW.

Passed by the Senate February 25, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 110

[Substitute Senate Bill 5156]

REAL ESTATE--DISCLOSURES--ELEVATORS AND OTHER CONVEYANCES

AN ACT Relating to the disclosure of information regarding elevators and other conveyances in certain real estate transactions; amending RCW 64.06.020; and creating a new section.

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

Sec. 1. RCW 64.06.020 and 2012 c 132 s 2 are each amended to read as follows:

(1) In a transaction for the sale of improved residential real property, the seller shall, unless the buyer has expressly waived the right to receive the disclosure statement under RCW 64.06.010, or unless the transfer is otherwise exempt under RCW 64.06.010, deliver to the buyer a completed seller disclosure statement in the following format and that contains, at a minimum, the following information:

INSTRUCTIONS TO THE SELLER

Please complete the following form. Do not leave any spaces blank. If the question clearly does not apply to the property write "NA." If the answer is "yes" to any * items, please explain on attached sheets. Please refer to the line number(s) of the question(s) when you provide your explanation(s). For your protection you must date and sign each page of this disclosure statement and each attachment. Delivery of the disclosure statement must occur not later than five business days, unless otherwise agreed, after mutual acceptance of a written contract to purchase between a buyer and a seller.

NOTICE TO THE BUYER

THE FOLLOWING DISCLOSURES ARE MADE BY SELLER ABOUT THE CONDITION OF THE PROPERTY LOCATED AT..... ("THE PROPERTY"), OR AS LEGALLY DESCRIBED ON ATTACHED EXHIBIT A.

SELLER MAKES THE FOLLOWING DISCLOSURES OF EXISTING MATERIAL FACTS OR MATERIAL DEFECTS TO BUYER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS YOU AND SELLER OTHERWISE AGREE IN WRITING, YOU HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO YOU TO RESCIND THE

AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. IF THE SELLER DOES NOT GIVE YOU A COMPLETED DISCLOSURE STATEMENT, THEN YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

THE FOLLOWING ARE DISCLOSURES MADE BY SELLER AND ARE NOT THE REPRESENTATIONS OF ANY REAL ESTATE LICENSEE OR OTHER PARTY. THIS INFORMATION IS FOR DISCLOSURE ONLY AND IS NOT INTENDED TO BE A PART OF ANY WRITTEN AGREEMENT BETWEEN BUYER AND SELLER.

FOR A MORE COMPREHENSIVE EXAMINATION OF THE SPECIFIC CONDITION OF THIS PROPERTY YOU ARE ADVISED TO OBTAIN AND PAY FOR THE SERVICES OF QUALIFIED EXPERTS TO INSPECT THE PROPERTY, WHICH MAY INCLUDE, WITHOUT LIMITATION, ARCHITECTS, ENGINEERS, LAND SURVEYORS, PLUMBERS, ELECTRICIANS, ROOFERS, BUILDING INSPECTORS, ON-SITE WASTEWATER TREATMENT INSPECTORS, OR STRUCTURAL PEST INSPECTORS. THE PROSPECTIVE BUYER AND SELLER MAY WISH TO OBTAIN PROFESSIONAL ADVICE OR INSPECTIONS OF THE PROPERTY OR TO PROVIDE APPROPRIATE PROVISIONS IN A CONTRACT BETWEEN THEM WITH RESPECT TO ANY ADVICE, INSPECTION, DEFECTS OR WARRANTIES.

Seller is/ is not occupying the property.

I. SELLER'S DISCLOSURES:

If you answer "Yes" to a question with an asterisk (), please explain your answer and attach documents, if available and not otherwise publicly recorded. If necessary, use an attached sheet.

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

I. TITLE

A. Do you have legal authority to sell the property? If no, please explain.

*B. Is title to the property subject to any of the following?

- (1) First right of refusal
- (2) Option
- (3) Lease or rental agreement
- (4) Life estate?

*C. Are there any encroachments, boundary agreements, or boundary disputes?

*D. Is there a private road or easement agreement for access to the property?

*E. Are there any rightsofway, easements, or access limitations that may affect the Buyer's use of the property?

*F. Are there any written agreements for joint maintenance of an easement or rightofway?

*G. Is there any study, survey project, or notice that would adversely affect the property?

*H. Are there any pending or existing assessments against the property?

- Yes No Don't know *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?
- Yes No Don't know *J. Is there a boundary survey for the property?
- Yes No Don't know *K. Are there any covenants, conditions, or restrictions recorded against the property?

2. WATER

A. Household Water

- (1) The source of water for the property is:
 - Private or publicly owned water system
 - Private well serving only the subject property
 - Other water system
- *If shared, are there any written agreements?
- *I. Are there any zoning violations, nonconforming uses, or any unusual restrictions on the property that would affect future construction or remodeling?
- *J. Is there a boundary survey for the property?
- *K. Are there any covenants, conditions, or restrictions recorded against the property?
- (2) Is there an easement (recorded or unrecorded) for access to and/or maintenance of the water source?
- (3) Are there any problems or repairs needed?
- (4) During your ownership, has the source provided an adequate yearround supply of potable water? If no, please explain.
- (5) Are there any water treatment systems for the property? If yes, are they Leased Owned
- (6) Are there any water rights for the property associated with its domestic water supply, such as a water right permit, certificate, or claim?
 - (a) If yes, has the water right permit, certificate, or claim been assigned, transferred, or changed?
 - (b) If yes, has all or any portion of the water right not been used for five or more successive years?
- (7) Are there any defects in the operation of the water system (e.g. pipes, tank, pump, etc.)?

B. Irrigation Water

- (1) Are there any irrigation water rights for the property, such as a water right permit, certificate, or claim?
 - (a) If yes, has all or any portion of the water right not been used for five or more successive years?
 - (b) If so, is the certificate available? (If yes, please attach a copy.)
 - (c) If so, has the water right permit, certificate, or claim been assigned, transferred, or changed?

Yes No Don't know *(2) Does the property receive irrigation water from a ditch company, irrigation district, or other entity? If so, please identify the entity that supplies water to the property:
.....

Yes No Don't know C. Outdoor Sprinkler System
(1) Is there an outdoor sprinkler system for the property?
 Yes No Don't know *(2) If yes, are there any defects in the system?
 Yes No Don't know *(3) If yes, is the sprinkler system connected to irrigation water?

3. SEWER/ON-SITE SEWAGE SYSTEM
A. The property is served by:
 Public sewer system,
 On-site sewage system (including pipes, tanks, drainfields, and all other component parts)
 Other disposal system, please describe:
.....

Yes No Don't know B. If public sewer system service is available to the property, is the house connected to the sewer main? If no, please explain.
.....

Yes No Don't know *C. Is the property subject to any sewage system fees or charges in addition to those covered in your regularly billed sewer or on-site sewage system maintenance service?
D. If the property is connected to an on-site sewage system:
 Yes No Don't know *(1) Was a permit issued for its construction, and was it approved by the local health department or district following its construction?
(2) When was it last pumped?
.....

Yes No Don't know *(3) Are there any defects in the operation of the on-site sewage system?
 Don't know (4) When was it last inspected?
.....

Yes No Don't know By whom:
 Don't know (5) For how many bedrooms was the on-site sewage system approved?
..... bedrooms

Yes No Don't know E. Are all plumbing fixtures, including laundry drain, connected to the sewer/on-site sewage system? If no, please explain:

Yes No Don't know *F. Have there been any changes or repairs to the on-site sewage system?

Yes No Don't know G. Is the on-site sewage system, including the drainfield, located entirely within the boundaries of the property? If no, please explain.
.....

[] Yes [] No [] Don't know *H. Does the on-site sewage system require monitoring and maintenance services more frequently than once a year?

NOTICE: IF THIS RESIDENTIAL REAL PROPERTY DISCLOSURE STATEMENT IS BEING COMPLETED FOR NEW CONSTRUCTION WHICH HAS NEVER BEEN OCCUPIED, THE SELLER IS NOT REQUIRED TO COMPLETE THE QUESTIONS LISTED IN ITEM 4. STRUCTURAL OR ITEM 5. SYSTEMS AND FIXTURES

[] Yes [] No [] Don't know 4. STRUCTURAL *A. Has the roof leaked within the last five years?

[] Yes [] No [] Don't know *B. Has the basement flooded or leaked? [] Yes [] No [] Don't know *C. Have there been any conversions, additions, or remodeling?

[] Yes [] No [] Don't know *(1) If yes, were all building permits obtained?

[] Yes [] No [] Don't know *(2) If yes, were all final inspections obtained?

[] Yes [] No [] Don't know D. Do you know the age of the house? If yes, year of original construction:

[] Yes [] No [] Don't know *E. Has there been any settling, slippage, or sliding of the property or its improvements?

[] Yes [] No [] Don't know *F. Are there any defects with the following: (If yes, please check applicable items and explain.)

- Foundations Decks Exterior Walls
Chimneys Interior Walls Fire Alarm
Doors Windows Patio
Ceilings Slab Floors Driveways
Pools Hot Tub Sauna
Sidewalks Outbuildings Fireplaces
Garage Floors Walkways Siding
Other Woodstoves Elevators

[] Yes [] No [] Don't know *G. Was a structural pest or "whole house" inspection done? If yes, when and by whom was the inspection completed?

[] Yes [] No [] Don't know H. During your ownership, has the property had any wood destroying organism or pest infestation?

[] Yes [] No [] Don't know I. Is the attic insulated? [] Yes [] No [] Don't know J. Is the basement insulated?

5. SYSTEMS AND FIXTURES

[] Yes [] No [] Don't know *A. If any of the following systems or fixtures are included with the transfer, are there any defects? If yes, please explain.

[] Yes [] No [] Don't know Electrical system, including wiring, switches, outlets, and service

[] Yes [] No [] Don't know Plumbing system, including pipes, faucets, fixtures, and toilets

[] Yes [] No [] Don't know Hot water tank

[] Yes [] No [] Don't know Garbage disposal

[] Yes [] No [] Don't know Appliances

[] Yes [] No [] Don't know Sump pump

[] Yes [] No [] Don't know Heating and cooling systems

[] Yes [] No [] Don't know Security system

[] Owned [] Leased

Yes No Don't know
 Yes No Don't know
 Yes No Don't know

Yes No Don't know
 Yes No Don't know
 Yes No Don't know
 Yes No Don't know
 Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Yes No Don't know

Other

*B. If any of the following fixtures or property is included with the transfer, are they leased? (If yes, please attach copy of lease.)

Security system

Tanks (type):

Satellite dish

Other:

*C. Are any of the following kinds of wood burning appliances present at the property?

- (1) Woodstove?
- (2) Fireplace insert?
- (3) Pellet stove?
- (4) Fireplace?

If yes, are all of the (1) woodstoves or (2) fireplace inserts certified by the U.S. Environmental Protection Agency as clean burning appliances to improve air quality and public health?

D. Is the property located within a city, county, or district or within a department of natural resources fire protection zone that provides fire protection services?

E. Is the property equipped with carbon monoxide alarms?

(Note: Pursuant to RCW 19.27.530, seller must equip the residence with carbon monoxide alarms as required by the state building code.)

F. Is the property equipped with smoke alarms?

6. HOMEOWNERS' ASSOCIATION/COMMON INTERESTS

A. Is there a Homeowners' Association? Name of Association and contact information for an officer, director, employee, or other authorized agent, if any, who may provide the association's financial statements, minutes, bylaws, fining policy, and other information that is not publicly available:

.....

B. Are there regular periodic assessments:
 \$. . . per Month Year
 Other

*C. Are there any pending special assessments?

*D. Are there any shared "common areas" or any joint maintenance agreements (facilities such as walls, fences, landscaping, pools, tennis courts, walkways, or other areas co-owned in undivided interest with others)?

7. ENVIRONMENTAL

*A. Have there been any flooding, standing water, or drainage problems on the property that affect the property or access to the property?

- Yes No Don't know *B. Does any part of the property contain fill dirt, waste, or other fill material?
- Yes No Don't know *C. Is there any material damage to the property from fire, wind, floods, beach movements, earthquake, expansive soils, or landslides?
- Yes No Don't know D. Are there any shorelines, wetlands, floodplains, or critical areas on the property?
- Yes No Don't know *E. Are there any substances, materials, or products in or on the property that may be environmental concerns, such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, or contaminated soil or water?
- Yes No Don't know *F. Has the property been used for commercial or industrial purposes?
- Yes No Don't know *G. Is there any soil or groundwater contamination?
- Yes No Don't know *H. Are there transmission poles or other electrical utility equipment installed, maintained, or buried on the property that do not provide utility service to the structures on the property?
- Yes No Don't know *I. Has the property been used as a legal or illegal dumping site?
- Yes No Don't know *J. Has the property been used as an illegal drug manufacturing site?
- Yes No Don't know *K. Are there any radio towers in the area that cause interference with cellular telephone reception?

8. MANUFACTURED AND MOBILE HOMES

If the property includes a manufactured or mobile home,

- Yes No Don't know *A. Did you make any alterations to the home? If yes, please describe the alterations:
- Yes No Don't know *B. Did any previous owner make any alterations to the home?
- Yes No Don't know *C. If alterations were made, were permits or variances for these alterations obtained?

9. FULL DISCLOSURE BY SELLERS

A. Other conditions or defects:

- Yes No Don't know *Are there any other existing material defects affecting the property that a prospective buyer should know about?

B. Verification:

The foregoing answers and attached explanations (if any) are complete and correct to the best of my/our knowledge and I/we have received a copy hereof. I/we authorize all of my/our real estate licensees, if any, to deliver a copy of this disclosure statement to other real estate licensees and all prospective buyers of the property.

DATE SELLER SELLER
NOTICE TO THE BUYER

INFORMATION REGARDING REGISTERED SEX OFFENDERS MAY BE OBTAINED FROM LOCAL LAW ENFORCEMENT AGENCIES. THIS NOTICE IS INTENDED ONLY TO INFORM YOU OF WHERE TO OBTAIN THIS INFORMATION AND IS NOT AN INDICATION OF THE PRESENCE OF REGISTERED SEX OFFENDERS.

II. BUYER'S ACKNOWLEDGMENT

- A. Buyer hereby acknowledges that: Buyer has a duty to pay diligent attention to any material defects that are known to Buyer or can be known to Buyer by utilizing diligent attention and observation.
- B. The disclosures set forth in this statement and in any amendments to this statement are made only by the Seller and not by any real estate licensee or other party.
- C. Buyer acknowledges that, pursuant to RCW 64.06.050(2), real estate licensees are not liable for inaccurate information provided by Seller, except to the extent that real estate licensees know of such inaccurate information.
- D. This information is for disclosure only and is not intended to be a part of the written agreement between the Buyer and Seller.
- E. Buyer (which term includes all persons signing the "Buyer's acceptance" portion of this disclosure statement below) has received a copy of this Disclosure Statement (including attachments, if any) bearing Seller's signature.

DISCLOSURES CONTAINED IN THIS DISCLOSURE STATEMENT ARE PROVIDED BY SELLER BASED ON SELLER'S ACTUAL KNOWLEDGE OF THE PROPERTY AT THE TIME SELLER COMPLETES THIS DISCLOSURE STATEMENT. UNLESS BUYER AND SELLER OTHERWISE AGREE IN WRITING, BUYER SHALL HAVE THREE BUSINESS DAYS FROM THE DAY SELLER OR SELLER'S AGENT DELIVERS THIS DISCLOSURE STATEMENT TO RESCIND THE AGREEMENT BY DELIVERING A SEPARATELY SIGNED WRITTEN STATEMENT OF RESCISSION TO SELLER OR SELLER'S AGENT. YOU MAY WAIVE THE RIGHT TO RESCIND PRIOR TO OR AFTER THE TIME YOU ENTER INTO A SALE AGREEMENT.

BUYER HEREBY ACKNOWLEDGES RECEIPT OF A COPY OF THIS DISCLOSURE STATEMENT AND ACKNOWLEDGES THAT THE DISCLOSURES MADE HEREIN ARE THOSE OF THE SELLER ONLY, AND NOT OF ANY REAL ESTATE LICENSEE OR OTHER PARTY.

DATE BUYER BUYER

(2) If the disclosure statement is being completed for new construction which has never been occupied, the disclosure statement is not required to contain and the seller is not required to complete the questions listed in item 4. Structural or item 5. Systems and Fixtures.

(3) The seller disclosure statement shall be for disclosure only, and shall not be considered part of any written agreement between the buyer and seller of residential property. The seller disclosure statement shall be only a disclosure made by the seller, and not any real estate licensee involved in the transaction, and shall not be construed as a warranty of any kind by the seller or any real estate licensee involved in the transaction.

NEW SECTION. **Sec. 2.** Section 1 of this act applies only to real estate transactions for which a purchase and sale agreement is entered into after the effective date of this section.

Passed by the Senate February 25, 2015.
Passed by the House April 13, 2015.
Approved by the Governor April 25, 2015.
Filed in Office of Secretary of State April 25, 2015.

CHAPTER 111

[Senate Bill 5210]

STATE PATROL--RETIREMENT--LIFE ANNUITY BENEFIT

AN ACT Relating to an optional life annuity benefit for members of the Washington state patrol retirement system; and adding a new section to chapter 43.43 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43 RCW to read as follows:

(1) At the time of retirement, members may purchase an optional actuarially equivalent life annuity benefit from the Washington state patrol retirement fund established in RCW 43.43.130. A minimum payment of twenty-five thousand dollars is required.

(2) Subject to rules adopted by the department, a member purchasing an annuity under this section must pay all of the cost with an eligible rollover, direct rollover, or trustee-to-trustee transfer from an eligible retirement plan.

(a) The department shall adopt rules to ensure that all eligible rollovers and transfers comply with the requirements of the internal revenue code and regulations adopted by the internal revenue service. The rules adopted by the department may condition the acceptance of a rollover or transfer from another plan on the receipt of information necessary to enable the department to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

(b) "Eligible retirement plan" means a tax qualified plan offered by a governmental employer.

Passed by the Senate March 2, 2015.
Passed by the House April 14, 2015.
Approved by the Governor April 25, 2015.
Filed in Office of Secretary of State April 25, 2015.

CHAPTER 112

[Senate Bill 5249]

LOCAL REVITALIZATION FINANCING PROJECTS--BOND ISSUANCE EXEMPTION

AN ACT Relating to creating a bond issuance exemption for qualifying local revitalization financing projects; and amending RCW 82.14.510 and 82.14.515.

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

Sec. 1. RCW 82.14.510 and 2010 c 164 s 9 are each amended to read as follows:

(1) Any city or county that has been approved for a project award under RCW 39.104.100 may impose a sales and use tax under the authority of this section in accordance with the terms of this chapter. Except as provided in this section, the tax is in addition to other taxes authorized by law and must be

collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the taxing jurisdiction of the city or county.

(2) The tax authorized under subsection (1) of this section is credited against the state taxes imposed under RCW 82.08.020(1) and 82.12.020 at the rate provided in RCW 82.08.020(1). The department must perform the collection of such taxes on behalf of the city or county at no cost to the city or county. The taxes must be distributed to cities and counties as provided in RCW 82.14.060.

(3) The rate of tax imposed by a city or county may not exceed the lesser of:

(a) The rate provided in RCW 82.08.020(1), less:

(i) The aggregate rates of all other local sales and use taxes imposed by any taxing authority on the same taxable events;

(ii) The aggregate rates of all taxes under RCW 82.14.465 and 82.14.475 and this section that are authorized but have not yet been imposed on the same taxable events by a city or county that has been approved to receive a state contribution by the department or the community economic revitalization board under chapter 39.104, 39.100, or 39.102 RCW; and

(iii) The percentage amount of distributions required under RCW 82.08.020(5) multiplied by the rate of state taxes imposed under RCW 82.08.020(1); and

(b) The rate, as determined by the city or county in consultation with the department, reasonably necessary to receive the project award under RCW 39.104.100 over ten months.

(4) The department, upon request, must assist a city or county in establishing its tax rate in accordance with subsection (3) of this section. Once the rate of tax is selected through the application process and approved under RCW 39.104.100, it may not be increased.

(5)(a) Except as provided in (c) and (d) of this subsection, no tax may be imposed under the authority of this section before:

(i) July 1, 2011;

(ii) July 1st of the second calendar year following the year in which the department approved the application made under RCW 39.104.100;

(iii) The state sales and use tax increment and state property tax increment for the preceding calendar year equal or exceed the amount of the project award approved by the department under RCW 39.104.100; and

(iv) Bonds have been issued according to RCW 39.104.110.

(b) The tax imposed under this section expires the earlier of the date that the bonds issued under the authority of RCW 39.104.110 are retired or twenty-five years after the tax is first imposed.

(c) For a demonstration project described in RCW 82.14.505(1)(a) except as provided in (d) of this subsection (5), no tax may be imposed under the authority of this section before:

(i) July 1, 2010; and

(ii) Bonds have been issued according to RCW 39.104.110.

(d) The requirement to issue bonds in (a)(iv) or (c)(ii) of this subsection (5) does not apply to demonstration projects authorized by RCW 82.14.505(1)(a)(iii), or any city receiving a project award under RCW 39.104.100 of less than one hundred fifty thousand dollars.

(6) An ordinance or resolution adopted by the legislative authority of the city or county imposing a tax under this section must provide that:

(a) The tax will first be imposed on the first day of a fiscal year;

(b) The cumulative amount of tax received by the city or county, in any fiscal year, may not exceed the amount approved by the department under subsection (10) of this section;

(c) The department must cease distributing the tax for the remainder of any fiscal year in which either:

(i) The amount of tax received by the city or county equals the amount of distributions approved by the department for the fiscal year under subsection (10) of this section; or

(ii) The amount of revenue distributed to all sponsoring and cosponsoring local governments from taxes imposed under this section equals the annual state contribution limit;

(d) The tax will be distributed again, should it cease to be distributed for any of the reasons provided in (c) of this subsection, at the beginning of the next fiscal year, subject to the restrictions in this section; and

(e) The state is entitled to any revenue generated by the tax in excess of the amounts specified in (c) of this subsection.

(7) If a city or county receives approval for more than one revitalization area within its jurisdiction, the city or county may impose a sales and use tax under this section for each revitalization area.

(8) The department must determine the amount of tax receipts distributed to each city and county imposing a sales and use tax under the authority of this section and must advise a city or county when tax distributions for the fiscal year equal the amount determined by the department in subsection (10) of this section. Determinations by the department of the amount of tax distributions attributable to a city or county are not appealable. The department must remit any tax receipts in excess of the amounts specified in subsection (6)(c) of this section to the state treasurer who must deposit the money in the general fund.

(9) If a city or county fails to comply with RCW 82.32.765, no tax may be distributed in the subsequent fiscal year until such time as the city or county complies and the department calculates the state contribution amount according to subsection (10) of this section for the fiscal year.

(10)(a) For each fiscal year that a city or county imposes the tax under the authority of this section, the department must approve the amount of taxes that may be distributed to the city or county. The amount approved by the department under this subsection is the lesser of:

(i) The state contribution;

(ii) The amount of project award granted by the department as provided in RCW 39.104.100; or

(iii) The total amount of revenues from local public sources dedicated or, in the case of carry forward revenues, deemed dedicated in the preceding calendar year, as reported in the required annual report under RCW 82.32.765.

(b) A city or county may not receive, in any fiscal year, more revenues from taxes imposed under the authority of this section than the amount approved annually by the department.

(11) The amount of tax distributions received from taxes imposed under the authority of this section by all cities and counties is limited annually to not more than the amount of annual state contribution limit.

(12) The definitions in RCW 39.104.020 apply to this section subject to subsection (13) of this section and unless the context clearly requires otherwise.

(13) For purposes of this section, the following definitions apply:

(a) "Local sales and use taxes" means sales and use taxes imposed by cities, counties, public facilities districts, and other local governments under the authority of this chapter~~(,)~~ or chapter 67.28 ~~((or 67.40))~~ RCW, or any other chapter, and that are credited against the state sales and use taxes.

(b) "State sales and use taxes" means the taxes imposed in RCW 82.08.020(1) and 82.12.020.

Sec. 2. RCW 82.14.515 and 2009 c 270 s 602 are each amended to read as follows:

(1) Money collected from the taxes imposed under RCW 82.14.510 may be used only for the purpose of paying debt service on bonds issued under the authority in RCW 39.104.110.

(2) Subsection (1) of this section does not apply to cities that qualify for the bond issuance exemption established in RCW 82.14.510(5)(d).

Passed by the Senate February 24, 2015.

Passed by the House April 10, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 113

[Substitute Senate Bill 5293]

OPTOMETRISTS--HYDROCODONE PRODUCTS

AN ACT Relating to preserving the use of hydrocodone products by licensed optometrists in Washington state; and amending RCW 18.53.010.

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

Sec. 1. RCW 18.53.010 and 2013 c 19 s 2 are each amended to read as follows:

(1) The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

(a) The employment of any objective or subjective means or method, including the use of drugs, for diagnostic and therapeutic purposes by those licensed under this chapter and who meet the requirements of subsections (2) and (3) of this section, and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; and

(b) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; and

(c) The prescription and provision of visual therapy, therapeutic aids, and other optical devices; and

(d) The ascertainment of the perceptive, neural, muscular, or pathological condition of the visual system; and

(e) The adaptation of prosthetic eyes.

(2)(a) Those persons using topical drugs for diagnostic purposes in the practice of optometry shall have a minimum of sixty hours of didactic and clinical instruction in general and ocular pharmacology as applied to optometry, as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to use drugs for diagnostic purposes.

(b) Those persons using or prescribing topical drugs for therapeutic purposes in the practice of optometry must be certified under (a) of this subsection, and must have an additional minimum of seventy-five hours of didactic and clinical instruction as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to use drugs for therapeutic purposes.

(c) Those persons using or prescribing drugs administered orally for diagnostic or therapeutic purposes in the practice of optometry shall be certified under (b) of this subsection, and shall have an additional minimum of sixteen hours of didactic and eight hours of supervised clinical instruction as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board of Washington to administer, dispense, or prescribe oral drugs for diagnostic or therapeutic purposes.

(d) Those persons administering epinephrine by injection for treatment of anaphylactic shock in the practice of optometry must be certified under (b) of this subsection and must have an additional minimum of four hours of didactic and supervised clinical instruction, as established by the board, and certification from an institution of higher learning, accredited by those agencies recognized by the United States office of education or the council on postsecondary accreditation to qualify for certification by the optometry board to administer epinephrine by injection.

(e) Such course or courses shall be the fiscal responsibility of the participating and attending optometrist.

(f)(i) All persons receiving their initial license under this chapter on or after January 1, 2007, must be certified under (a), (b), (c), and (d) of this subsection.

(ii) All persons licensed under this chapter on or after January 1, 2009, must be certified under (a) and (b) of this subsection.

(iii) All persons licensed under this chapter on or after January 1, 2011, must be certified under (a), (b), (c), and (d) of this subsection.

(3) The board shall establish a list of topical drugs for diagnostic and treatment purposes limited to the practice of optometry, and no person licensed

pursuant to this chapter shall prescribe, dispense, purchase, possess, or administer drugs except as authorized and to the extent permitted by the board.

(4) The board must establish a list of oral Schedule III through V controlled substances and any oral legend drugs, with the approval of and after consultation with the pharmacy quality assurance commission. The board may include Schedule II hydrocodone combination products consistent with subsection (6) of this section. No person licensed under this chapter may use, prescribe, dispense, purchase, possess, or administer these drugs except as authorized and to the extent permitted by the board. No optometrist may use, prescribe, dispense, or administer oral corticosteroids.

(a) The board, with the approval of and in consultation with the pharmacy quality assurance commission, must establish, by rule, specific guidelines for the prescription and administration of drugs by optometrists, so that licensed optometrists and persons filling their prescriptions have a clear understanding of which drugs and which dosages or forms are included in the authority granted by this section.

(b) An optometrist may not:

(i) Prescribe, dispense, or administer a controlled substance for more than seven days in treating a particular patient for a single trauma, episode, or condition or for pain associated with or related to the trauma, episode, or condition; or

(ii) Prescribe an oral drug within ninety days following ophthalmic surgery unless the optometrist consults with the treating ophthalmologist.

(c) If treatment exceeding the limitation in (b)(i) of this subsection is indicated, the patient must be referred to a physician licensed under chapter 18.71 RCW.

(d) The prescription or administration of drugs as authorized in this section is specifically limited to those drugs appropriate to treatment of diseases or conditions of the human eye and the adnexa that are within the scope of practice of optometry. The prescription or administration of drugs for any other purpose is not authorized by this section.

(5) The board shall develop a means of identification and verification of optometrists certified to use therapeutic drugs for the purpose of issuing prescriptions as authorized by this section.

(6) Nothing in this chapter may be construed to authorize the use, prescription, dispensing, purchase, possession, or administration of any Schedule I or II controlled substance, except Schedule II hydrocodone combination products. The provisions of this subsection must be strictly construed.

(7) With the exception of the administration of epinephrine by injection for the treatment of anaphylactic shock, no injections or infusions may be administered by an optometrist.

(8) Nothing in this chapter may be construed to authorize optometrists to perform ophthalmic surgery. Ophthalmic surgery is defined as any invasive procedure in which human tissue is cut, ablated, or otherwise penetrated by incision, injection, laser, ultrasound, or other means, in order to: Treat human eye diseases; alter or correct refractive error; or alter or enhance cosmetic appearance. Nothing in this chapter limits an optometrist's ability to use diagnostic instruments utilizing laser or ultrasound technology. Ophthalmic

surgery, as defined in this subsection, does not include removal of superficial ocular foreign bodies, epilation of misaligned eyelashes, placement of punctal or lacrimal plugs, diagnostic dilation and irrigation of the lacrimal system, orthokeratology, prescription and fitting of contact lenses with the purpose of altering refractive error, or other similar procedures within the scope of practice of optometry.

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CHAPTER 114

[Senate Bill 5300]

DEPARTMENT OF FINANCIAL INSTITUTIONS--ENFORCEMENT AUTHORITY--CREDIT UNIONS

AN ACT Relating to updating the department of financial institutions' regulatory enforcement powers regarding credit unions and organizations providing services to credit unions; amending RCW 31.12.005, 31.12.195, 31.12.225, 31.12.285, 31.12.326, 31.12.345, 31.12.367, 31.12.372, 31.12.404, 31.12.413, 31.12.436, 31.12.461, 31.12.464, 31.12.471, 31.12.516, 31.12.545, 31.12.575, 31.12.585, 31.12.595, and 31.12.674; and adding a new section to chapter 31.12 RCW.

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

Sec. 1. RCW 31.12.005 and 2013 c 34 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, as used in this chapter:

- (1) "Board" means the board of directors of a credit union.
- (2) "Board officer" means an officer of the board elected under RCW 31.12.265(1).
- (3) "Branch" of a credit union, out-of-state credit union, or foreign credit union means any facility that meets all of the following criteria:
 - (a) The facility is a staffed physical facility;
 - (b) The facility is owned or leased in whole or part by the credit union or its credit union service organization; and
 - (c) Deposits and withdrawals may be made, or shares purchased, through staff at the facility.
- (4) "Capital" means a credit union's reserves, undivided earnings, and allowance for loan and lease losses, and other items that may be included under RCW 31.12.413 or by rule or order of the director.
- (5) "Credit union" means a credit union organized and operating under this chapter.
- (6) "Credit union service organization" means an organization that a credit union has invested in pursuant to RCW 31.12.436(1)(h), or a credit union service organization invested in by an out-of-state, federal, or foreign credit union.
- (7) "Department" means the department of financial institutions.
- (8) "Director" means the director of financial institutions.
- (9) "Federal credit union" means a credit union organized and operating under the laws of the United States.

(10) "Financial institution" means any commercial bank, trust company, savings bank, or savings and loan association, whether state or federally chartered, and any credit union, out-of-state credit union, or federal credit union.

(11) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction.

(12) "Insolvency" means:

(a) If, under United States generally accepted accounting principles, the recorded value of the credit union's assets are less than its obligations to its share account holders, depositors, creditors, and others; or

(b) If it is likely that the credit union will be unable to pay its obligations or meet its share account holders' and depositors' demands in the normal course of business.

(13) "Loan" means any loan, overdraft line of credit, extension of credit, or lease, in whole or in part.

(14) "Material violation of law" means:

(a) If the credit union or person has violated a material provision of:

(i) Law;

(ii) Any cease and desist order issued by the director;

(iii) Any condition imposed in writing by the director in connection with the approval of any application or other request of the credit union; or

(iv) Any supervisory agreement, or any other written agreement entered into with the director;

(b) If the credit union or person has concealed any of the credit union's books, papers, records, or assets, or refused to submit the credit union's books, papers, records, or affairs for inspection to any examiner of the state or, as appropriate, to any examiner of the national credit union administration; or

(c) If a member of a credit union board of directors or supervisory committee, or an officer of a credit union, has breached his or her fiduciary duty to the credit union.

(15) "Membership share" means an initial share that a credit union may require a person to purchase in order to establish and maintain membership in a credit union.

(16) "Net worth" means a credit union's capital, less the allowance for loan and lease losses.

(17) "Operating officer" means an employee of a credit union designated as an officer pursuant to RCW 31.12.265(2).

(18) "Organization" means a corporation, partnership, association, limited liability company, trust, or other organization or entity.

(19) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory or possession.

(20) "Person" means an organization or a natural person including, but not limited to, a sole proprietorship.

(21) "Principally" or "primarily" means more than one-half.

(22) "Senior operating officer" includes:

(a) An operating officer who is a vice president or above; and

(b) Any employee who has policy-making authority.

(23) "Significantly undercapitalized" means a net worth to total assets ratio of less than four percent.

(24) "Small credit union" means a credit union with up to ten million dollars in total assets.

(25) "Unsafe or unsound condition" means, but is not limited to:

(a) If the credit union is insolvent;

(b) If the credit union has incurred or is likely to incur losses that will deplete all or substantially all of its net worth;

(c) If the credit union is in imminent danger of losing its share and deposit insurance or guarantee; or

(d) If the credit union is significantly undercapitalized.

(26) "Unsafe or unsound practice" means any action, or lack of action, which is contrary to generally accepted standards of prudent operation, the likely consequences of which, if continued, would be abnormal risk of loss or danger to a credit union, its members, or an organization insuring or guaranteeing its shares and deposits.

(27) "Low-income member" means a member whose family income is not more than eighty percent of the median family income for the metropolitan statistical area where the member lives or for the national metropolitan area where the member lives, whichever is greater, or a member or potential member who earns not more than eighty percent of the total median earnings for individuals for the metropolitan statistical area where the member lives or for the national metropolitan area where the member lives, whichever is greater. For members living outside of a metropolitan statistical area, the department must apply the statewide or national nonmetropolitan area median family income or total median earnings for individuals.

Sec. 2. RCW 31.12.195 and 2013 c 34 s 2 are each amended to read as follows:

(1) Unless a unanimous vote by a supervisory committee is required for a suspension pursuant to RCW 31.12.345, a special membership meeting of a credit union may be called by a majority of the board, a majority vote of the supervisory committee, or upon written application of at least ten percent or two thousand of the members of a credit union, whichever is less.

(2) A request for a special membership meeting of a credit union shall be in writing and shall state specifically the purpose or purposes for which the meeting is called. At this meeting, only those agenda items detailed in the written request may be considered. If the special membership meeting is being called for the removal of one or more directors, the request shall state the name of the director or directors whose removal is sought.

(3)(a) Upon receipt of a request for a special membership meeting, the secretary of the credit union shall designate the time and place at which the special membership meeting will be held. The designated place of the meeting must be a reasonable location within the county in which the principal place of business of the credit union is located, unless provided otherwise by the bylaws. The designated time of the membership meeting must be no later than ninety days after the request is received by the secretary.

(b) The secretary shall give notice of the meeting at least thirty days before the special membership meeting, or within such other reasonable time period as may be provided by the bylaws. The notice must include the purpose or purposes for which the meeting is called, and, if the special membership meeting is being called for the removal of one or more directors, or members of a supervisory

committee, the notice must state the name of the director or directors, or member or members of the supervisory committee, whose removal is sought.

(4) Except as provided in this subsection, the chairperson of the board shall preside over special membership meetings. If the purpose of the special meeting includes the proposed removal of the chairperson, the next highest ranking board officer whose removal is not sought shall preside over the special meeting. If the removal of all board officers is sought, the chairperson of the supervisory committee shall preside over the special meeting.

(5) Special membership meetings shall be conducted according to the rules of procedure approved by the board.

Sec. 3. RCW 31.12.225 and 2013 c 34 s 3 are each amended to read as follows:

(1) The business and affairs of a credit union shall be managed by a board of not less than five and not greater than fifteen directors.

(2) The directors must be elected at the credit union's annual membership meeting. They shall hold their offices until their successors are qualified and elected or appointed.

(3) Directors shall be elected to terms of between one and three years, as provided in the bylaws. If the terms are longer than one year, the directors must be divided into classes, and an equal number of directors, as nearly as possible, must be elected each year.

(4) Except as provided in subsection (5) of this section, any vacancy on the board must be filled by an interim director appointed by the board, unless the interim director would serve a term of fewer than ninety days. Interim directors appointed to fill vacancies created by expansion of the board will serve until the next annual meeting of members. Other interim directors will serve out the unexpired term of the former director, unless provided otherwise in the credit union's bylaws.

(5) In the case of a merger between two credit unions pursuant to RCW 31.12.461, a board member of the merging credit union may continue to serve as a board member of the continuing credit union for a period not to exceed the equivalent of the duration of his or her unexpired term on the board of the merging credit union, provided that the approved plan of merger or other agreement approved by the director provides for such service on the continuing credit union's board with a corresponding expansion in the size of the continuing credit union's board not to exceed the limits under subsection (1) of this section.

(6) The board will have at least six regular meetings each year, with at least one of these meetings held in each calendar quarter. The director may require the board to meet more frequently than six times per year if the director finds it necessary in order to address matters noted in any examination.

(7) The director may adopt rules to interpret this section.

Sec. 4. RCW 31.12.285 and 2013 c 34 s 5 are each amended to read as follows:

The board may, for cause, suspend a member of the board or a member of the supervisory committee until a special membership meeting, called for that purpose, is held under RCW 31.12.195. The membership meeting must be held within ~~((sixty))~~ ninety days after the suspension. The members attending the meeting shall vote whether to remove a suspended party. For purposes of this

section, "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the board, threaten the safety and soundness of the credit union.

Sec. 5. RCW 31.12.326 and 2001 c 83 s 10 are each amended to read as follows:

(1) A supervisory committee of at least three members must be elected at the annual membership meeting of the credit union. Members of the supervisory committee shall serve a term of three years, unless sooner removed under this chapter or until their successors are qualified and elected or appointed. The members of the supervisory committee shall be divided into classes so that as equal a number as is possible is elected each year.

(2)(a) If a supervisory committee member is absent from more than one-third of the committee meetings in any twelve-month period in a term without being reasonably excused by the committee, the member shall no longer serve as a member of the committee for the period remaining in the term.

(b) The supervisory committee shall promptly notify the member that he or she shall no longer serve as a committee member. Failure to provide notice does not affect the termination of the member's service under (a) of this subsection.

(3) A supervisory committee member must be a natural person and a member of the credit union. If a member of the supervisory committee ceases to be a member of the credit union, the member shall no longer serve as a committee member. The chairperson of the supervisory committee may not serve as a board officer.

(4) Except as provided in subsection (5) of this section, any vacancy on the committee must be filled by an interim member appointed by the committee, unless the interim member would serve a term of fewer than ninety days. Interim members appointed to fill vacancies created by expansion of the committee will serve until the next annual meeting of members. Other interim members may serve out the unexpired term of the former member, unless provided otherwise by the credit union's bylaws. However, if all positions on the committee are vacant at the same time, the board may appoint interim members to serve until the next annual membership meeting.

(5) In the case of a merger between two credit unions pursuant to RCW 31.12.461, a supervisory committee member of the merging credit union may continue to serve as a supervisory committee member of the continuing credit union for a period not to exceed the equivalent of the duration of his or her unexpired term on the supervisory committee of the merging credit union, provided that the approved plan of merger or other agreement approved by the director provides for such service on the continuing credit union's supervisory committee with a corresponding expansion in the size of the continuing credit union's supervisory committee.

(6) No operating officer or employee of a credit union may serve on the credit union's supervisory committee. No more than one director may be a member of the supervisory committee at the same time, unless provided otherwise by the credit union's bylaws. No member of the supervisory committee may serve on the credit committee or investment committee of the credit union while serving on the supervisory committee.

Sec. 6. RCW 31.12.345 and 1997 c 397 s 24 are each amended to read as follows:

(1) The supervisory committee may, by unanimous vote, for cause, suspend a member of the board, until a special membership meeting called for that purpose is held in accordance with the requirements of RCW 31.12.195. The membership meeting must be held within ~~((thirty))~~ ninety days after the suspension. The members ~~((attending))~~ participating in that meeting shall vote whether to remove the suspended ~~((party or parties))~~ person or persons. ~~((The supervisory committee may, by unanimous vote, for cause, suspend members of other committees until a membership meeting is held. The meeting must be held within thirty days after the suspension. The members attending that meeting shall vote whether to remove the suspended party or parties.))~~

(2) For purposes of this section, "cause" includes demonstrated financial irresponsibility, a breach of fiduciary duty to the credit union, or activities which, in the judgment of the supervisory committee, threaten the safety and soundness of the credit union.

Sec. 7. RCW 31.12.367 and 2001 c 83 s 13 are each amended to read as follows:

(1) Each credit union must be adequately insured against risk. In addition, each director, officer, committee member, and employee of a credit union must be adequately bonded.

(2) When a credit union receives notice that its fidelity bond coverage will be suspended or terminated, the credit union shall notify the director in writing not less than thirty-five days prior to the effective date of the ~~((notice of))~~ suspension or termination.

Sec. 8. RCW 31.12.372 and 2010 c 87 s 17 are each amended to read as follows:

(1) The director may issue and serve ~~((an order suspending))~~ written notice of charges under RCW 31.12.575 to suspend a person from further participation in any manner in the conduct of the affairs of a credit union if the director determines that such an action is necessary for the protection of the credit union or the interests of the credit union's members.

~~((2))~~ (2) Any suspension ((order)) notice issued by the director is effective upon service and, unless the superior court of the county in which the primary place of business of the credit union is located issues a stay of the ((order)) notice, remains in effect and enforceable until ((completion of the administrative proceedings under RCW 31.12.575)).

(a) The director dismisses the charges contained in the notice served on the person; or

(b) The effective date of a final order for removal of the person pursuant to administrative proceedings under RCW 31.12.625.

~~((2))~~ (3) With the suspension ((order)) notice, the director shall serve a notice of intent to remove or prohibit under RCW 31.12.575.

~~((3))~~ (4) Within ten days after the person has been served with the suspension ((order)) notice, the person may apply to the superior court of the county in which the primary place of business of the credit union is located for an injunction setting aside, limiting, or ((suspending)) holding in abeyance the

~~((order))~~ suspension notice pending the completion of the administrative proceedings under the notice issued under subsection ~~((2))~~ (3) of this section.

~~((4))~~ (5) In the case of a violation or threatened violation of a suspension ~~((order))~~ notice, the director may apply to the superior court of the county in which the primary place of business of the credit union is located for an injunction to enforce the ~~((order))~~ notice, and the court shall issue an injunction if it determines that there has been a violation or threatened violation.

~~((5))~~ (6) For the purposes of this section, the principal place of business of a foreign or out-of-state credit union is Thurston county.

Sec. 9. RCW 31.12.404 and 2001 c 83 s 15 are each amended to read as follows:

(1) Notwithstanding any other provision of law, and in addition to all powers and authorities, express or implied, that a credit union has under the laws of this state, a credit union has the powers and authorities that a federal credit union had on December 31, 1993, or a subsequent date not later than ~~((July 22, 2004))~~ the effective date of this section.

(2) Notwithstanding any other provision of law, and in addition to the powers and authorities, express or implied, that a credit union has under subsection (1) of this section, a credit union has the powers and authorities that a federal credit union has, and an out-of-state credit union operating a branch in Washington has, subsequent to ~~((July 22, 2004))~~ the effective date of this section, if the director finds that the exercise of the power and authority serves the convenience and advantage of members of credit unions, and maintains the fairness of competition and parity between credit unions and federal or out-of-state credit unions. However, a credit union:

(a) Must still comply with RCW 31.12.408; and

(b) Is not granted the field of membership powers or authorities of any out-of-state credit union operating a branch in Washington.

(3) The restrictions, limitations, and requirements applicable to specific powers or authorities of federal or out-of-state credit unions apply to credit unions exercising those powers or authorities permitted under this section but only insofar as the restrictions, limitations, and requirements relate to the specific exercise of the powers or authorities granted credit unions solely under this section.

(4) As used in this section, "powers and authorities" include, but are not limited to, powers and authorities in corporate governance matters.

Sec. 10. RCW 31.12.413 and 2001 c 83 s 16 are each amended to read as follows:

(1) A credit union may apply in writing to the director for designation as a low-income credit union. The criteria for approval of this designation are as follows:

(a) At least fifty percent of a substantial and well-defined segment of the credit union's members or potential primary members ~~((earn no more than eighty percent of the state or national median income, whichever is higher))~~ are low-income members;

(b) The credit union must submit an acceptable written plan on marketing to and serving the well-defined segment;

(c) The credit union must agree to submit annual reports to the director on its service to the well-defined segment; and

(d) The credit union must submit other information and satisfy other criteria as may be required by the director.

(2)(a) Among other powers and authorities, a low-income credit union may:

(i) Issue secondary capital accounts approved in advance by the director upon application of the credit union; and

(ii) Accept shares and deposits from nonmembers.

(b) A secondary capital account is:

(i) Over one hundred thousand dollars, or a higher amount as established by the director;

(ii) Nontransactional;

(iii) Owned by a nonnatural person; and

(iv) Subordinate to other creditors.

(3) The director may adopt rules for the organization and operation of low-income credit unions including, but not limited to, rules concerning secondary capital accounts and requiring disclosures to the purchasers of the accounts.

Sec. 11. RCW 31.12.436 and 2013 c 34 s 8 are each amended to read as follows:

(1) A credit union may invest its funds in any of the following, as long as the investments are deemed prudent by the board:

(a) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection (1)(e) may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

(f) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to five percent of the capital of the credit union, in debt or equity issued by an organization owned by the (~~Washington credit union league~~) Northwest credit union association or its successor credit union association;

(h) Shares, stocks, loans, or other obligations of organizations whose primary purpose is to strengthen, advance, or provide services to the credit union

industry or credit union members. A credit union may in the aggregate invest an amount not to exceed one percent of its assets in organizations under this subsection (1)(h). In addition, a credit union may in the aggregate lend an amount not to exceed one percent of its assets to organizations under this subsection (1)(h). These limits do not apply to investments in, and loans to, an organization:

(i) That is wholly owned by one or more credit unions or federal or out-of-state credit unions; and

(ii) Whose activities are limited exclusively to those authorized by this chapter for a credit union;

(i) Loans to credit unions, out-of-state credit unions, or federal credit unions~~(-)~~, provided that the aggregate of such loans issued under this subsection (1)(i) is limited to twenty-five percent of the total shares and deposits of the (~~lending~~) credit union making the loans;

(j) Key person insurance policies and investment products related to employee benefits, the proceeds of which inure exclusively to the benefit of the credit union;

(k) A registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for credit unions; or

(l) Other investments approved by the director upon written application.

(2) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

Sec. 12. RCW 31.12.461 and 2014 c 8 s 1 are each amended to read as follows:

(1) For purposes of this section, ~~((the))~~ a "merging credit union" is ~~((the))~~ a credit union whose charter ceases to exist upon merger with the continuing credit union~~((The))~~, and a "continuing credit union" is ~~((the))~~ a credit union whose charter continues upon merger with the merging credit union.

(2) A credit union may be merged with another credit union with the approval ~~((of))~~ by the director ~~((and))~~ of a plan of merger or in accordance with requirements the director may otherwise prescribe. The merger must be approved by a majority vote of the board of each credit union and a majority vote of those members of the merging credit union voting on the merger at a membership meeting. The requirement of approval by the members of the merging credit union may be waived by the director if the merging credit union is in imminent danger of insolvency.

(3) The property, rights, and interests of the merging credit union transfer to and vest in the continuing credit union without deed, endorsement, or instrument of transfer, although instruments of transfer may be used if their use is deemed appropriate. The debts and obligations of the merging credit union that are known or reasonably should be known are assumed by the continuing credit union.

(4) The continuing credit union shall cause to be published notice of merger once a week for three consecutive weeks in a newspaper of general circulation in

the county in which the principal place of business of the merging credit union is located.

(5) The notice of merger must also inform creditors of the merging credit union how to make a claim on the continuing credit union, and that if a claim is not made upon the continuing credit union within thirty days of the last date of publication, creditors' claims that are not known by the continuing credit union (~~(may be)~~) are thereafter barred.

(6) Except for claims filed as requested by the notice, or debts or obligations that are known or reasonably should be known by the continuing credit union, the debts and obligations of the merging credit union are discharged.

(7) Upon merger, the charter of the merging credit union ceases to exist.

~~((4))~~ (8) Mergers are effective after the thirty-day notice period to creditors and all regulatory waiting periods have expired, and upon filing of the credit union's articles of merger by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

Sec. 13. RCW 31.12.464 and 2001 c 83 s 22 are each amended to read as follows:

(1) A credit union may merge or convert into a federal credit union as authorized by the federal credit union act. The merger or conversion must be approved by a (~~(two-thirds)~~) majority vote of those credit union members voting at a membership meeting, unless the credit union prescribes in its bylaws a higher percentage approval vote than a simple majority.

(2) If the merger or conversion is approved by the members, a copy of the resolution certified by the secretary must be filed with the director within ten days of approval. The board may effect the merger or conversion upon terms agreed by the board and the federal regulator.

(3) A certified copy of the federal credit union charter or authorization issued by the federal regulator must be filed with the director and thereupon the credit union ceases to exist except for the purpose of winding up its affairs and prosecuting or defending any litigation by or against the credit union. For all other purposes, the credit union is merged or converted into a federal credit union and the credit union may execute, acknowledge, and deliver to the successor federal credit union the instruments of transfer, conveyance, and assignment that are necessary or desirable to complete the merger or conversion, and the property, tangible or intangible, and all rights, titles, and interests that are agreed to by the board and the federal regulator.

(4) Mergers and conversions are effective after all applicable regulatory waiting periods have expired and upon filing of the credit union's articles of merger or articles of conversion, as appropriate, by the secretary of state, or a later date stated in the articles, which in no event may be later than ninety days after the articles are filed.

(5) Procedures, similar to those contained in subsections (1) through (4) of this section, prescribed by the director must be followed when a credit union merges or converts into an out-of-state or foreign credit union, or other type of financial institution.

Sec. 14. RCW 31.12.471 and 2001 c 83 s 24 are each amended to read as follows:

(1) An out-of-state or foreign credit union may not operate a branch in Washington unless:

(a) The director has approved its application in accordance with this section;

(b) A credit union organized and operating under this chapter is permitted to do business in the state or foreign jurisdiction in which the credit union is organized;

(c) The interest rate charged by the credit union on loans made to members residing in this state does not exceed the maximum interest rate permitted in the state or jurisdiction in which the credit union is organized, or exceed the maximum interest rate that a credit union organized and operating under this chapter is permitted to charge on similar loans, whichever is lower;

(d) The credit union has secured surety bond and fidelity bond coverages satisfactory to the director;

(e) The credit union's share and deposit accounts are insured under the federal share insurance program or an equivalent share insurance program in compliance with RCW 31.12.408;

(f) The credit union submits to the director an annual examination report of its most recently completed fiscal year;

(g) The credit union has not had its authority to do business in another state or foreign jurisdiction suspended or revoked;

(h) The credit union complies with:

(i) The provisions concerning field of membership in this chapter and rules adopted by the director; and

(ii) Such other provisions of this chapter and rules adopted by the director, as determined by the director; and

(i) In addition, if the credit union is a foreign credit union:

(i) A treaty or agreement between the United States and the jurisdiction where the credit union is organized requires the director to permit the credit union to operate a branch in Washington; and

(ii) The director determines that the credit union has substantially the same characteristics as a credit union organized and operating under this chapter.

(2) The director shall deny an application filed under this section or, upon notice and an opportunity for hearing, suspend or revoke the approval of an application, if the director finds that the standards of organization, operation, and regulation of the applicant do not reasonably conform with the standards under this chapter. In considering the standards of organization, operation, and regulation of the applicant, the director may consider the laws of the state or foreign jurisdiction in which the applicant is organized. A decision under this subsection may be appealed under chapter 34.05 RCW.

(3) In implementing this section, the director may cooperate with credit union regulators in other states or jurisdictions and may share with the regulators the information received in the administration of this chapter.

(4) The director may enter into supervisory agreements with outofstate and foreign credit unions and their regulators to prescribe the applicable laws governing the powers and authorities of Washington branches of the out-of-state or foreign credit unions. The director may also enter into supervisory agreements with the credit union regulators in other states or foreign jurisdictions to prescribe the applicable laws governing the powers and authorities of out-of-state or foreign branches and other facilities of credit unions. The agreements

may address, but are not limited to, corporate governance and operational matters. The agreements may resolve any conflict of laws, and specify the manner in which the examination, supervision, and application processes must be coordinated with the regulators.

(5) A person, other than a credit union, out-of-state credit union, or foreign credit union, may not hold itself out in this state as engaging in the business of a credit union unless it is a credit union under this chapter, a federal credit union, an out-of-state credit union, or a foreign credit union.

(6) A person, wherever domiciled and regardless of the location or mode of its business, may not designate itself as or use the term "credit union" to refer to itself in any communication for purpose of conducting credit union business with a resident of the state of Washington, unless such person is a credit union under this chapter, federal credit union, out-of-state credit union, or foreign credit union.

(7) The director may adopt rules for the periodic examination and investigation of the affairs of an out-of-state credit union or foreign credit union operating a branch in this state.

Sec. 15. RCW 31.12.516 and 2010 c 87 s 4 are each amended to read as follows:

(1) The powers of supervision and examination of credit unions and other persons subject to this chapter and chapter 31.13 RCW are vested in the director.

(2) The director shall require each credit union to conduct business in compliance with this chapter and may require each credit union to conduct business in compliance with other state and federal laws that apply to credit unions.

(3) The director has the power to commence and prosecute actions and proceedings~~(, to)~~ against and enjoin violations~~(, and to)~~ of this chapter and chapter 31.13 RCW by any person holding itself out to be a credit union, federal credit union, out-of-state credit union, foreign credit union, or corporate credit union. The director may, in connection with such enforcement of this chapter and chapter 31.13 RCW, collect sums, including fines, ~~((due the state of Washington from a credit union))~~ costs, and reasonable attorneys' fees for actions commenced or prosecuted on its behalf.

(4) Upon a written finding, the director may temporarily suspend or restrict withdrawal of deposits in a credit union.

~~((2))~~ (5) The director may adopt such rules as are reasonable or necessary to carry out the purposes of this chapter and chapter 31.13 RCW.

(6) Chapter 34.05 RCW ~~((with))~~, whenever applicable, governs the rights, remedies, and procedures respecting the administration of this chapter.

~~((3))~~ (7) The director may by rule provide appropriate relief for small credit unions from requirements under this chapter or rules of the director. However, small credit unions must still comply with RCW 31.12.408.

~~((4))~~ (8) The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter and chapter 31.13 RCW, to facilitate the delivery of financial services to the members of a credit union.

~~((5))~~ (9) Nonfederally insured credit unions, nonfederally insured out-of-state credit unions, and nonfederally insured foreign credit unions operating in

this state as permitted by RCW 31.12.408 and 31.12.471, as applicable, must comply with safety and soundness requirements established by the director.

~~((6))~~ (10) The director may charge fees to credit unions and other persons subject to examination and investigation under this chapter and chapter 31.13 RCW, and to other parties where the division contracts out its services, in order to cover the costs of the operation of the division of credit unions, and to establish a reasonable reserve for the division. The director may waive all or a portion of the fees.

Sec. 16. RCW 31.12.545 and 2010 c 87 s 5 are each amended to read as follows:

(1) The director shall make an examination and investigation into the affairs of each credit union at least once every eighteen months, unless the director determines with respect to a credit union, that a less frequent examination schedule will satisfactorily protect the financial stability of the credit union and will satisfactorily assure compliance with the provisions of this chapter.

(2) In regard to credit unions, and out-of-state and foreign credit unions permitted to operate a branch in Washington pursuant to RCW 31.12.471, the director:

(a) Shall have full access to the credit union's books and records and files, including but not limited to computer files;

(b) May appraise and revalue the credit union's investments; and

(c) May require the credit union to charge off or set up a special reserve for loans and investments.

(3) The director may make an examination and investigation into the affairs of:

(a) An out-of-state or foreign credit union permitted to operate a branch in Washington pursuant to RCW 31.12.471;

(b) A nonpublicly held organization, or its subsidiary, in which a credit union has a material investment;

(c) A publicly held organization the capital stock or equity of which is controlled by a credit union;

(d) A credit union service organization, or any tier subsidiary of a credit union service organization, in which a credit union has an interest;

(e) An organization that is not a credit union, out-of-state credit union, federal credit union, or foreign credit union, and that has a majority interest in a credit union service organization in which a credit union has an interest;

(f) A sole proprietorship or organization primarily in the business of managing one or more credit unions;

(g) A person providing electronic data processing services to a credit union or to a credit union service organization; ~~((and))~~ or

(h) A corporation or other business entity that provides alternative share insurance in accordance with RCW 31.12.408.

The director shall have full access to the books, records, personnel, and files, including but not limited to computer files, of persons described in this subsection.

(4) In connection with examinations and investigations, the director may:

(a) Administer oaths and examine under oath any person concerning the affairs of any credit union or of any person described in subsection (3) of this section; and

(b) Issue subpoenas to and require the attendance and testimony of any person at any place within this state, and require witnesses to produce any books and records and files, including but not limited to computer files, that are material to an examination or investigation.

(5) The director may accept in lieu of an examination under this section:

(a) The report of an examiner authorized to examine a credit union or an out-of-state, federal, or foreign credit union, or other financial institution; or

(b) The report of an accountant, satisfactory to the director, who has made and submitted a report of the condition of the affairs of a credit union or an out-of-state, federal, or foreign credit union, or other financial institution. The director may accept all or part of such a report in lieu of all or part of an examination. The accepted report or accepted part of the report has the same force and effect as an examination under this section.

Sec. 17. RCW 31.12.575 and 2010 c 87 s 8 are each amended to read as follows:

The director may issue and serve a credit union director, supervisory committee member, officer, or employee with written notice of intent to remove the person from office or employment or to prohibit the person from participating in the conduct of the affairs of the credit union or any (~~credit union~~) other depository institution, trust company, bank holding company, thrift holding company, or financial holding company doing business in Washington state in accordance with RCW 31.12.625 whenever, in the opinion of the director:

(1)(a) The person has committed a material violation of law or an unsafe or unsound practice; or

(b) The person has committed a violation or practice involving personal dishonesty, recklessness, or incompetence; and

(2)(a) The credit union has suffered or is likely to suffer substantial financial loss or other damage; or

(b) The interests of the credit union's share account holders and depositors could be seriously prejudiced by reason of the violation or practice.

NEW SECTION. **Sec. 18.** A new section is added to chapter 31.12 RCW to read as follows:

(1) A notice under RCW 31.12.575 must contain a statement of the facts that constitute grounds for removal or prohibition and must fix a time and place at which a hearing will be held. If the notice under RCW 31.12.575 is accompanied by a notice of suspension under RCW 31.12.372, the notice of suspension must reference the statement of facts in the notice under RCW 31.12.575 as the basis for its issuance.

(2) The hearing must be set not earlier than ten days after the date of service of the notice or later than thirty days after the date of service of the notice unless an earlier or later date is set by the director at the request of the credit union director, supervisory committee member, officer, or employee for good cause shown or of the attorney general of the state.

(3) Unless the credit union director, supervisory committee member, officer, or employee, after being served with the notice, appears at the hearing personally or by a duly authorized representative, the person is deemed to have consented to the issuance of an order of removal or prohibition or both. In the event of such

consent or if upon the record made at the hearing the director finds that any of the grounds specified in the notice have been established, the director may issue such orders of removal from office or prohibition from participation in the conduct of the affairs of the credit union or any other depository institution, trust company, bank holding company, thrift holding company, or financial holding company doing business in Washington state as the director may consider appropriate.

(4) An order becomes effective at the expiration of ten days after service upon the credit union and the credit union director, supervisory committee member, officer, or employee concerned, except that an order issued upon consent becomes effective at the time specified in the order.

(5) An order remains effective except to the extent it is stayed, modified, terminated, or set aside by the director or a reviewing court.

Sec. 19. RCW 31.12.585 and 2010 c 87 s 9 are each amended to read as follows:

(1) The director may issue and serve any ~~((entity))~~ person regulated by this chapter with a written notice of charges and intent to issue a cease and desist order if, in the opinion of the director, the ~~((regulated entity))~~ person has committed or is about to commit:

~~((1))~~ (a) A material violation of law; or

~~((2))~~ (b) An unsafe or unsound practice.

(2) Upon taking effect, the order may require the ~~((regulated entity))~~ person and its directors, supervisory committee members, officers, employees, and agents to cease and desist from the violation or practice and may require them to take affirmative action to correct the conditions resulting from the violation or practice.

Sec. 20. RCW 31.12.595 and 2010 c 87 s 10 are each amended to read as follows:

(1) If the director determines that the violation or practice specified in RCW 31.12.585 is likely to cause an unsafe or unsound condition at ~~((the))~~ a credit union or a credit union service organization, or the public is likely to be substantially injured by delay in issuing a cease and desist order, the director may immediately issue and serve a temporary cease and desist order upon the credit union, credit union service organization, or other applicable person identified in RCW 31.12.545(3). The order may require the credit union, credit union service organization, or other applicable person under RCW 31.12.545(3), and its directors, supervisory committee members, officers, employees, and agents, to cease and desist from the violation or practice and may require them to take affirmative action to correct the conditions resulting from the violation or practice.

(2) With the temporary order, the director shall serve a notice of charges and intent to issue a cease and desist order under RCW 31.12.585 in the matter.

(3) The temporary order becomes effective upon service on the ~~((credit union))~~ person and remains effective until completion of the administrative proceedings under the notice issued under subsection (2) of this section.

(4) Within ten days after a ~~((credit union))~~ person has been served with a temporary order, the credit union may apply to the superior court in the county of its principal place of business for an injunction setting aside, limiting, or

suspending the order pending the completion of the administrative proceedings under the notice issued under subsection (2) of this section.

(5) In the case of a violation or threatened violation of a temporary order, the director may apply to the superior court of the county of the principal place of business of the ~~((credit union))~~ person for an injunction to enforce the order, and the court shall issue an injunction if it determines that there has been a violation or threatened violation.

(6) For the purposes of this section, the principal place of business of a foreign or out-of-state credit union, out-of-state credit union service organization, or other out-of-state person under RCW 31.12.545(3) is Thurston county.

Sec. 21. RCW 31.12.674 and 2010 c 87 s 14 are each amended to read as follows:

(1) Within ten days after the ~~((receiver takes possession of a credit union's assets))~~ director issues an order of involuntary liquidation of a credit union pursuant to RCW 31.12.664(2) or order appointing a receiver for a credit union pursuant to RCW 31.12.671, the credit union may serve a notice upon the ~~((receiver))~~ director to appear at a hearing before the superior court of the county in which the principal place of business of the credit union is located and at a time to be fixed by the court, which may not be less than five or more than fifteen days from the date of the service of the notice~~(s)~~. At the hearing, the credit union has the burden to show cause why the ~~((credit union should not be restored to the possession of its assets. For the purposes of this section, the principal place of business of a foreign or out-of-state credit union is Thurston county))~~ director's action ordering involuntary liquidation or appointing a receiver should not be affirmed.

(2) The court shall summarily hear and dismiss the complaint if it finds that the ~~((receiver was appointed))~~ order of involuntary liquidation or order appointing receiver was issued for cause. However, if the court finds that no cause existed for ~~((appointment of the receiver))~~ the order of involuntary liquidation or order appointing receiver, the court shall require the ~~((receiver))~~ director to restore the credit union to possession of its assets and enjoin the director from involuntary liquidation of the credit union or further appointment of a receiver for the credit union without cause.

(3) Failure of the credit union to serve notice of show cause hearing on the director as required under subsection (1) of this section bars a credit union from any judicial review of a director's order of involuntary liquidation under RCW 31.12.664(2) or of a director's appointment of receiver under RCW 31.12.671.

(4) For the purposes of this section, the principal place of business of a foreign or out-of-state credit union is Thurston county.

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

Passed by the Senate March 9, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 115

[Senate Bill 5302]

TRUSTS--TRUSTEE'S DELEGATION OF DUTIES--INVESTMENTS--STATUTORY TRUST ADVISORS

AN ACT Relating to the prudent investor rule for Washington state trusts, delegation of trustee duties by trustees of a Washington state trust, and standards for authorization and treatment of statutory trust advisors and directed trustees incident to the establishment of Washington state directed trusts; amending RCW 11.98.070 and 11.100.020; reenacting and amending RCW 11.96A.030; adding a new section to chapter 11.98 RCW; and adding a new chapter to Title 11 RCW.

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

Sec. 1. RCW 11.96A.030 and 2011 c 327 s 5 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Citation" or "cite" and other similar terms, when required of a person interested in the estate or trust or a party to a petition, means to give notice as required under RCW 11.96A.100. "Citation" or "cite" and other similar terms, when required of the court, means to order, as authorized under RCW 11.96A.020 and 11.96A.060, and as authorized by law.

(2) "Matter" includes any issue, question, or dispute involving:

(a) The determination of any class of creditors, devisees, legatees, heirs, next of kin, or other persons interested in an estate, trust, nonprobate asset, or with respect to any other asset or property interest passing at death;

(b) The direction of a personal representative or trustee to do or to abstain from doing any act in a fiduciary capacity;

(c) The determination of any question arising in the administration of an estate or trust, or with respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, that may include, without limitation, questions relating to: (i) The construction of wills, trusts, community property agreements, and other writings; (ii) a change of personal representative or trustee; (iii) a change of the situs of a trust; (iv) an accounting from a personal representative or trustee; ~~((v))~~ (v) the determination of fees for a personal representative or trustee; or (vi) the powers and duties of a statutory trust advisor or directed trustee of a directed trust under chapter 11.--- RCW (the new chapter created in section 17 of this act);

(d) The grant to a personal representative or trustee of any necessary or desirable power not otherwise granted in the governing instrument or given by law;

(e) An action or proceeding under chapter 11.84 RCW;

(f) The amendment, reformation, or conformation of a will or a trust instrument to comply with statutes and regulations of the United States internal revenue service in order to achieve qualification for deductions, elections, and other tax requirements, including the qualification of any gift thereunder for the benefit of a surviving spouse who is not a citizen of the United States for the estate tax marital deduction permitted by federal law, including the addition of mandatory governing instrument requirements for a qualified domestic trust under section 2056A of the internal revenue code, the qualification of any gift thereunder as a qualified conservation easement as permitted by federal law, or the qualification of any gift for the charitable estate tax deduction permitted by

federal law, including the addition of mandatory governing instrument requirements for a charitable remainder trust;

(g) With respect to any nonprobate asset, or with respect to any other asset or property interest passing at death, including joint tenancy property, property subject to a community property agreement, or assets subject to a pay on death or transfer on death designation:

(i) The ascertaining of any class of creditors or others for purposes of chapter 11.18 or 11.42 RCW;

(ii) The ordering of a qualified person, the notice agent, or resident agent, as those terms are defined in chapter 11.42 RCW, or any combination of them, to do or abstain from doing any particular act with respect to a nonprobate asset;

(iii) The ordering of a custodian of any of the decedent's records relating to a nonprobate asset to do or abstain from doing any particular act with respect to those records;

(iv) The determination of any question arising in the administration under chapter 11.18 or 11.42 RCW of a nonprobate asset;

(v) The determination of any questions relating to the abatement, rights of creditors, or other matter relating to the administration, settlement, or final disposition of a nonprobate asset under this title;

(vi) The resolution of any matter referencing this chapter, including a determination of any questions relating to the ownership or distribution of an individual retirement account on the death of the spouse of the account holder as contemplated by RCW 6.15.020(6);

(vii) The resolution of any other matter that could affect the nonprobate asset; and

(h) The reformation of a will or trust to correct a mistake under RCW 11.96A.125.

(3) "Nonprobate assets" has the meaning given in RCW 11.02.005.

(4) "Notice agent" has the meanings given in RCW 11.42.010.

(5) "Party" or "parties" means each of the following persons who has an interest in the subject of the particular proceeding and whose name and address are known to, or are reasonably ascertainable by, the petitioner:

(a) The trustor if living;

(b) The trustee;

(c) The personal representative;

(d) An heir;

(e) A beneficiary, including devisees, legatees, and trust beneficiaries;

(f) The surviving spouse or surviving domestic partner of a decedent with respect to his or her interest in the decedent's property;

(g) A guardian ad litem;

(h) A creditor;

(i) Any other person who has an interest in the subject of the particular proceeding;

(j) The attorney general if required under RCW 11.110.120;

(k) Any duly appointed and acting legal representative of a party such as a guardian, special representative, or attorney-in-fact;

(l) Where applicable, the virtual representative of any person described in this subsection the giving of notice to whom would meet notice requirements as provided in RCW 11.96A.120;

(m) Any notice agent, resident agent, or a qualified person, as those terms are defined in chapter 11.42 RCW; ~~(and)~~

(n) The owner or the personal representative of the estate of the deceased owner of the nonprobate asset that is the subject of the particular proceeding, if the subject of the particular proceeding relates to the beneficiary's liability to a decedent's estate or creditors under RCW 11.18.200; and

(o) A statutory trust advisor or directed trustee of a directed trust under chapter 11.--- RCW (the new chapter created in section 17 of this act).

(6) "Persons interested in the estate or trust" means the trustor, if living, all persons beneficially interested in the estate or trust, persons holding powers over the trust or estate assets, the attorney general in the case of any charitable trust where the attorney general would be a necessary party to judicial proceedings concerning the trust, and any personal representative or trustee of the estate or trust.

(7) "Representative" and other similar terms refer to a person who virtually represents another under RCW 11.96A.120.

(8) "Trustee" means any acting and qualified trustee of the trust.

Sec. 2. RCW 11.98.070 and 2011 c 327 s 26 are each amended to read as follows:

A trustee, or the trustees jointly, of a trust, in addition to the authority otherwise given by law, have discretionary power to acquire, invest, reinvest, exchange, sell, convey, control, divide, partition, and manage the trust property in accordance with the standards provided by law, and in so doing may:

(1) Receive property from any source as additions to the trust or any fund of the trust to be held and administered under the provisions of the trust;

(2) Sell on credit;

(3) Grant, purchase or exercise options;

(4) Sell or exercise subscriptions to stock or other corporate securities and to exercise conversion rights;

(5) Deposit stock or other corporate securities with any protective or other similar committee;

(6) Assent to corporate sales, leases, and encumbrances;

(7) Vote trust securities in person or by proxy with power of substitution; and enter into voting trusts;

(8) Register and hold any stocks, securities, or other property in the name of a nominee or nominees without mention of the trust relationship, provided the trustee or trustees are liable for any loss occasioned by the acts of any nominee, except that this subsection shall not apply to situations covered by subsection (31) of this section;

(9) Grant leases of trust property, with or without options to purchase or renew, to begin within a reasonable period and for terms within or extending beyond the duration of the trust, for any purpose including exploration for and removal of oil, gas and other minerals; enter into community oil leases, pooling and unitization agreements;

(10) Subdivide, develop, dedicate to public use, make or obtain the vacation of public plats, adjust boundaries, partition real property, and on exchange or partition to adjust differences in valuation by giving or receiving money or money's worth;

(11) Compromise or submit claims to arbitration;

(12) Borrow money, secured or unsecured, from any source, including a corporate trustee's banking department, or from the individual trustee's own funds;

(13) Make loans, either secured or unsecured, at such interest as the trustee may determine to any person, including any beneficiary of a trust, except that no trustee who is a beneficiary of a trust may participate in decisions regarding loans to such beneficiary from the trust and then only to the extent of the loan, and also except that if a beneficiary or the grantor of a trust has the power to change a trustee of the trust, the power to loan shall be limited to loans at a reasonable rate of interest and for adequate security;

(14) Determine the hazards to be insured against and maintain insurance for them;

(15) Select any part of the trust estate in satisfaction of any partition or distribution, in kind, in money or both; make nonpro rata distributions of property in kind; allocate particular assets or portions of them or undivided interests in them to any one or more of the beneficiaries without regard to the income tax basis of specific property allocated to any beneficiary and without any obligation to make an equitable adjustment;

(16)(a) Pay an amount distributable to a beneficiary who is under a legal disability or who the trustee reasonably believes is incapacitated, by paying it directly to the beneficiary or applying it for the beneficiary's benefit, or by:

(i) Paying it to the beneficiary's guardian;

(ii) Paying it to the beneficiary's custodian under chapter 11.114 RCW, and, for that purpose, creating a custodianship;

(iii) If the trustee does not know of a guardian or custodian, paying it to an adult relative or other person having legal or physical care or custody of the beneficiary, with instructions to expend the funds on the beneficiary's behalf; or

(iv) Managing it as a separate fund on the beneficiary's behalf, subject to the beneficiary's continuing right to withdraw the distribution.

(b) If the trustee pays any amount to a third party under (a)(i) through (iii) of this subsection, the trustee has no further obligations regarding the amounts so paid;

(17) Change the character of or abandon a trust asset or any interest in it;

(18) Mortgage, pledge the assets or the credit of the trust estate, or otherwise encumber trust property, including future income, whether an initial encumbrance or a renewal or extension of it, for a term within or extending beyond the term of the trust, in connection with the exercise of any power vested in the trustee;

(19) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing structures, and make any improvements to trust property;

(20) Create restrictions, easements, including easements to public use without consideration, and other servitudes;

(21) Manage any business interest, including any farm or ranch interest, regardless of form, received by the trustee from the trustor of the trust, as a result of the death of a person, or by gratuitous transfer from any other transferor, and with respect to the business interest, have the following powers:

(a) To hold, retain, and continue to operate that business interest solely at the risk of the trust, without need to diversify and without liability on the part of the trustee for any resulting losses;

(b) To enlarge or diminish the scope or nature or the activities of any business;

(c) To authorize the participation and contribution by the business to any employee benefit plan, whether or not qualified as being tax deductible, as may be desirable from time to time;

(d) To use the general assets of the trust for the purpose of the business and to invest additional capital in or make loans to such business;

(e) To endorse or guarantee on behalf of the trust any loan made to the business and to secure the loan by the trust's interest in the business or any other property of the trust;

(f) To leave to the discretion of the trustee the manner and degree of the trustee's active participation in the management of the business, and the trustee is authorized to delegate all or any part of the trustee's power to supervise, manage, or operate to such persons as the trustee may select, including any partner, associate, director, officer, or employee of the business; and also including electing or employing directors, officers, or employees of the trustee to take part in the management of the business as directors or officers or otherwise, and to pay that person reasonable compensation for services without regard to the fees payable to the trustee;

(g) To engage, compensate, and discharge or to vote for the engaging, compensating, and discharging of managers, employees, agents, lawyers, accountants, consultants, or other representatives, including anyone who may be a beneficiary of the trust or any trustee;

(h) To cause or agree that surplus be accumulated or that dividends be paid;

(i) To accept as correct financial or other statements rendered by any accountant for any sole proprietorship or by any partnership or corporation as to matters pertaining to the business except upon actual notice to the contrary;

(j) To treat the business as an entity separate from the trust, and in any accounting by the trustee it is sufficient if the trustee reports the earning and condition of the business in a manner conforming to standard business accounting practice;

(k) To exercise with respect to the retention, continuance, or disposition of any such business all the rights and powers that the trustor of the trust would have if alive at the time of the exercise, including all powers as are conferred on the trustee by law or as are necessary to enable the trustee to administer the trust in accordance with the instrument governing the trust, subject to any limitations provided for in the instrument; and

(l) To satisfy contractual and tort liabilities arising out of an unincorporated business, including any partnership, first out of the business and second out of the estate or trust, but in no event may there be a liability of the trustee, except as provided in RCW 11.98.110 (2) and (4), and if the trustee is liable, the trustee is entitled to indemnification from the business and the trust, respectively;

(22) Participate in the establishment of, and thereafter in the operation of, any business or other enterprise according to subsection (21) of this section except that the trustee shall not be relieved of the duty to diversify;

(23) Cause or participate in, directly or indirectly, the formation, reorganization, merger, consolidation, dissolution, or other change in the form of any corporate or other business undertaking where trust property may be affected and retain any property received pursuant to the change;

(24) Limit participation in the management of any partnership and act as a limited or general partner;

(25) Charge profits and losses of any business operation, including farm or ranch operation, to the trust estate as a whole and not to the trustee; make available to or invest in any business or farm operation additional moneys from the trust estate or other sources;

(26) Pay reasonable compensation to the trustee or co-trustees considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the trustee and reimburse the trustee, with interest as appropriate, for expenses that were properly incurred in the administration of the trust;

(27) ~~((Employ))~~ Engage persons, including lawyers, accountants, investment advisors, or agents, even if they are associated with the trustee, to advise or assist the trustee in the performance of the trustee's duties or to perform any act, ~~((regardless of whether the act is discretionary, and to act without independent investigation upon their recommendations, except that:~~

~~(a) A trustee may not delegate all of the trustee's duties and responsibilities;~~

~~(b) This power to employ and to delegate duties does not relieve the trustee of liability for such person's discretionary acts, that, if done by the trustee, would result in liability to the trustee;~~

~~(c) This power to employ and to delegate duties does not relieve the trustee of the duty to select and retain a person with reasonable care;~~

~~(d) The trustee, or a successor trustee, may sue the person to collect any damages suffered by the trust estate even though the trustee might not be personally liable for those damages, subject to the statutes of limitation that would have applied had the claim been one against the trustee who was serving when the act or failure to act occurred)) subject to section 3 of this act;~~

(28) Appoint an ancillary trustee or agent to facilitate management of assets located in another state or foreign country;

(29) Retain and store such items of tangible personal property as the trustee selects and pay reasonable storage charges thereon from the trust estate;

(30) Issue proxies to any adult beneficiary of a trust for the purpose of voting stock of a corporation acting as the trustee of the trust;

(31) Place all or any part of the securities at any time held by the trustee in the care and custody of any bank, trust company, or member firm of the New York Stock Exchange with no obligation while the securities are so deposited to inspect or verify the same and with no responsibility for any loss or misapplication by the bank, trust company, or firm, so long as the bank, trust company, or firm was selected and retained with reasonable care, and have all stocks and registered securities placed in the name of the bank, trust company, or firm, or in the name of its nominee, and to appoint such bank, trust company, or firm agent as attorney to collect, receive, receipt for, and disburse any income, and generally may perform, but is under no requirement to perform, the duties and services incident to a so-called "custodian" account;

(32) Determine at any time that the corpus of any trust is insufficient to implement the intent of the trust, and upon this determination by the trustee, terminate the trust by distribution of the trust to the current income beneficiary or beneficiaries of the trust or their legal representatives, except that this determination may only be made by the trustee if the trustee is neither the grantor nor the beneficiary of the trust, and if the trust has no charitable beneficiary;

(33) Continue to be a party to any existing voting trust agreement or enter into any new voting trust agreement or renew an existing voting trust agreement with respect to any assets contained in trust;

(34)(a) Donate a qualified conservation easement, as defined by 26 U.S.C. Sec. 2031(c) of the federal internal revenue code, on any real property, or consent to the donation of a qualified conservation easement on any real property by a personal representative of an estate of which the trustee is a devisee, to obtain the benefit of the estate tax exclusion allowed under 26 U.S.C. Sec. 2031(c) of the federal internal revenue code or the deduction allowed under 26 U.S.C. Sec. 2055(f) of the federal internal revenue code as long as:

(i)(A) The governing instrument authorizes the donation of a qualified conservation easement on the real property; or

(B) Each beneficiary that may be affected by the qualified conservation easement consents to the donation under the provisions of chapter 11.96A RCW; and

(ii) The donation of a qualified conservation easement will not result in the insolvency of the decedent's estate.

(b) The authority granted under this subsection includes the authority to amend a previously donated qualified conservation easement, as defined under 26 U.S.C. Sec. 2031(c)(8)(B) of the federal internal revenue code, and to amend a previously donated unqualified conservation easement for the purpose of making the easement a qualified conservation easement under 26 U.S.C. Sec. 2031(c)(8)(B);

(35) Pay or contest any claim, settle a claim by or against the trust, and release, in whole or in part, a claim belonging to the trust;

(36) Exercise elections with respect to federal, state, and local taxes;

(37) Prosecute or defend an action, claim, or judicial proceeding in any jurisdiction to protect trust property and the trustee in the performance of the trustee's duties;

(38) On termination of the trust, exercise the powers appropriate to wind up the administration of the trust and distribute the trust property to the persons entitled to it; and

(39) Select a mode of payment under any employee benefit or retirement plan, annuity, or life insurance payable to the trustee, exercise rights thereunder, including exercise of the right to indemnification for expenses and against liabilities, and take appropriate action to collect the proceeds.

NEW SECTION. Sec. 3. A new section is added to chapter 11.98 RCW to read as follows:

TRUSTEE'S DELEGATION OF DUTIES. (1) A trustee may delegate duties and powers that a prudent trustee of comparable skills could properly delegate under the circumstances. The trustee shall exercise reasonable care, skill, and caution in:

- (a) Selecting a delegate;
 - (b) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust;
 - (c) Periodically reviewing the delegate's actions in order to monitor the delegate's performance and compliance with the terms of the delegation; and
 - (d) Enforcing the delegate's duties under the terms of the delegation.
- (2) In performing a delegated function, in addition to any other duty inherent in the delegation, a delegate owes a duty to the trustee to exercise reasonable care to comply with the terms of the delegation.
- (3) A trustee who complies with subsection (1) of this section is not liable to the beneficiaries or to the trust for an action of the delegate to whom the function was delegated. Nothing in this section relieves the trustee from any existing duty to compel the delegate to account for the delegate's actions.
- (4) By accepting a delegation of powers or duties from the trustee of a trust that is subject to the law of this state, a delegate submits to the jurisdiction of the courts of this state.
- (5) A delegation among co-trustees is governed by RCW 11.98.016.

NEW SECTION. Sec. 4. APPLICATION OF CHAPTER. This chapter applies to a trust only if expressly invoked in a governing instrument, as defined in section 5 of this act, and the trust has its situs in Washington under RCW 11.98.005. This chapter does not create any inference that arrangements similar to a statutory trust advisor or directed trustee under governing instruments that do not expressly invoke this chapter are either invalid or unenforceable.

NEW SECTION. Sec. 5. GOVERNING INSTRUMENT. As used in this chapter, "governing instrument" means the will, trust instrument, court order, exercise of power of appointment, or binding agreement under RCW 11.96A.220 appointing, designating, or providing for a method for appointing a statutory trust advisor under this chapter.

NEW SECTION. Sec. 6. STATUTORY TRUST ADVISOR. (1) As used in this chapter, "statutory trust advisor" means one or more persons as the context requires, including, without limitation, a trust advisor, special trustee, trust protector, or committee, who, under the terms of the governing instrument, is expressly made subject to the provisions of this chapter, and who has a power or duty to direct, consent to, or disapprove an action, or has a power or duty that would normally be required of a trustee. The powers and duties granted to a statutory trust advisor under the governing instrument may include but are not limited to:

- (a) The power to direct the acquisition, management, disposition, or retention of any trust investment;
- (b) The power to direct a trustee to make or withhold distributions to beneficiaries;
- (c) The power to consent to a trustee's action or inaction relating to investments of trust assets;
- (d) The power to consent to a trustee's action or inaction in making distributions to beneficiaries;
- (e) The power to increase or decrease any interest of any beneficiary in the trust, to grant a power of appointment to one or more trust beneficiaries, or to

terminate or amend any power of appointment granted in the trust. However, a modification, amendment, or grant of a power of appointment may not:

(i) Grant a beneficial interest in a charitable trust with only charitable beneficiaries to any noncharitable interest or purpose; or

(ii) Unless the governing instrument provides otherwise, expressly or impliedly grant any power that would cause all or any portion of the trust estate to be includible in the gross estate of the trustor, trustee, statutory trust advisor, or any trust beneficiary for estate tax purposes;

(f) The power to modify or amend the governing instrument to achieve favorable tax status or respond to changes in any applicable federal, state, or other tax law affecting the trust, including, without limitation, any rulings, regulations, or other guidance implementing or interpreting such laws;

(g) The power to modify or amend the governing instrument to take advantage of changes in (i) the rule against perpetuities, (ii) laws governing restraints on alienation, or (iii) other state laws restricting the terms of the trust, the distribution of trust property, or the administration of the trust;

(h) The power to appoint a successor trustee, trust advisor, or statutory trust advisor;

(i) The power to change the governing law or principal place of administration of the trust; and

(j) The power to remove a trustee, trust advisor, or statutory trust advisor for the reasons stated in the governing instrument.

(2) Unless provided otherwise in the governing instrument, the exercise of a power by a statutory trust advisor shall be exercised in the sole and absolute discretion of the statutory trust advisor and shall be binding on all other persons.

(3) Any of the powers enumerated in subsection (1) of this section, as they exist at the time of the signing of the governing instrument, may, by appropriate reference made thereto, be incorporated in whole or in part in such instrument, by a clearly expressed intention in the governing instrument.

(4)(a) In exercising any power or refraining from exercising any power granted to such statutory trust advisor in the governing instrument, a statutory trust advisor shall have a fiduciary duty with respect to each power to act in accordance with the terms and purposes of the trust and solely in the interests of the beneficiaries.

(b) Notwithstanding (a) of this subsection, a statutory trust advisor who has accepted appointment and holds any of the powers enumerated in subsection (1)(c) through (j) of this section has no duty to monitor the administration of the trust to determine whether that power should be exercised except upon request of the trustee or a qualified beneficiary under chapter 11.98 RCW, or unless otherwise provided under the governing instrument. The extent of the duty of a statutory trust advisor to monitor the administration of the trust to determine if any other power granted to the statutory trust advisor should be exercised will be determined based upon the scope and nature of the power under the governing instrument and the then existing circumstances of the trust. In no event may the governing instrument relieve the statutory trust advisor from the fiduciary duty described in this subsection or relieve the statutory trust advisor from the duty to act in good faith and with honest judgment.

(5) A statutory trust advisor may accept appointment by written notice to the trustee, by taking affirmative action to exercise powers or perform duties granted

to the statutory trust advisor or by any other means provided in the governing instrument.

(6) Unless otherwise provided in the governing instrument, whenever any power is jointly granted to more than one statutory trust advisor, RCW 11.98.016 applies to the exercise of powers by the statutory trust advisors.

(7) A statutory trust advisor is entitled to the same protection from liability provided to a directed trustee under section 13(2) of this act with respect to each power, duty, or function granted or reserved exclusively to the trustee or any one or more other statutory trust advisors.

(8) A statutory trust advisor may at any time decline to serve or resign as statutory trust advisor by written notice to the then serving trustee of the trust, unless another procedure is prescribed by the governing instrument.

(9) Except as otherwise provided in the governing instrument, a statutory trust advisor is entitled to reasonable compensation considering all circumstances including the time, effort, skill, and responsibility involved in the performance of services by the statutory trust advisor.

NEW SECTION. Sec. 7. REMEDIES FOR BREACH OF DUTY. (1) If a statutory trust advisor breaches a fiduciary duty with respect to a power granted to the statutory trust advisor in the governing instrument, or threatens to commit such a breach, a trustee or beneficiary of the trust may file a petition under chapter 11.96A RCW for any of the following purposes that is appropriate:

(a) To compel the statutory trust advisor to perform the statutory trust advisor's duties;

(b) To enjoin the statutory trust advisor from committing a breach of fiduciary duty;

(c) To compel the statutory trust advisor to redress a breach of fiduciary duty by payment of money or otherwise;

(d) To require the trustee to assume responsibility for a power or duty given to a statutory trust advisor in the governing instrument;

(e) To remove the statutory trust advisor;

(f) To set aside acts of the statutory trust advisor;

(g) To reduce or deny compensation of the statutory trust advisor;

(h) To impose an equitable lien or a constructive trust on trust property; or

(i) To trace trust property that has been wrongfully disposed of and recover the property or its proceeds.

(2) The remedies set forth in this section against a statutory trust advisor are exclusively in equity, but nothing in this section prevents the beneficiary or trustee from seeking any other appropriate remedy provided by statute or the common law, including damages.

NEW SECTION. Sec. 8. MEASURE OF LIABILITY FOR BREACH OF DUTY; EXCUSE FROM LIABILITY. (1) If the statutory trust advisor commits a breach of fiduciary duty, the statutory trust advisor is chargeable in the same manner as a trustee under RCW 11.98.085.

(2) Anything in this Title 11 RCW to the contrary notwithstanding, if the statutory trust advisor has acted reasonably and in good faith under the circumstances as known to the statutory trust advisor, the court, in its discretion, may excuse the statutory trust advisor in whole or in part from liability under subsection (1) of this section if it would be equitable to do so.

(3) The provisions in this section for liability of a statutory trust advisor for breach of fiduciary duty do not prevent resort to any other remedy available under the statutory or common law.

NEW SECTION. Sec. 9. VACANCY; DIRECTED TRUSTS. (1) Except as otherwise provided by the terms of the governing instrument, upon learning of a vacancy in the office of statutory trust advisor, (a) the trustee is vested with any fiduciary power or duty that otherwise would be vested in the trustee but that by the terms of the governing instrument was vested in the statutory trust advisor, until such time that a statutory trust advisor is appointed pursuant to the terms of the governing instrument or by a court upon the petition of any person interested in the trust; and (b) if the trustee determines that the terms of the governing instrument require the vacancy to be filled, the trustee may petition the court to fill the vacancy.

(2) Notwithstanding subsection (1)(a) of this section, a trustee is not liable for failing to exercise or assume any power or duty held by a statutory trust advisor and conferred upon the trustee by subsection (1)(a) of this section for the sixty day period immediately following the date the trustee learns of such vacancy.

NEW SECTION. Sec. 10. STATUTORY TRUST ADVISOR'S DUTY TO INFORM AND REPORT; NOTICE TO BENEFICIARY. (1) A statutory trust advisor shall:

(a) Keep the trustee and the qualified beneficiaries under chapter 11.98 RCW reasonably informed of the administration of the trust with respect to the specific duties or functions being performed by the statutory trust advisor;

(b) Upon request by the trustee, provide the trustee with requested information regarding the administration of the trust with respect to the specific duties or functions being performed by the statutory trust advisor; and

(c) Except as otherwise provided by the terms of the governing instrument, upon request by a qualified beneficiary, provide the requesting qualified beneficiary promptly, unless unreasonable under the circumstances, with such information as is reasonably necessary to enable the qualified beneficiary to enforce his or her rights under the trust with respect to the specific duties or functions being performed by the statutory trust advisor.

(2) Neither the performance nor the failure to perform of a statutory trust advisor designated by the terms of the trust as provided in this subsection affects the limitation on the liability of the directed trustee provided by section 13(2) of this act.

NEW SECTION. Sec. 11. STATUTORY TRUST ADVISOR SUBJECT TO COURT JURISDICTION. (1) By accepting appointment to serve as a statutory trust advisor, the statutory trust advisor submits personally to the jurisdiction of the courts of this state even if investment advisory agreements or other related agreements provide otherwise, and the statutory trust advisor may be made a party to any action or proceeding relating to a decision, action, or inaction of the statutory trust advisor.

(2) A statutory trust advisor is not a necessary party to a judicial proceeding involving the trust under RCW 11.96A.080 or to a nonjudicial agreement involving the trust made under RCW 11.96A.220, unless the matter that is the

subject of the proceeding or agreement affects the duties or functions being performed by the statutory trust advisor.

NEW SECTION. Sec. 12. STATUTORY TRUST ADVISOR'S RIGHT TO REQUEST INFORMATION AND BRING PROCEEDINGS. (1) Except to the extent that the governing instrument provides otherwise, a statutory trust advisor may request the trustee or a beneficiary to provide such information as is reasonably necessary to enable the statutory trust advisor to perform the specific duties or functions given to the statutory trust advisor under the governing instrument.

(2) Except to the extent that the governing instrument provides otherwise, a statutory trust advisor may file a petition under chapter 11.96A RCW for the determination of any matter relating to the specific duties or functions given to the statutory trust advisor under the governing instrument.

NEW SECTION. Sec. 13. DIRECTED TRUSTEE; DIRECTED TRUSTEE'S LIABILITY FOR ACTION OR INACTION OF STATUTORY TRUST ADVISOR; NO DUTY TO REVIEW ACTIONS OF STATUTORY TRUST ADVISOR. (1) As used in this chapter, "directed trustee" means a trustee that, under the terms of the governing instrument:

(a) Must follow the direction of a statutory trust advisor as to a particular duty or function, to the extent the trustee follows any such direction;

(b) May not undertake a particular duty or function without direction from a statutory trust advisor, to the extent the trustee fails to undertake such duty or function due to the absence of such direction;

(c) Must obtain the consent or authorization of a statutory trust advisor with respect to a particular duty or function, to the extent the trustee timely seeks but fails to obtain such consent or authorization; or

(d) Must obtain the consent or authorization of a statutory trust advisor with respect to a particular duty or function, to the extent the trustee obtains such consent or authorization and acts in accordance therewith, but only if and to the extent that the governing instrument clearly indicates that the protections of directed trustee status are intended by the testator, trustor, or power holder.

(2) A directed trustee is not liable, either individually or as trustee, for the following:

(a) Any loss that results from compliance with the statutory trust advisor's direction or from actions taken with the prior consent or authorization of the statutory trust advisor;

(b) Any loss that results from any action or inaction of a statutory trust advisor with respect to any power granted to the statutory trust advisor under the governing instrument; or

(c) Any loss that results from a failure to take any action proposed by a directed trustee that requires the prior consent of a statutory trust advisor, if the directed trustee who had a duty to propose such action timely sought but failed to obtain that consent.

(3) Absent clear and convincing evidence to the contrary, the actions of the directed trustee pertaining to matters within the scope of the statutory trust advisor's authority, such as confirming that the statutory trust advisor's directions have been carried out and recording and reporting actions taken at the statutory trust advisor's direction or other information pursuant to section 10 of this act,

are presumed to be administrative actions taken by the directed trustee solely to allow the directed trustee to perform those duties assigned to the directed trustee under the terms of the governing instrument, and the administrative actions do not constitute an undertaking by the directed trustee to monitor the statutory trust advisor or otherwise participate in actions within the scope of the statutory trust advisor's authority.

(4) Whenever a directed trustee is to follow the direction of a statutory trust advisor, then, except to the extent that the terms of the governing instrument provide otherwise, the directed trustee has no duty to:

(a) Monitor the conduct of the statutory trust advisor, or provide advice to the statutory trust advisor or consult with the statutory trust advisor, including, without limitation, any duty to perform investment or suitability reviews, inquiries, or investigations or to make recommendations or evaluations with respect to any investments to the extent the statutory trust advisor has authority to direct the acquisition, disposition, or retention of any such investment;

(b) Communicate with or warn or apprise any beneficiary or third party concerning instances in which the directed trustee would or might have exercised the directed trustee's own discretion in a manner different from the manner directed by the statutory trust advisor; or

(c) Commence a proceeding against the statutory trust advisor.

(5) This section does not relieve the trustee of the trustee's duty under RCW 11.97.010 to act in good faith and with honest judgment.

NEW SECTION. Sec. 14. STATUTES OF LIMITATION. The provisions of RCW 11.96A.070 with respect to limitations on actions against a trustee shall apply to any claims against a statutory trust advisor arising out of any power or duty granted to, or function being performed by, the statutory trust advisor under the governing instrument. For purposes of a report described in RCW 11.96A.070(1)(b), a statutory trust advisor is a trustee only with respect to the specific duties and functions being performed by the statutory trust advisor.

NEW SECTION. Sec. 15. APPLICATION OF OTHER PROVISIONS OF PROBATE AND TRUST LAW. Chapters 11.96A, 11.97, 11.98, 11.100, 11.104A, and 11.108 RCW apply to a statutory trust advisor with respect to the powers, duties, or functions given to a statutory trust advisor in the governing instrument in the same manner as if the statutory trust advisor was acting as trustee with respect to those powers, duties, or functions.

NEW SECTION. Sec. 16. SHORT TITLE. This act may be known and cited as the Washington directed trust act.

NEW SECTION. Sec. 17. Sections 4 through 16 of this act constitute a new chapter in Title 11 RCW, to be codified as chapter 11.98A RCW.

Sec. 18. RCW 11.100.020 and 1995 c 307 s 2 are each amended to read as follows:

(1) ~~((A fiduciary is authorized to acquire and retain every kind of property. In acquiring, investing, reinvesting, exchanging, selling and managing property for the benefit of another, a fiduciary, in determining the prudence of a particular investment, shall give due consideration to the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying such total asset management approach, a fiduciary shall exercise the judgment and care under the circumstances then prevailing, which persons of~~

prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, and if the fiduciary has special skills or is named trustee on the basis of representations of special skills or expertise, the fiduciary is under a duty to use those skills.

(2) Except as may be provided to the contrary in the instrument, the following are among the factors that should be considered by a fiduciary in applying this total asset management approach:

- (a) The probable income as well as the probable safety of their capital;
- (b) Marketability of investments;
- (c) General economic conditions;
- (d) Length of the term of the investments;
- (e) Duration of the trust;
- (f) Liquidity needs;
- (g) Requirements of the beneficiary or beneficiaries;
- (h) Other assets of the beneficiary or beneficiaries, including earning capacity; and

(i) Effect of investments in increasing or diminishing liability for taxes.

(3) Within the limitations of the foregoing standard, and subject to any express provisions or limitations contained in any particular trust instrument, a fiduciary is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment specifically including but not by way of limitation, debentures and other corporate obligations, and stocks, preferred or common, which persons of prudence, discretion, and intelligence acquire for their own account.) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution.

(2) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(3) Among the circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (a) General economic conditions;
- (b) The possible effect of inflation or deflation;
- (c) The expected tax consequences of investment decisions or strategies;
- (d) The role that each investment or course of action plays within the overall portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property;
- (e) The expected total return from income and the appreciation of capital;
- (f) Other resources of the beneficiaries;
- (g) Needs for liquidity, regularity of income, and preservation or appreciation of capital; and
- (h) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(4) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(5) A trustee may invest in any kind of property or type of investment consistent with the standards of this section.

(6) A trustee who has special skills or expertise, or is named trustee in reliance upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

NEW SECTION. Sec. 19. 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 by the Senate February 25, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 116

[Senate Bill 5466]

PUBLIC EMPLOYEE BENEFITS--ELIGIBILITY

AN ACT Relating to clarifying employee eligibility for benefits from the public employees' benefits board and conforming the eligibility provisions with federal law; amending RCW 41.05.009, 41.05.011, 41.05.065, 41.05.066, 41.05.095, and 41.05.195; and reenacting and amending RCW 41.05.080.

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

Sec. 1. RCW 41.05.009 and 2009 c 537 s 2 are each amended to read as follows:

(1) The authority, or an employing agency at the authority's direction, (~~an employing agency~~) shall initially determine and periodically review whether an employee is eligible for benefits pursuant to the criteria established under this chapter.

(2) An employing agency shall inform an employee in writing whether or not he or she is eligible for benefits when initially determined and upon any subsequent change, including notice of the employee's right to an appeal.

Sec. 2. RCW 41.05.011 and 2013 c 2 s 306 (Initiative Measure No. 1240) are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington state health care authority.

(2) "Board" means the public employees' benefits board established under RCW 41.05.055.

(3) "Dependent care assistance program" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 129 or other sections of the internal revenue code.

(4) "Director" means the director of the authority.

(5) "Emergency service personnel killed in the line of duty" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010 who die as a result

of injuries sustained in the course of employment as determined consistent with Title 51 RCW by the department of labor and industries.

(6) "Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021(1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021(1) (g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family (~~homeowners~~) home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

(7) "Employer" means the state of Washington.

(8) "Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; and a tribal government covered by this chapter.

(9) "Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

(10) "Flexible benefit plan" means a benefit plan that allows employees to choose the level of health care coverage provided and the amount of employee contributions from among a range of choices offered by the authority.

(11) "Insuring entity" means an insurer as defined in chapter 48.01 RCW, a health care service contractor as defined in chapter 48.44 RCW, or a health maintenance organization as defined in chapter 48.46 RCW.

(12) "Medical flexible spending arrangement" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(13) "Participant" means an individual who fulfills the eligibility and enrollment requirements under the salary reduction plan.

(14) "Plan year" means the time period established by the authority.

(15) "Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan under this chapter pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(16) "Retired or disabled school employee" means:

(a) Persons who separated from employment with a school district or educational service district and are receiving a retirement allowance under chapter 41.32 or 41.40 RCW as of September 30, 1993;

(b) Persons who separate from employment with a school district, educational service district, or charter school on or after October 1, 1993, and immediately upon separation receive a retirement allowance under chapter 41.32, 41.35, or 41.40 RCW;

(c) Persons who separate from employment with a school district, educational service district, or charter school due to a total and permanent disability, and are eligible to receive a deferred retirement allowance under chapter 41.32, 41.35, or 41.40 RCW.

(17) "Salary" means a state employee's monthly salary or wages.

(18) "Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the dependent care assistance program, medical flexible spending arrangement, or premium payment plan offered pursuant to 26 U.S.C. Sec. 125 or other sections of the internal revenue code.

(19) "Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

(20) "Separated employees" means persons who separate from employment with an employer as defined in:

(a) RCW 41.32.010(17) on or after July 1, 1996; or

(b) RCW 41.35.010 on or after September 1, 2000; or

(c) RCW 41.40.010 on or after March 1, 2002;

and who are at least age fifty-five and have at least ten years of service under the teachers' retirement system plan 3 as defined in RCW 41.32.010(33), the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010, or the public employees' retirement system plan 3 as defined in RCW 41.40.010.

(21) "State purchased health care" or "health care" means medical and health care, pharmaceuticals, and medical equipment purchased with state and federal funds by the department of social and health services, the department of

health, the basic health plan, the state health care authority, the department of labor and industries, the department of corrections, the department of veterans affairs, and local school districts.

(22) "Tribal government" means an Indian tribal government as defined in section 3(32) of the employee retirement income security act of 1974, as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

(23) "Employer group" means those counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, and educational service districts, and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority.

Sec. 3. RCW 41.05.065 and 2011 1st sp.s. c 8 s 1 are each amended to read as follows:

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits; and

(f) Minimum standards for insuring entities.

(3) To maintain the comprehensive nature of employee health care benefits, benefits provided to employees shall be substantially equivalent to the state employees' health benefits plan in effect on January 1, 1993. Nothing in this subsection shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits or the administration of a high deductible health plan in conjunction with a health savings account. The board may establish employee eligibility criteria which are not substantially equivalent to employee eligibility criteria in effect on January 1, 1993.

(4) Except if bargained for under chapter 41.80 RCW, the board shall design benefits and determine the terms and conditions of employee and retired employee participation and coverage, including establishment of eligibility criteria subject to the requirements of this chapter. Employer groups obtaining benefits through contractual agreement with the authority for employees defined in RCW 41.05.011(6) (a) through (d) may contractually agree with the authority to benefits eligibility criteria which differs from that determined by the board. The eligibility criteria established by the board shall be no more restrictive than the following:

(a) Except as provided in (b) through (e) of this subsection, an employee is eligible for benefits from the date of employment if the employing agency anticipates he or she will work an average of at least eighty hours per month and for at least eight hours in each month for more than six consecutive months. An employee determined ineligible for benefits at the beginning of his or her employment shall become eligible in the following circumstances:

(i) An employee who works an average of at least eighty hours per month and for at least eight hours in each month and whose anticipated duration of employment is revised from less than or equal to six consecutive months to more than six consecutive months becomes eligible when the revision is made.

(ii) An employee who works an average of at least eighty hours per month over a period of six consecutive months and for at least eight hours in each of those six consecutive months becomes eligible at the first of the month following the six-month averaging period.

(b) A seasonal employee is eligible for benefits from the date of employment if the employing agency anticipates that he or she will work an average of at least eighty hours per month and for at least eight hours in each month of the season. A seasonal employee determined ineligible at the beginning of his or her employment who works an average of at least (~~half-time, as defined by the board,~~) eighty hours per month over a period of six consecutive months and at least eight hours in each of those six consecutive months becomes eligible at the first of the month following the six-month averaging period. A benefits-eligible seasonal employee who works a season of less than nine months shall not be eligible for the employer contribution during the off season, but may continue enrollment in benefits during the off season by self-paying for the benefits. A benefits-eligible seasonal employee who works a season of nine months or more is eligible for the employer contribution through the off season following each season worked.

(c) Faculty are eligible as follows:

(i) Faculty who the employing agency anticipates will work half-time or more for the entire instructional year or equivalent nine-month period are eligible for benefits from the date of employment. Eligibility shall continue until the beginning of the first full month of the next instructional year, unless the employment relationship is terminated, in which case eligibility shall cease the first month following the notice of termination or the effective date of the termination, whichever is later.

(ii) Faculty who the employing agency anticipates will not work for the entire instructional year or equivalent nine-month period are eligible for benefits at the beginning of the second consecutive quarter or semester of employment in which he or she is anticipated to work, or has actually worked, half-time or

more. Such an employee shall continue to receive uninterrupted employer contributions for benefits if the employee works at least half-time in a quarter or semester. Faculty who the employing agency anticipates will not work for the entire instructional year or equivalent nine-month period, but who actually work half-time or more throughout the entire instructional year, are eligible for summer or off-quarter or off-semester coverage. Faculty who have met the criteria of this subsection (4)(c)(ii), who work at least two quarters or two semesters of the academic year with an average academic year workload of half-time or more for three quarters or two semesters of the academic year, and who have worked an average of half-time or more in each of the two preceding academic years shall continue to receive uninterrupted employer contributions for benefits if he or she works at least half-time in a quarter or semester or works two quarters or two semesters of the academic year with an average academic workload each academic year of half-time or more for three quarters or two semesters. Eligibility under this section ceases immediately if this criteria is not met.

(iii) Faculty may establish or maintain eligibility for benefits by working for more than one institution of higher education. When faculty work for more than one institution of higher education, those institutions shall prorate the employer contribution costs, or if eligibility is reached through one institution, that institution will pay the full employer contribution. Faculty working for more than one institution must alert his or her employers to his or her potential eligibility in order to establish eligibility.

(iv) The employing agency must provide written notice to faculty who are potentially eligible for benefits under this subsection (4)(c) of their potential eligibility.

(v) To be eligible for maintenance of benefits through averaging under (c)(ii) of this subsection, faculty must provide written notification to his or her employing agency or agencies of his or her potential eligibility.

(vi) For the purposes of this subsection (4)(c):

(A) "Academic year" means summer, fall, winter, and spring quarters or summer, fall, and spring semesters;

(B) "Half-time" means one-half of the full-time academic workload as determined by each institution; except that for community and technical college faculty, half-time academic workload is calculated according to RCW 28B.50.489.

(d) A legislator is eligible for benefits on the date his or her term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible for benefits on the date his or her term begins or they take the oath of office, whichever occurs first.

(e) A justice of the supreme court and judges of the court of appeals and the superior courts become eligible for benefits on the date he or she takes the oath of office.

(f) Except as provided in (c)(i) and (ii) of this subsection, eligibility ceases for any employee the first of the month following termination of the employment relationship.

(g) In determining eligibility under this section, the employing agency may disregard training hours, standby hours, or temporary changes in work hours as determined by the authority under this section.

(h) Insurance coverage for all eligible employees begins on the first day of the month following the date when eligibility for benefits is established. If the date eligibility is established is the first working day of a month, insurance coverage begins on that date.

(i) Eligibility for an employee whose work circumstances are described by more than one of the eligibility categories in (a) through (e) of this subsection shall be determined solely by the criteria of the category that most closely describes the employee's work circumstances.

(j) Except for an employee eligible for benefits under (b) or (c)(ii) of this subsection, an employee who has established eligibility for benefits under this section shall remain eligible for benefits each month in which he or she is in pay status for eight or more hours, if (i) he or she remains in a benefits-eligible position and (ii) leave from the benefits-eligible position is approved by the employing agency. A benefits-eligible seasonal employee is eligible for the employer contribution in any month of his or her season in which he or she is in pay status eight or more hours during that month. Eligibility ends if these conditions are not met, the employment relationship is terminated, or the employee voluntarily transfers to a noneligible position.

(k) For the purposes of this subsection(=

~~(i) "Academic year" means summer, fall, winter, and spring quarters or semesters;~~

~~(ii) "Half-time" means one-half of the full-time academic workload as determined by each institution, except that half-time for community and technical college faculty employees shall have the same meaning as "part-time" under RCW 28B.50.489;~~

~~(iii)), the board shall define "benefits-eligible position." ((shall be defined by the board.))~~

(5) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems.

(6)(a) For any open enrollment period following August 24, 2011, the board shall offer a health savings account option for employees that conforms to section 223, Part VII of subchapter B of chapter 1 of the internal revenue code of 1986. The board shall comply with all applicable federal standards related to the establishment of health savings accounts.

(b) By November 30, 2015, and each year thereafter, the authority shall submit a report to the relevant legislative policy and fiscal committees that includes the following:

(i) Public employees' benefits board health plan cost and service utilization trends for the previous three years, in total and for each health plan offered to employees;

(ii) For each health plan offered to employees, the number and percentage of employees and dependents enrolled in the plan, and the age and gender demographics of enrollees in each plan;

(iii) Any impact of enrollment in alternatives to the most comprehensive plan, including the high deductible health plan with a health savings account, upon the cost of health benefits for those employees who have chosen to remain enrolled in the most comprehensive plan.

(7) Notwithstanding any other provision of this chapter, for any open enrollment period following August 24, 2011, the board shall offer a high deductible health plan in conjunction with a health savings account developed under subsection (6) of this section.

(8) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(9) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall adopt rules setting forth criteria by which it shall evaluate the plans.

(10) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments, political subdivisions, and tribal governments not otherwise enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care

insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(11) The board may establish penalties to be imposed by the authority when the eligibility determinations of an employing agency fail to comply with the criteria under this chapter.

Sec. 4. RCW 41.05.066 and 2007 c 156 s 9 are each amended to read as follows:

A certificate of domestic partnership (~~issued to a couple of the same sex~~) qualified under the provisions of RCW 26.60.030 shall be recognized as evidence of a qualified (~~same sex~~) domestic partnership fulfilling all necessary eligibility criteria for the partner of the employee to receive benefits. Nothing in this section affects the requirements of (~~same sex~~) domestic partners to complete documentation related to federal tax status that may currently be required by the board for employees choosing to make premium payments on a pretax basis.

Sec. 5. RCW 41.05.080 and 2009 c 523 s 1 and 2009 c 522 s 9 are each reenacted and amended to read as follows:

(1) Under the qualifications, terms, conditions, and benefits set by the board:

(a) Retired or disabled state employees, retired or disabled school employees, retired or disabled employees of county, municipal, or other political subdivisions, or retired or disabled employees of tribal governments covered by this chapter may continue their participation in insurance plans and contracts after retirement or disablement;

(b) Separated employees may continue their participation in insurance plans and contracts if participation is selected immediately upon separation from employment;

(c) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty may participate in insurance plans and contracts.

(2) Rates charged surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or

disabled employees, separated employees, spouses, or dependent children who are not eligible for parts A and B of medicare shall be based on the experience of the community rated risk pool established under RCW 41.05.022.

(3) Rates charged to surviving spouses and surviving state registered domestic partners of emergency service personnel killed in the line of duty, retired or disabled employees, separated employees, spouses, or children who are eligible for parts A and B of medicare shall be calculated from a separate experience risk pool comprised only of individuals eligible for parts A and B of medicare; however, the premiums charged to medicare-eligible retirees and disabled employees shall be reduced by the amount of the subsidy provided under RCW 41.05.085.

(4) Surviving spouses, surviving state registered domestic partners, and dependent children of emergency service personnel killed in the line of duty and retired or disabled and separated employees shall be responsible for payment of premium rates developed by the authority which shall include the cost to the authority of providing insurance coverage including any amounts necessary for reserves and administration in accordance with this chapter. These self pay rates will be established based on a separate rate for the employee, the spouse, state registered domestic partners, and the children.

(5) The term "retired state employees" for the purpose of this section shall include but not be limited to members of the legislature whether voluntarily or involuntarily leaving state office.

Sec. 6. RCW 41.05.095 and 2010 c 94 s 11 are each amended to read as follows:

(1) Any plan offered to employees under this chapter must offer each employee the option of covering any (~~unmarried~~) dependent of the employee under the age of twenty-~~(five)~~ six.

~~(2) ((Any employee choosing under subsection (1) of this section to cover a dependent who is: (a) Age twenty through twenty-three and not a registered student at an accredited secondary school, college, university, vocational school, or school of nursing; or (b) age twenty-four, shall be required to pay the full cost of such coverage.~~

~~(3) Any employee choosing under subsection (1) of this section to cover a dependent with disabilities, mental illness, or intellectual or other developmental disabilities, who is incapable of self-support, may continue covering that dependent under the same premium and payment structure as for dependents under the age of twenty, irrespective of age)) Coverage must terminate upon attainment of age twenty-six except in the case of a child who is and continues to be both (a) incapable of self-sustaining employment by reason of a developmental disability or physical handicap and (b) chiefly dependent upon the employee for support and maintenance, provided proof of such incapacity and dependency is furnished by the employee within sixty days of the child's attainment of age twenty-six and subsequently as may be required by the authority, but not more frequently than annually after the two-year period following the child's attainment of age twenty-six.~~

Sec. 7. RCW 41.05.195 and 2009 c 523 s 2 are each amended to read as follows:

Notwithstanding any other provisions of this chapter or rules or procedures adopted by the authority, the authority shall make available to retired or disabled employees who are enrolled in parts A and B of medicare one or more medicare supplemental insurance policies that conform to the requirements of chapter 48.66 RCW. The policies shall be chosen in consultation with the public employees' benefits board. These policies shall be made available to retired or disabled state employees; retired or disabled school district employees; retired employees of county, municipal, or other political subdivisions or retired employees of tribal governments eligible for coverage available under the authority; or surviving spouses or surviving state registered domestic partners of emergency service personnel killed in the line of duty.

Passed by the Senate March 3, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 117

[Second Substitute Senate Bill 5486]

PARENTS FOR PARENTS PROGRAM

AN ACT Relating to creating the parents for parents program; adding new sections to chapter 2.70 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. Early outreach and education helps shift the attitudes of parents involved in the dependency court system from anger and resentment to acknowledgment and acceptance, enhances parents' engagement in court-ordered plans in the dependency system, and increases the likelihood of family reunification. The parents for parents program has been shown to increase the number of family reunifications, where appropriate, while decreasing the length of time needed to establish permanence. The program currently exists in nine counties: Grays Harbor/Pacific, King, Kitsap, Pierce, Snohomish, Spokane, and Thurston/Mason. It is the legislature's goal to continue to support the program in these counties, standardize the parents for parents curriculum among counties in which it is currently utilized, and replicate the program statewide by the end of the 2019-2021 biennium.

NEW SECTION. Sec. 2. A new section is added to chapter 2.70 RCW to read as follows:

For the purposes of sections 3 through 6 of this act, "child welfare parent mentor" means a parent who has successfully resolved the issues that led the parent's child into the care of the juvenile dependency court system, resulting in family reunification or another permanency outcome, and who has an interest in working collaboratively to improve the lives of children and families.

NEW SECTION. Sec. 3. A new section is added to chapter 2.70 RCW to read as follows:

(1) The goal of the parents for parents program is to increase the permanency and well-being of children in foster care through peer mentoring that increases parental engagement and contributes to family reunification.

(2) The parents for parents program may provide structured peer mentoring for families entering the dependency court system, administered by child welfare parent mentors.

NEW SECTION. Sec. 4. A new section is added to chapter 2.70 RCW to read as follows:

Subject to the availability of amounts appropriated for this specific purpose, components of the parents for parents program, provided by child welfare parent mentors, may include:

(1) Outreach and support to parents at dependency-related hearings, beginning with the shelter care hearing;

(2) A class that educates parents about the dependency system they must navigate in order to have their children returned, empowers them with tools and resources they need to be successful with their case plan, and provides information that helps them understand and support the needs of their children;

(3) Ongoing individual peer support to help parents involved with the child welfare system;

(4) Structured, curriculum-based peer support groups.

NEW SECTION. Sec. 5. A new section is added to chapter 2.70 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, the parents for parents program shall be funded through the office of public defense and centrally administered through a pass-through to a Washington state nonprofit-lead organization that has extensive experience supporting child welfare parent mentors.

(2) Through the contract with the lead organization, each local program must be locally administered by the county superior court or a nonprofit organization that shall serve as the host organization.

(3) Local stakeholders representing key child welfare systems shall serve as parents for parents program advisors. Examples of local stakeholders include the children's administration, the superior court, attorneys for the parents, assistant attorneys general, and court-appointed special advocates or guardians ad litem.

(4) A child welfare parent mentor lead shall provide program coordination and maintain local program information.

(5) The lead organization shall provide ongoing training to the host organizations, statewide program oversight and coordination, and maintain statewide program information.

NEW SECTION. Sec. 6. A new section is added to chapter 2.70 RCW to read as follows:

(1) Subject to the availability of amounts appropriated for this specific purpose, a research entity with experience in child welfare research shall conduct an evaluation of the parents for parents program. The evaluation design must meet the standards necessary to determine whether parents for parents can be considered a research-based program.

(2) A preliminary report to the legislature must be provided by December 1, 2016. At a minimum, the preliminary report must include statistics showing rates of attendance at court hearings and compliance with court-ordered services and visitation. The report must also address whether participation in the program affected participants' overall understanding of the dependency court process.

(3) A subsequent report must be delivered to the legislature by December 1, 2019. In addition to the information required under subsection (2) of this section, this report must include statistics demonstrating the effect of the program on reunification rates and lengths of time families were engaged in the dependency court system before achieving permanency.

Passed by the Senate March 3, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 118

[Substitute Senate Bill 5488]

APPLIED BEHAVIOR ANALYSIS

AN ACT Relating to applied behavior analysis; reenacting and amending RCW 18.120.020 and 18.130.040; adding a new chapter to Title 18 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. Sec. 1. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certified behavior technician" means a paraprofessional who implements a behavior analysis treatment plan under the close, ongoing supervision of a licensed behavior analyst or a licensed assistant behavior analyst, but who does not design or supervise the implementation of a behavior analysis treatment plan.

(2) "Committee" means the Washington state applied behavior analysis advisory committee.

(3) "Department" means the department of health.

(4) "Licensed assistant behavior analyst" means an individual who is licensed under this chapter to engage in the practice of applied behavior analysis under the supervision of a licensed behavior analyst.

(5) "Licensed behavior analyst" means an individual who is licensed under this chapter to engage in the practice of applied behavior analysis.

(6)(a) "Practice of applied behavior analysis" means:

(i) The design, implementation, and evaluation of instructional and environmental modifications based on scientific research and the direct observation and measurement of behavior and the environment to produce socially significant improvements in human behavior;

(ii) Empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis; and

(iii) Utilization of contextual factors, motivating operations, antecedent stimuli, positive reinforcement, and other consequences to assist individuals in developing new behaviors, increasing or decreasing existing behaviors, and emitting behaviors under specific environmental conditions.

(b) "Practice of applied behavior analysis" does not include psychological testing, diagnosis of a mental or physical disorder, neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or

counseling as treatment modalities. It also does not include the use of behavioral techniques described in (a)(iii) of this subsection alone as treatment modalities.

(7) "Secretary" means the secretary of the department of health.

NEW SECTION. Sec. 2. (1)(a) Except as provided in section 3 of this act, no person may engage in the practice of applied behavior analysis unless he or she holds a license or a temporary license under this chapter. The use of behavioral techniques described in section 1(6)(a)(iii) of this act alone does not constitute the practice of applied behavior analysis.

(b) A person not licensed under this chapter may not represent himself or herself as a "licensed behavior analyst" or a "licensed assistant behavior analyst."

(2) Except as provided in section 3 of this act, no person may practice as a certified behavior technician in this state without having a certification issued by the secretary. A person not certified under this chapter may not represent himself or herself as a "certified behavior technician."

NEW SECTION. Sec. 3. Nothing in this chapter may be construed to prohibit or restrict:

(1) An individual who holds a credential issued by this state, other than as a licensed behavior analyst, a licensed assistant behavior analyst, or a certified behavior technician, to engage in the practice of that occupation or profession without obtaining an additional credential from the state, so long as the practice is within that profession's or occupation's scope of practice;

(2) A person employed as a behavior analyst, assistant behavior analyst, or behavior technician by the government of the United States if the person provides behavior analysis services solely under the direction or control of the agency by which the person is employed;

(3) An employee of a school district, charter school, or private school approved under chapter 28A.195 RCW in the performance of his or her regular duties of employment, so long as the employee does not offer behavior analytic services to any person or entity other than the school employer and does not accept remuneration for providing behavior analytic services other than the remuneration he or she receives from the school employer;

(4) The practice of applied behavior analysis by a matriculated college or university student if he or she: (a) Participates in a defined course, internship, practicum, or program of study; (b) is supervised by college or university faculty or a licensed behavior analyst; and (c) uses a title that clearly indicates trainee status, such as "behavior analysis student," "behavior analysis intern," or "behavior analysis trainee";

(5) The practice of applied behavior analysis by an individual pursuing supervised experiential training to meet eligibility requirements for licensure under this chapter or national certification in behavior analysis, so long as the training is supervised by a licensed behavior analyst who meets any additional requirements established by the secretary or by a professional who meets supervisor requirements determined by a national certifying entity;

(6) Implementation of a behavior analysis treatment plan by a family member or legal guardian of a recipient of behavior analysis services, as defined in rule, so long as the family member or legal guardian is under the supervision of a licensed behavior analyst or a licensed assistant behavior analyst;

(7) The activities of a behavior analyst who practices with nonhumans including, but not limited to, animal trainers and applied animal behaviorists; or

(8) The activities of a behavior analyst who provides general behavior analysis services to organizations so long as those services are for the benefit of the organization and do not involve direct services to individuals.

NEW SECTION. Sec. 4. (1) The Washington state applied behavior analysis advisory committee is established.

(2) The committee consists of the following five members:

(a) Three members who are licensed behavior analysts or, for the initial members of the committee, certified by the national behavior analyst certification board as either a board certified behavior analyst or a board certified behavior analyst - doctoral;

(b) One member who is a licensed assistant behavior analyst or, for the initial members of the committee, certified by the national behavior analyst certification board as a board certified assistant behavior analyst; and

(c) One member of the public who is not a member of any other health care licensing board or commission and does not have a material or financial interest in the rendering of services regulated under this chapter. The public member may be the parent or guardian of a recipient of behavior analysis services.

(3) The secretary shall appoint the committee members. Committee members serve at the pleasure of the secretary. The secretary may appoint members of the initial committee to staggered terms of one to four years, and thereafter all terms are for four years. No member may serve more than two consecutive terms.

(4) It is recommended that one of the three licensed behavior analysts appointed to the committee also has an additional mental health license, such as a psychologist.

(5) The committee shall elect officers each year. The committee shall meet at least twice each year and may hold additional meetings as called by the chair. A majority of the committee appointed and serving constitutes a quorum.

(6) The secretary shall consult with the committee in determining the qualifications for licensure or certification under section 5 of this act.

(7) Committee members must be compensated in accordance with RCW 43.03.240. Members must be reimbursed for travel expenses incurred in the actual performance of their duties, as provided in RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 5. (1) The secretary shall issue a license to an applicant who submits a completed application, pays the appropriate fees, and meets the following requirements:

(a) For a licensed behavior analyst:

(i) Graduation from a master's or doctorate degree program in behavior analysis or other natural science, education, human services, engineering, medicine, or field related to behavior analysis approved by the secretary;

(ii) Completion of a minimum of two hundred twenty-five classroom hours at graduate level instruction in specific behavior analysis topics, as determined in rule;

(iii) Successful completion of a supervised experience requirement, consisting of a minimum of one thousand five hundred hours, or an alternative approved by the secretary by rule; and

(iv) Successful completion of an examination approved by the secretary;

(b) For a licensed assistant behavior analyst:

(i) Graduation from a bachelor's degree program approved by the secretary;

(ii) Completion of one hundred thirty-five classroom hours of instruction in specific behavior analysis topics, as determined by the secretary in rule; and

(iii) Successful completion of a supervised experience requirement, consisting of a minimum of one thousand hours, or an alternative approved by the secretary by rule;

(c) For a certified behavior technician:

(i) Successful completion of a training program of at least forty hours that is approved by the secretary; and

(ii) Any other requirements determined by the secretary in rule;

(d) Demonstrates good moral character;

(e) Has not engaged in unprofessional conduct as defined in RCW 18.130.180;

(f) Is not currently subject to any disciplinary proceedings; and

(g) Is not unable to practice with reasonable skill and safety as defined in RCW 18.130.170.

(2) In addition, an applicant for an assistant behavior analyst license or a behavior technician certification must provide proof of ongoing supervision by a licensed behavior analyst.

(3) The secretary may accept certification by a national accredited professional credentialing entity in lieu of the specific requirements identified in subsection (1)(a) through (c) of this section.

(4) A license or certification issued under this section is valid for a period of two years.

NEW SECTION. Sec. 6. Applications for licensing or certification must be submitted on forms provided by the secretary. The secretary may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria for licensing or certification provided for in this chapter and chapter 18.130 RCW. Each applicant shall pay a fee determined by the secretary under RCW 43.70.250. The fee must accompany the application.

NEW SECTION. Sec. 7. (1) The secretary shall establish by rule the requirements for renewal of a license or certification, but may not increase the licensure or certification requirements provided in this chapter. The secretary shall establish administrative procedures, administrative requirements, and fees for license and certification periods and renewals as provided in RCW 43.70.250 and 43.70.280.

(2) Failure to renew the license or certification invalidates the license or certification and all privileges granted by the license or certification. If a license or certification has lapsed for a period longer than three years, the person shall demonstrate competence to the satisfaction of the secretary by completing continuing competency requirements or meeting other standards determined by the secretary.

NEW SECTION. Sec. 8. The secretary may grant a temporary license to a person who does not reside in this state if he or she: (1) Is licensed to practice applied behavior analysis in another state or province of Canada; or (2) meets other qualifications established by the secretary. A temporary license holder may only practice applied behavior analysis for a limited period of time, as defined by the secretary.

NEW SECTION. Sec. 9. An applicant holding a license in another state or a province of Canada may be licensed to practice in this state if the secretary determines that the licensing standards of the other state or province are substantially equivalent to the licensing standards in this chapter.

NEW SECTION. Sec. 10. The uniform disciplinary act, chapter 18.130 RCW, governs unlicensed practice, the issuance and denial of a license or certification, and the discipline of persons licensed or certified under this chapter.

NEW SECTION. Sec. 11. The secretary, in consultation with the committee, may adopt rules under chapter 34.05 RCW as necessary to implement this chapter, including rules:

- (1) Establishing continuing competency as a condition of license or certification renewal;
- (2) Establishing standards for delegation and supervision of licensed assistant behavior analysts and certified behavior technicians; and
- (3) Defining the tasks that a certified behavior technician may perform.

Sec. 12. RCW 18.120.020 and 2012 c 153 s 15, 2012 c 137 s 18, and 2012 c 23 s 8 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Applicant group" includes any health professional group or organization, any individual, or any other interested party which proposes that any health professional group not presently regulated be regulated or which proposes to substantially increase the scope of practice of the profession.

(2) "Certificate" and "certification" mean a voluntary process by which a statutory regulatory entity grants recognition to an individual who (a) has met certain prerequisite qualifications specified by that regulatory entity, and (b) may assume or use "certified" in the title or designation to perform prescribed health professional tasks.

(3) "Grandfather clause" means a provision in a regulatory statute applicable to practitioners actively engaged in the regulated health profession prior to the effective date of the regulatory statute which exempts the practitioners from meeting the prerequisite qualifications set forth in the regulatory statute to perform prescribed occupational tasks.

(4) "Health professions" means and includes the following health and health-related licensed or regulated professions and occupations: Podiatric medicine and surgery under chapter 18.22 RCW; chiropractic under chapter 18.25 RCW; dental hygiene under chapter 18.29 RCW; dentistry under chapter 18.32 RCW; denturism under chapter 18.30 RCW; dental anesthesia assistants under chapter 18.350 RCW; dispensing opticians under chapter 18.34 RCW; hearing instruments under chapter 18.35 RCW; naturopaths under chapter 18.36A RCW; embalming and funeral directing under chapter 18.39 RCW;

midwifery under chapter 18.50 RCW; nursing home administration under chapter 18.52 RCW; optometry under chapters 18.53 and 18.54 RCW; ophthalmologists under chapter 18.55 RCW; osteopathic medicine and surgery under chapters 18.57 and 18.57A RCW; pharmacy under chapters 18.64 and 18.64A RCW; medicine under chapters 18.71 and 18.71A RCW; emergency medicine under chapter 18.73 RCW; physical therapy under chapter 18.74 RCW; practical nurses under chapter 18.79 RCW; psychologists under chapter 18.83 RCW; registered nurses under chapter 18.79 RCW; occupational therapists licensed under chapter 18.59 RCW; respiratory care practitioners licensed under chapter 18.89 RCW; veterinarians and veterinary technicians under chapter 18.92 RCW; massage practitioners under chapter 18.108 RCW; East Asian medicine practitioners licensed under chapter 18.06 RCW; persons registered under chapter 18.19 RCW; persons licensed as mental health counselors, marriage and family therapists, and social workers under chapter 18.225 RCW; dietitians and nutritionists certified by chapter 18.138 RCW; radiologic technicians under chapter 18.84 RCW; nursing assistants registered or certified under chapter 18.88A RCW; ~~((and))~~ reflexologists certified under chapter 18.108 RCW; ~~((and))~~ medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and licensed behavior analysts, licensed assistant behavior analysts, and certified behavior technicians under chapter 18.-- RCW (the new chapter created in section 14 of this act).

(5) "Inspection" means the periodic examination of practitioners by a state agency in order to ascertain whether the practitioners' occupation is being carried out in a fashion consistent with the public health, safety, and welfare.

(6) "Legislative committees of reference" means the standing legislative committees designated by the respective rules committees of the senate and house of representatives to consider proposed legislation to regulate health professions not previously regulated.

(7) "License," "licensing," and "licensure" mean permission to engage in a health profession which would otherwise be unlawful in the state in the absence of the permission. A license is granted to those individuals who meet prerequisite qualifications to perform prescribed health professional tasks and for the use of a particular title.

(8) "Professional license" means an individual, nontransferable authorization to carry on a health activity based on qualifications which include: (a) Graduation from an accredited or approved program, and (b) acceptable performance on a qualifying examination or series of examinations.

(9) "Practitioner" means an individual who (a) has achieved knowledge and skill by practice, and (b) is actively engaged in a specified health profession.

(10) "Public member" means an individual who is not, and never was, a member of the health profession being regulated or the spouse of a member, or an individual who does not have and never has had a material financial interest in either the rendering of the health professional service being regulated or an activity directly related to the profession being regulated.

(11) "Registration" means the formal notification which, prior to rendering services, a practitioner shall submit to a state agency setting forth the name and address of the practitioner; the location, nature and operation of the health

activity to be practiced; and, if required by the regulatory entity, a description of the service to be provided.

(12) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which regulates one or more professions, occupations, industries, businesses, or other endeavors in this state.

(13) "State agency" includes every state office, department, board, commission, regulatory entity, and agency of the state, and, where provided by law, programs and activities involving less than the full responsibility of a state agency.

Sec. 13. RCW 18.130.040 and 2013 c 171 s 8 and 2013 c 19 s 45 are each reenacted and amended to read as follows:

(1) This chapter applies only to the secretary and the boards and commissions having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The secretary has authority under this chapter in relation to the following professions:

(i) Dispensing opticians licensed and designated apprentices under chapter 18.34 RCW;

(ii) Midwives licensed under chapter 18.50 RCW;

(iii) Ocularists licensed under chapter 18.55 RCW;

(iv) Massage practitioners and businesses licensed under chapter 18.108 RCW;

(v) Dental hygienists licensed under chapter 18.29 RCW;

(vi) East Asian medicine practitioners licensed under chapter 18.06 RCW;

(vii) Radiologic technologists certified and X-ray technicians registered under chapter 18.84 RCW;

(viii) Respiratory care practitioners licensed under chapter 18.89 RCW;

(ix) Hypnotherapists and agency affiliated counselors registered and advisors and counselors certified under chapter 18.19 RCW;

(x) Persons licensed as mental health counselors, mental health counselor associates, marriage and family therapists, marriage and family therapist associates, social workers, social work associates—advanced, and social work associates—independent clinical under chapter 18.225 RCW;

(xi) Persons registered as nursing pool operators under chapter 18.52C RCW;

(xii) Nursing assistants registered or certified or medication assistants endorsed under chapter 18.88A RCW;

(xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;

(xiv) Chemical dependency professionals and chemical dependency professional trainees certified under chapter 18.205 RCW;

(xv) Sex offender treatment providers and certified affiliate sex offender treatment providers certified under chapter 18.155 RCW;

(xvi) Persons licensed and certified under chapter 18.73 RCW or RCW 18.71.205;

(xvii) Orthotists and prosthetists licensed under chapter 18.200 RCW;

(xviii) Surgical technologists registered under chapter 18.215 RCW;

(xix) Recreational therapists under chapter 18.230 RCW;

(xx) Animal massage practitioners certified under chapter 18.240 RCW;

(xxi) Athletic trainers licensed under chapter 18.250 RCW;
 (xxii) Home care aides certified under chapter 18.88B RCW;
 (xxiii) Genetic counselors licensed under chapter 18.290 RCW;
 (xxiv) Reflexologists certified under chapter 18.108 RCW; ~~((and))~~
 (xxv) Medical assistants-certified, medical assistants-hemodialysis technician, medical assistants-phlebotomist, and medical assistants-registered certified and registered under chapter 18.360 RCW; and
(xxvi) Behavior analysts, assistant behavior analysts, and behavior technicians under chapter 18.--- RCW (the new chapter created in section 14 of this act).

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The podiatric medical board as established in chapter 18.22 RCW;
 - (ii) The chiropractic quality assurance commission as established in chapter 18.25 RCW;
 - (iii) The dental quality assurance commission as established in chapter 18.32 RCW governing licenses issued under chapter 18.32 RCW, licenses and registrations issued under chapter 18.260 RCW, and certifications issued under chapter 18.350 RCW;
 - (iv) The board of hearing and speech as established in chapter 18.35 RCW;
 - (v) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
 - (vi) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
 - (vii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
 - (viii) The pharmacy quality assurance commission as established in chapter 18.64 RCW governing licenses issued under chapters 18.64 and 18.64A RCW;
 - (ix) The medical quality assurance commission as established in chapter 18.71 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
 - (x) The board of physical therapy as established in chapter 18.74 RCW;
 - (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
 - (xii) The nursing care quality assurance commission as established in chapter 18.79 RCW governing licenses and registrations issued under that chapter;
 - (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;
 - (xiv) The veterinary board of governors as established in chapter 18.92 RCW;
 - (xv) The board of naturopathy established in chapter 18.36A RCW; and
 - (xvi) The board of denturists established in chapter 18.30 RCW.
- (3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses. The disciplining authority may also grant a license subject to conditions.

(4) All disciplining authorities shall adopt procedures to ensure substantially consistent application of this chapter, the uniform disciplinary act, among the disciplining authorities listed in subsection (2) of this section.

NEW SECTION. Sec. 14. Sections 1 through 11 of this act constitute a new chapter in Title 18 RCW.

NEW SECTION. Sec. 15. Except for sections 4 and 16 of this act, this act takes effect July 1, 2017.

NEW SECTION. Sec. 16. The secretary of health may adopt such rules as authorized by this act to ensure that the sections in this act are implemented on their effective dates.

Passed by the Senate March 9, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 119

[Engrossed Senate Bill 5577]

PHARMACEUTICAL WASTE--WORK GROUP

AN ACT Relating to pharmaceutical waste; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature finds that health care workers operate in a complex regulatory environment that can affect their core mission of treating illness and saving lives.

(2) It is the legislature's intent that the department of ecology, with input from the regulated community, develop a consistent, statewide approach for regulating pharmaceutical waste that most effectively helps health care establishments, and pharmaceutical and medical waste handling businesses implement and comply with the regulation of pharmaceutical wastes under chapter 70.105 RCW.

(3) It is the intent of the legislature that the department of ecology implement consistent regulatory oversight of pharmaceutical waste management facilities in the state in order to support a level playing field.

NEW SECTION. Sec. 2. (1) By September 1, 2015, the department shall convene a work group to identify the problems of properly managing pharmaceutical wastes and recommend solutions to improve management of these wastes at the site of generation through treatment or disposal by commercial waste management facilities. The work group may develop recommendations including, but not limited to, new or revised policies to be issued by the department, recommendations for ensuring consistent interpretation and implementation of existing rules, recommendations for amendments to chapter 70.105 RCW or rules adopted pursuant to chapter 70.105 RCW, and recommendations on how the department will implement consistent regulatory oversight of pharmaceutical waste management facilities that receive waste from sources statewide. The work group must provide recommendations to the appropriate fiscal and policy committees of the legislature by December 31, 2015.

(2) The members of the work group must include representatives of state agencies, including the department, the department of health, and the department of labor and industries, the state's qualified pharmaceutical waste handling facilities, a statewide association representing medical doctors, hospitals and other health care providers, and other parties with expertise in the field of pharmaceutical waste management. To facilitate the work group, the department must hire a consultant that is on the state list of qualified contractors with expertise in the federal resource conservation and recovery act.

(3) In order to promote an open dialogue on the challenges of managing pharmaceutical wastes at the site of generation and by commercial waste management companies, the department may not use information shared by pharmaceutical waste generators or pharmaceutical waste handling facilities during work group meetings for enforcement purposes unless the department determines that an activity being performed at a facility or conditions at a facility: (a) Pose an imminent threat of placing a person in danger of death or bodily harm; or (b) have a probability of causing environmental harm.

(4) The legislature encourages the department to exercise its enforcement discretion with regard to pharmaceutical waste during the pendency of the work group process described in subsection (1) of this section.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Department" means the department of ecology.

(b) "Pharmaceutical waste generators" includes hospitals, clinics, and other health care facilities that administer pharmaceuticals.

(c) "Qualified pharmaceutical waste handling facilities" includes facilities that handle state-only pharmaceutical waste destined for disposal at a facility eligible to accept such waste, process medical waste to eliminate biohazards, operate a wastewater treatment plant pursuant to a valid state waste discharge permit issued under chapter 90.48 RCW, and offer appropriate training to pharmaceutical waste generators on sorting and disposal of pharmaceutical waste.

(d) "State-only pharmaceutical waste" includes any schedule I through V controlled substances as defined in chapter 69.50 RCW, legend drugs as defined in chapter 69.41 RCW, and over-the-counter medications as defined in chapter 69.60 RCW that are designated as dangerous waste under rules adopted under chapter 70.105 RCW and that are not a hazardous waste under the federal resource conservation and recovery act, 42 U.S.C. Sec. 6901 et seq.

Passed by the Senate March 10, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 120

[Senate Bill 5606]

DENTAL PROFESSIONALS--SCOPE OF PRACTICE

AN ACT Relating to regulating dental professionals by permitting dental hygienists and dental assistants to take impressions under certain circumstances and by authorizing the issuance of a

limited license to dental hygienists who actively practice or are licensed in Canada; and amending RCW 18.29.050, 18.29.190, and 18.260.040.

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

Sec. 1. RCW 18.29.050 and 2013 c 87 s 1 are each amended to read as follows:

Any person licensed as a dental hygienist in this state may remove deposits and stains from the surfaces of the teeth, may apply topical preventive or prophylactic agents, may polish and smooth restorations, may perform root planing and soft-tissue curettage, and may perform other dental operations and services delegated to them by a licensed dentist. Any person licensed as a dental hygienist in this state may apply topical anesthetic agents under the general supervision, as defined in RCW 18.260.010, of a dentist: PROVIDED HOWEVER, That licensed dental hygienists shall in no event perform the following dental operations or services:

(1) Any surgical removal of tissue of the oral cavity;

(2) Any prescription of drugs or medications requiring the written order or prescription of a licensed dentist or physician, except that a hygienist may place antimicrobials pursuant to the order of a licensed dentist and under the dentist's required supervision;

(3) Any diagnosis for treatment or treatment planning; or

(4) The taking of any impression of the teeth or jaw, or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis, except that a dental hygienist may take an impression for any purpose that is either allowed:

(a) For a dental assistant registered under chapter 18.260 RCW; or

(b) As a delegated duty for dental hygienists pursuant to rules adopted by the dental quality assurance commission.

Such licensed dental hygienists may perform dental operations and services only under the supervision of a licensed dentist, and under such supervision may be employed by hospitals, boards of education of public or private schools, county boards, boards of health, or public or charitable institutions, or in dental offices.

Sec. 2. RCW 18.29.190 and 2006 c 66 s 1 are each amended to read as follows:

(1) The department shall issue an initial limited license without the examination required by this chapter to any applicant who, as determined by the secretary:

(a) Holds a valid license in another state or Canadian province that allows a substantively equivalent scope of practice in subsection (3)(a) through (j) of this section;

(b) Is currently engaged in active practice in another state or Canadian province. For the purposes of this section, "active practice" means five hundred sixty hours of practice in the preceding twenty-four months;

(c) Files with the secretary documentation certifying that the applicant:

(i) Has graduated from an accredited dental hygiene school approved by the secretary;

(ii) Has successfully completed the dental hygiene national board examination; and

(iii) Is licensed to practice in another state or Canadian province;

(d) Provides information as the secretary deems necessary pertaining to the conditions and criteria of the uniform disciplinary act, chapter 18.130 RCW;

(e) Demonstrates to the secretary a knowledge of Washington state law pertaining to the practice of dental hygiene, including the administration of legend drugs;

(f) Pays any required fees; and

(g) Meets requirements for AIDS education.

(2) The term of the initial limited license issued under this section is eighteen months and it is renewable upon:

(a) Demonstration of successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;

(b) Demonstration of successful passage of a substantively equivalent local anesthesia examination; and

(c) Demonstration of didactic and clinical competency in the administration of nitrous oxide analgesia.

(3) A person practicing with an initial limited license granted under this section has the authority to perform hygiene procedures that are limited to:

(a) Oral inspection and measuring of periodontal pockets;

(b) Patient education in oral hygiene;

(c) Taking intra-oral and extra-oral radiographs;

(d) Applying topical preventive or prophylactic agents;

(e) Polishing and smoothing restorations;

(f) Oral prophylaxis and removal of deposits and stains from the surface of the teeth;

(g) Recording health histories;

(h) Taking and recording blood pressure and vital signs;

(i) Performing subgingival and supragingival scaling; and

(j) Performing root planing.

(4)(a) A person practicing with an initial limited license granted under this section may not perform the following dental hygiene procedures unless authorized in (b) or (c) of this subsection:

(i) Give injections of local anesthetic;

(ii) Place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration;

(iii) Soft tissue curettage; or

(iv) Administer nitrous oxide/oxygen analgesia.

(b) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in the administration of local anesthetic may receive a temporary endorsement to administer local anesthesia. For purposes of the renewed limited license, this endorsement demonstrates the successful passage of the local anesthesia examination.

(c) A person licensed in another state or Canadian province who can demonstrate substantively equivalent licensing standards in restorative procedures may receive a temporary endorsement for restorative procedures.

(5)(a) A person practicing with a renewed limited license granted under this section may:

(i) Perform hygiene procedures as provided under subsection (3) of this section;

- (ii) Give injections of local anesthetic;
- (iii) Perform soft tissue curettage; and
- (iv) Administer nitrous oxide/oxygen analgesia.

(b) A person practicing with a renewed limited license granted under this section may not place restorations into the cavity prepared by a licensed dentist and afterwards carve, contour, and adjust contacts and occlusion of the restoration.

Sec. 3. RCW 18.260.040 and 2013 c 87 s 4 are each amended to read as follows:

(1)(a) The commission shall adopt rules relating to the scope of dental assisting services related to patient care and laboratory duties that may be performed by dental assistants.

(b) In addition to the services and duties authorized by the rules adopted under (a) of this subsection, a dental assistant may apply topical anesthetic agents.

(c) All dental services performed by dental assistants under (a) or (b) of this subsection must be performed under the close supervision of a supervising dentist as the dentist may allow.

(2) In addition to any other limitations established by the commission, dental assistants may not perform the following procedures:

- (a) Any scaling procedure;
- (b) Any oral prophylaxis, except coronal polishing;
- (c) Administration of any general or local anesthetic, including intravenous sedation;

(d) Any removal of or addition to the hard or soft tissue of the oral cavity;

(e) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth, jaw, or adjacent structures; and

(f) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis, other than impressions allowed as a delegated duty for dental assistants pursuant to rules adopted by the commission.

(3) A dentist may not assign a dental assistant to perform duties until the dental assistant has demonstrated skills necessary to perform competently all assigned duties and responsibilities.

Passed by the Senate March 3, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 121

[Senate Bill 5638]

HIGHER EDUCATION--STATE NEED GRANT--ELIGIBILITY

AN ACT Relating to state need grant eligibility; and amending RCW 28B.92.080.

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

Sec. 1. RCW 28B.92.080 and 2012 c 229 s 605 are each amended to read as follows:

Except for opportunity internship graduates whose eligibility is provided under RCW 28B.92.084, for a student to be eligible for a state need grant a student must:

(1) Be a "needy student" or "disadvantaged student" as determined by the office in accordance with RCW 28B.92.030 ~~((4))~~ (2) and ~~((4))~~ (5);

(2) Have been domiciled within the state of Washington for at least one year;

(3) Be enrolled or accepted for enrollment ~~((on at least a half-time basis))~~ for at least three quarter credits or the equivalent semester credits at an institution of higher education in Washington as defined in RCW 28B.92.030~~((3))~~ (4); and

(4) ~~((Until June 30, 2011, to the extent funds are specifically appropriated for this purpose, and subject to any terms and conditions specified in the omnibus appropriations act, be enrolled or accepted for enrollment for at least three quarter credits or the equivalent semester credits at an institution of higher education in Washington as defined in RCW 28B.92.030(3); and~~

~~(5))~~ Have complied with all the rules adopted by the council for the administration of this chapter.

Passed by the Senate March 5, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 122

[Senate Bill 5717]

INSURER HOLDING COMPANIES

AN ACT Relating to the insurer holding company act; amending RCW 48.31B.005, 48.31B.010, 48.31B.015, 48.31B.020, 48.31B.025, 48.31B.030, 48.31B.035, 48.31B.040, 48.31B.050, 48.31B.070, 42.56.400, 48.02.065, 48.13.061, 48.97.005, 48.125.140, 48.155.010, and 48.155.015; reenacting and amending RCW 42.56.400; adding new sections to chapter 48.31B RCW; repealing RCW 48.31C.010, 48.31C.020, 48.31C.030, 48.31C.040, 48.31C.050, 48.31C.060, 48.31C.070, 48.31C.080, 48.31C.090, 48.31C.100, 48.31C.110, 48.31C.120, 48.31C.130, 48.31C.140, 48.31C.150, 48.31C.160, 48.31C.900, and 48.31C.901; prescribing penalties; providing effective dates; and providing an expiration date.

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

Sec. 1. RCW 48.31B.005 and 1993 c 462 s 2 are each amended to read as follows:

~~((As used in this chapter, the following terms have the meanings set forth in this section, unless the context requires otherwise.))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) ~~((An))~~ "Affiliate" means an affiliate of, or person ~~((is))~~ affiliated ~~((is))~~ with, a specific person, ~~((is))~~ and includes a person ~~((who))~~ that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) ~~((The term))~~ "Commissioner" means the insurance commissioner, the commissioner's deputies, or the office of the insurance commissioner, as appropriate.

(3) "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if ~~((a))~~ any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in a manner similar to that provided by RCW 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

~~((3) A))~~ (4) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole including, but not limited to, anything that would cause the insurer's risk-based capital to fall into company action level as set forth in RCW 48.05.440 or 48.43.310 or would cause the insurer to be in hazardous financial condition as defined in WAC 284-16-310.

(5) "Insurance holding company system" means a system that consists of two or more affiliated persons, one or more of which is an insurer.

~~((4) The term))~~ (6) "Insurer" ~~((has the same meaning as set forth in RCW 48.01.050;))~~ includes an insurer authorized under chapter 48.05 RCW, a fraternal mutual insurer or society holding a license under RCW 48.36A.290, a health care service contractor registered under chapter 48.44 RCW, a health maintenance organization registered under chapter 48.46 RCW, and a self-funded multiple employer welfare arrangement under chapter 48.125 RCW, as well as all persons engaged as, or purporting to be engaged as insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements in this state, and to persons in process of organization to become insurers, fraternal benefit societies, health care service contractors, health maintenance organizations, or self-funded multiple employer welfare arrangements, except it does not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~((5) A))~~ (7) "Person" ~~((is))~~ means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, ~~((a))~~ any similar entity, or any combination of the foregoing acting in concert, but does not include a joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

~~((6) A))~~ (8) "Securityholder" means a securityholder of a specified person ~~((is one))~~ who owns ~~((a))~~ any security of that person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

~~((7) A)~~ (9) "Subsidiary" means a subsidiary of a specified person who is an affiliate controlled by that person directly or indirectly through one or more intermediaries.

~~((8) The term)~~ (10) "Voting security" includes ~~((a))~~ any security convertible into or evidencing a right to acquire a voting security.

Sec. 2. RCW 48.31B.010 and 1993 c 462 s 3 are each amended to read as follows:

(1) A domestic insurer, either by itself or in cooperation with one or more persons, may organize or acquire one or more subsidiaries. The subsidiaries may conduct any kind of business or businesses and their authority to do so is not limited by reason of the fact that they are subsidiaries of a domestic insurer.

(2) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under this title, a domestic insurer may also:

(a) Invest in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of ten percent of the insurer's assets or fifty percent of the insurer's surplus as regards policyholders, provided that, after such investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries, health maintenance organizations, and health care service contractors are excluded, and there is included:

(i) Total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities;

(ii) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities; and

(iii) All contributions to the capital and surplus of a subsidiary subsequent to its acquisition or formation;

(b) Invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer provided that each subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in (a) of this subsection or chapter 48.13 RCW applicable to the insurer. For the purpose of this subsection, the total investment of the insurer includes:

(i) Any direct investment by the insurer in an asset;

(ii) The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which is calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of the subsidiary; and

(iii) With the approval of the commissioner, any greater amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, provided that after the investment the insurer's surplus as regards

policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(3) Investments in common stock, preferred stock, debt obligations, or other securities made according to subsection (2) of this section are not subject to any of the otherwise applicable restrictions or prohibitions contained in this title applicable to such investments of insurers.

(4) Whether any investment made according to subsection (2) of this section meets the applicable requirements of that subsection is to be determined before the investment is made, by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, net including dividends.

(5) If an insurer ceases to control a subsidiary, it shall dispose of any investment in ~~((the))~~ that subsidiary within three years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after the investment ~~((has been))~~ was made, the investment ~~((meets))~~ met the requirements for investment under any other section of this title, and the insurer has notified the commissioner thereof.

Sec. 3. RCW 48.31B.015 and 1993 c 462 s 4 are each amended to read as follows:

(1)(a) No person other than the issuer may make a tender offer for or a request or invitation for tenders of, or enter into ~~((an))~~ any agreement to exchange securities of, seek to acquire, or acquire, in the open market or otherwise, voting security of a domestic insurer if, after the consummation thereof, the person would, directly or indirectly, or by conversion or by exercise of a right to acquire, be in control of the insurer~~((:-))~~ and no person may enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request, or invitation is made or the agreement is entered into, or ~~((before))~~ prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the commissioner and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the commissioner as prescribed in this ~~((section))~~ chapter.

(b) For purposes of this section, any controlling person of a domestic insurer seeking to divest its controlling interest in the domestic insurer, in any manner, must file with the commissioner, with a copy to the insurer, confidential notice of its proposed divestiture at least thirty days prior to the cessation of control. The commissioner determines whether the person or persons seeking to divest or acquire a controlling interest in an insurer must file and obtain approval of the transaction. The information remains confidential until the conclusion of the transaction unless the commissioner, in his or her discretion, determines that the confidential treatment interferes with the enforcement of this section. If the statement referred to in (a) of this subsection is otherwise filed, this subsection does not apply.

(c) With respect to a transaction subject to this section, the acquiring person must also file a preacquisition notification with the commissioner, which must

contain the information set forth in RCW 48.31B.020(3)(a). A failure to file the notification may be subject to penalties specified in RCW 48.31B.020(5)(c).

~~(d) For purposes of this section a domestic insurer includes a person controlling a domestic insurer unless the person, as determined by the commissioner, is either directly or through its affiliates primarily engaged in business other than the business of insurance. ((However, the person shall file a preacquisition notification with the commissioner containing the information set forth in RCW 48.31B.020(3)(a) sixty days before the proposed effective date of the acquisition. Persons who fail to file the required preacquisition notification with the commissioner are subject to the penalties in RCW 48.31B.020(5)(c).))~~ For the purposes of this section, "person" does not include ~~((a))~~ any securities broker holding, in usual and customary broker's function, less than twenty percent of the voting securities of an insurance company or of ~~((a))~~ any person who controls an insurance company.

(2) The statement to be filed with the commissioner under this section must be made under oath or affirmation and must contain the following ~~((information))~~:

(a) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsection (1) of this section is to be effected, ~~((hereinafter called " "))~~ and referred to in this section as the acquiring party((" ")) and:

(i) If that person is an individual, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years; and

(ii) If that person is not an individual, a report of the nature of its business operations during the past five years or for such lesser period as the person and any predecessors have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; ~~((any convictions of crimes during the past ten years;))~~ and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to those positions. The list must include for each such individual the information required by (a)(i) of this subsection((-);):

(b) The source, nature, and amount of the consideration used or to be used in effecting the merger or other acquisition of control, a description of any transaction ~~((in which))~~ where funds were or are to be obtained for any such purpose, including ~~((a))~~ any pledge of the insurer's stock((-);) or the stock of any of its subsidiaries or controlling affiliates, and the identity of persons furnishing ~~((the))~~ consideration. However, ~~((where))~~ when a source of ~~((the))~~ consideration is a loan made in the lender's ordinary course of business, the identity of the lender must remain confidential, if the person filing the statement so requests((-);):

(c) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding five fiscal years of each acquiring party, or for such lesser period as the acquiring party and any predecessors have been in existence, and similar unaudited information as of a date not earlier than ninety days ~~((before))~~ prior to the filing of the statement((-);):

(d) Any plans or proposals that each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management((-);

(e) The number of shares of any security referred to in subsection (1) of this section (~~(that)~~) which each acquiring party proposes to acquire, the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section, and a statement as to the method by which the fairness of the proposal was arrived at((-);

(f) The amount of each class of any security referred to in subsection (1) of this section that is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party((-);

(g) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsection (1) of this section in which (~~(an)~~) any acquiring party is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description must identify the persons with whom the contracts, arrangements, or understandings have been entered into((-);

(h) A description of the purchase of any security referred to in subsection (1) of this section during the twelve calendar months (~~(before)~~) preceding the filing of the statement, by an acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid (~~(for the security-)~~);

(i) A description of any recommendations to purchase any security referred to in subsection (1) of this section made during the twelve calendar months (~~(before)~~) preceding the filing of the statement, by an acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party((-);

(j) Copies of all tender offers for, requests or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsection (1) of this section, and, if distributed, of additional soliciting material relating to (~~(the securities-)~~) them;

(k) The term of an agreement, contract, or understanding made with or proposed to be made with (~~(a)~~) any broker-dealer as to solicitation or securities referred to in subsection (1) of this section for tender, and the amount of fees, commissions, or other compensation to be paid to broker-dealers with regard (~~(to the securities-)~~) thereto;

(l) An agreement by the person required to file the statement referred to in subsection (1) of this section that it will provide the annual report, specified in RCW 48.31B.025(12), for so long as control exists;

(m) An acknowledgment by the person required to file the statement referred to in subsection (1) of this section that the person and all subsidiaries within its control in the insurance holding company system will provide information to the commissioner upon request as necessary to evaluate enterprise risk to the insurer;

(n) Such additional information as the commissioner may prescribe by rule as necessary or appropriate for the protection of policyholders of the insurer or in the public interest((-);

(o) If the person required to file the statement referred to in subsection (1) of this section is a partnership, limited partnership, syndicate, or other group, the commissioner may require that the information called for by (a) through ~~((H))~~ (n) of this subsection ~~((shall))~~ must be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls a partner or member. If ~~((a))~~ any partner, member, or person is a corporation~~((:))~~ or the person required to file the statement referred to in subsection (1) of this section is a corporation, the commissioner may require that the information called for by (a) through ~~((H))~~ (n) of this subsection ~~((shall))~~ must be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than ten percent of the outstanding voting securities of the corporation~~((:))~~;

(p) If ~~((a))~~ any material change occurs in the facts set forth in the statement filed with the commissioner and sent to the insurer under this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, must be filed with the commissioner and sent to the insurer within two business days after the person learns of the change.

(3) If ~~((an))~~ any offer, request, invitation, agreement, or acquisition referred to in subsection (1) of this section is proposed to be made by means of a registration statement under the securities act of 1933 or in circumstances requiring the disclosure of similar information under the securities exchange act of 1934, or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsection (1) of this section may ~~((use those))~~ utilize the documents in furnishing the information called for by that statement.

(4)(a) The commissioner shall approve a merger or other acquisition of control referred to in subsection (1) of this section unless, after a public hearing thereon, he or she finds that:

(i) After the change of control, the domestic insurer referred to in subsection (1) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this subsection (4)(a)(ii) ~~((of this subsection))~~;

(A) The informational requirements of RCW 48.31B.020(3)(a) and the standards of RCW 48.31B.020(4)(b) apply;

(B) The ~~((commissioner may not disapprove the))~~ merger or other acquisition may not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by RCW 48.31B.020(4)(c) exist; and

(C) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(iii) The financial condition of ~~((an))~~ any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The plans or proposals (~~that~~) which the acquiring party has to liquidate the insurer, sell its assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(v) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vi) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

~~(b) (The commissioner shall approve an exchange or other acquisition of control referred to in this section within sixty days after he or she declares the statement filed under this section to be complete and after holding a public hearing. At the hearing, the person filing the statement, the insurer, and any person whose significant interest is determined by the commissioner to be affected may present evidence, examine and cross-examine witnesses, and offer oral and written arguments and in connection therewith may conduct discovery proceedings in the same manner as is allowed in the superior court of this state. All discovery proceedings must be concluded not later than three days before the commencement of) The public hearing referred to in (a) of this subsection must be held within thirty days after the statement required by subsection (1) of this section is filed, and at least twenty days' notice must be given by the commissioner to the person filing the statement. Not less than seven days' notice of the public hearing must be given by the person filing the statement to the insurer and to such other persons as may be designated by the commissioner. The commissioner must make a determination within the sixty-day period preceding the effective date of the proposed transaction. At the hearing, the person filing the statement, the insurer, any person to whom notice of the hearing was sent, and any other person whose interest may be affected has the right to present evidence, examine, and cross-examine witnesses, and offer oral and written arguments and in connection therewith are entitled to conduct discovery proceedings in the same manner as is presently allowed in the superior court of this state. All discovery proceedings must be concluded not later than three days prior to the commencement of the public hearing.~~

(c) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing referred to in (b) of this subsection may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (1) of this section. Such person shall file the statement referred to in subsection (1) of this section with the national association of insurance commissioners within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing, and shall provide notice to the applicant of the opt out within ten days of the receipt of the statement referred to in subsection (1) of this section. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing, in person, or by telecommunication.

(d) In connection with a change of control of a domestic insurer, any determination by the commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and rules of this state shall be made not later than sixty days after the date of notification of the change in control submitted pursuant to subsection (1)(a) of this section.

(e) The commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed acquisition of control. ((All reasonable costs of a hearing held under this section, as determined by the commissioner, including costs associated with the commissioner's use of investigatory, professional, and other necessary personnel, mailing of required notices and other information, and use of equipment or facilities, must be paid before issuance of the commissioner's order by the acquiring person.))

(5) This section does not apply to:

(a) ~~((A))~~ Any transaction that is subject to RCW 48.31.010, dealing with the merger or consolidation of two or more insurers;

(b) An offer, request, invitation, agreement, or acquisition ~~((that))~~ which the commissioner by order ~~((has exempted from this section as: (i) Not))~~ exempts as not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer, or ((the)) as otherwise not comprehended within the purposes of this section.

(6) The following are violations of this section:

(a) The failure to file a statement, amendment, or other material required to be filed under subsection (1) or (2) of this section; or

(b) The effectuation or an attempt to effectuate an acquisition of control of, divestiture of, or merger with, a domestic insurer unless the commissioner has given approval thereto.

(7) The courts of this state ~~((have))~~ are hereby vested with jurisdiction over every person not resident, domiciled, or authorized to do business in this state who files a statement with the commissioner under this section, and over all actions involving that person arising out of violations of this section, and each such person is deemed to have performed acts equivalent to and constituting an appointment by that person of the commissioner to be the person's true and lawful attorney upon whom may be served all lawful process in an action, suit, or proceeding arising out of violations of this section. Copies of all ~~((such))~~ lawful process ~~((shall))~~ must be served on the commissioner and transmitted by registered or certified mail by the commissioner to such person at the person's last known address.

Sec. 4. RCW 48.31B.020 and 1993 c 462 s 5 are each amended to read as follows:

(1) The following definitions ~~((in this subsection))~~ apply ~~((only))~~ for the purposes of this section~~((-))~~ only:

(a) "Acquisition" means ~~((an))~~ any agreement, arrangement, or activity~~((-))~~ the consummation of which results in a person acquiring directly or indirectly the control of another person, and includes but is not limited to the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(b) An "involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(2)(a) Except as exempted in (b) of this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.

(b) This section does not apply to the following:

(i) ~~(An acquisition subject to approval or disapproval by the commissioner under RCW 48.31B.015;~~

~~(ii))~~ A purchase of securities solely for investment purposes so long as the securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under RCW 48.31B.005~~((2))~~ (3), it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

~~((iii))~~ (ii) The acquisition of a person by another person when neither person is directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the commissioner in accordance with subsection (3)(a) of this section ~~((sixty))~~ thirty days ~~((before))~~ prior to the proposed effective date of the acquisition. However, the preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by this subsection (2)(b);

~~((iv))~~ (iii) The acquisition of already affiliated persons;

~~((v))~~ (iv) An acquisition if, as an immediate result of the acquisition:

(A) In no market would the combined market share of the involved insurers exceed five percent of the total market;

(B) There would be no increase in any market share; or

(C) In no market would the:

(I) ~~((The))~~ Combined market share of the involved insurers exceed twelve percent of the total market; and

(II) ~~((The))~~ Market share increase by more than two percent of the total market.

For the purpose of this subsection (2)(b)~~((v) of this subsection)~~ (iv), a ~~((²))~~market~~((²))~~ means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state;

~~((vi))~~ (v) An acquisition for which a preacquisition notification would be required under this section due solely to the resulting effect on the ocean marine insurance line of business;

~~((vii))~~ (vi) An acquisition of an insurer whose domiciliary commissioner affirmatively finds~~((:))~~ that the insurer is in failing condition~~((:))~~, there is a lack of feasible alternative to improving such condition~~((:))~~, and the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition; and the findings are communicated by the domiciliary commissioner to the commissioner of this state.

(3) An acquisition covered by subsection (2) of this section may be subject to an order under subsection (5) of this section unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification. The commissioner must give confidential treatment to information submitted under this subsection (3) in the same manner as provided in section 9 of this act.

(a) The preacquisition notification must be in such form and contain such information as prescribed by the national association of insurance commissioners relating to those markets that, under subsection (2)(b)(~~(+)~~) (iv) of this section, cause the acquisition not to be exempted from this section. The commissioner may require such additional material and information as he or she deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (4) of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of the person indicating his or her ability to render an informed opinion.

(b) The waiting period required begins on the date of the receipt by the commissioner (~~declares the~~) of a preacquisition notification (~~to be complete~~) and ends on the earlier of the (~~sixtieth~~) thirtieth day after the date of the (~~declaration~~) receipt or the termination of the waiting period by the commissioner. (~~Before~~) Prior to the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition (~~(-If additional information is required)~~), in which event the waiting period ends on the earlier of the (~~sixtieth~~) thirtieth day after (~~the commissioner declares he or she has received~~) receipt of the additional information by the commissioner or the termination of the waiting period by the commissioner.

(4)(a) The commissioner may enter an order under subsection (5)(a) of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in a line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subsection (3) of this section.

(b) In determining whether a proposed acquisition would violate the competitive standard of (a) of this subsection, the commissioner shall consider the following:

(i) An acquisition covered under subsection (2) of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards:

(A) If the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more; or

(B) If the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more

A highly concentrated market is one in which the share of the four largest insurers is seventy-five percent or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in (a) of this subsection. For the purpose of this subsection (4)(b)(i) (~~(of this subsection)~~), the insurer with the largest share of the market is Insurer A.

(ii) There is a significant trend toward increased concentration when the aggregate market share of a grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by seven percent or more of the market over a period of time extending from a base year five to ten years before the acquisition up to the time of the acquisition. An acquisition or merger covered under subsection (2) of this section involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in (a) of this subsection if:

(A) There is a significant trend toward increased concentration in the market;

(B) One of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and

(C) Another involved insurer's market is two percent or more.

(iii) For the purposes of this subsection (4)(b) (~~(of this subsection)~~):

(A) (~~(The term)~~) "Insurer" includes ~~(a)~~ any company or group of companies under common management, ownership, or control;

(B) (~~(The term)~~) "Market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, adopted by the National Association of Insurance Commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;

(C) The burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(iv) Even though an acquisition is not prima facie violative of the competitive standard under (b)(i) and (ii) of this subsection, the commissioner may establish the requisite anticompetitive effect based upon other substantial

evidence. Even though an acquisition is prima facie violative of the competitive standard under (b)(i) and (ii) of this subsection, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under ~~((b)(iv) of)~~ this subsection include, but are not limited to, the following: Market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(c) An order may not be entered under subsection (5)(a) of this section if:

(i) The acquisition will yield substantial economies of scale or economies in resource use that cannot be feasibly achieved in any other way, and the public benefits that would arise from the economies exceed the public benefits that would arise from not lessening competition; or

(ii) The acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

(5)(a)(i) If an acquisition violates the standards of this section, the commissioner may enter an order:

(A) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(B) Denying the application of an acquired or acquiring insurer for a license to do business in this state.

(ii) ~~((The commissioner))~~ Such an order may not ~~((enter the order))~~ be entered unless:

(A) There is a hearing;

(B) Notice of the hearing is issued ~~((before))~~ prior to the end of the waiting period and not less than fifteen days ~~((before))~~ prior to the hearing; and

(C) The hearing is concluded and the order is issued no later than sixty days after the ~~((end of the waiting period))~~ filing of the preacquisition notification with the commissioner.

(iii) Every order must be accompanied by a written decision of the commissioner setting forth ~~((his or her))~~ findings of fact and conclusions of law.

~~((iii) An order entered under (a) of this subsection may not become final earlier than thirty days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon the plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.))~~

(iv) An order pursuant to this subsection (5)(a) ~~((of this subsection))~~ does not apply if the acquisition is not consummated.

(b) ~~((A))~~ Any person who violates a cease and desist order of the commissioner under (a) of this subsection and while the order is in effect, may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to one or more of the following:

(i) A monetary ~~((penalty))~~ fine of not more than ten thousand dollars for every day of violation; or

(ii) Suspension or revocation of the person's license; or

(iii) Both (b)(i) and ~~((b))~~(ii) of this subsection.

(c) ~~((An))~~ Any insurer or other person who fails to make a filing required by this section, and who also fails to demonstrate a good faith effort to comply with the filing requirement, is subject to a civil penalty of not more than fifty thousand dollars.

(6) RCW 48.31B.045 (2) and (3) and ~~((48.31B.050))~~ 48.31B.055 do not apply to acquisitions covered under subsection (2) of this section.

Sec. 5. RCW 48.31B.025 and 2000 c 214 s 1 are each amended to read as follows:

(1) Every insurer that is authorized to do business in this state ~~((that))~~ and is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:

(a) This section;

(b) RCW 48.31B.030 (1)(a), (2), and (3); and

(c) Either RCW 48.31B.030(1)(b) or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within fifteen days after the end of the month in which it learns of each change or addition.

~~((An))~~ Any insurer which is subject to registration under this section shall register within fifteen days after it becomes subject to registration, and annually thereafter by May ~~((15th))~~ 1st of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within the extended time. The commissioner may require ~~((an))~~ any insurer authorized to do business in the state that is a member of a holding company system, ~~((but that))~~ and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (3) of this section, or other information filed by the insurance company with the insurance regulatory authority of its domiciliary jurisdiction.

(2) ~~((An))~~ Every insurer subject to registration shall file the registration statement on a form and in a format prescribed by the national association of insurance commissioners, containing the following current information:

(a) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(b) The identity and relationship of every member of the insurance holding company system;

(c) The following agreements in force, and transactions currently outstanding or that have occurred during the last calendar year between the insurer and its affiliates:

(i) Loans, other investments, or purchases, sales, or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(ii) Purchases, sales, or exchange of assets;

(iii) Transactions not in the ordinary course of business;

(iv) Guarantees or undertakings for the benefit of an affiliate that result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) All management agreements, service contracts, and cost-sharing arrangements;

- (vi) Reinsurance agreements;
- (vii) Dividends and other distributions to shareholders; and
- (viii) Consolidated tax allocation agreements;

(d) Any pledge of the insurer's stock, including stock of subsidiary or controlling affiliate, for a loan made to a member of the insurance holding company system;

(e) If requested by the commissioner, the insurer must include financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include but are not limited to annual audited financial statements filed with the United States securities and exchange commission pursuant to the securities act of 1933, as amended, or the securities exchange act of 1934, as amended. An insurer required to file financial statements pursuant to this subsection (2)(e) may satisfy the request by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States securities and exchange commission.

(f) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in registration forms adopted or approved by the commissioner;

(g) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(h) Any other information required by the commissioner by rule.

(3) All registration statements must contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) No information need be disclosed on the registration statement filed under subsection (2) of this section if the information is not material for the purposes of this section. Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of one percent or less of an insurer's admitted assets as of ~~((the 31st day of the previous))~~ December 31st next preceding are not deemed material for purposes of this section.

(5)~~((a))~~ Subject to RCW 48.31B.030(2), each registered insurer shall report to the commissioner all dividends and other distributions to shareholders within ~~((five))~~ fifteen business days after their declaration ~~((and at least fifteen business days before payment, and shall provide the commissioner such other information as may be required by rule.~~

~~(b) If the commissioner determines that a registered insurer's surplus as regards policyholders is not reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the commissioner may order the registered insurance company to limit or discontinue the payment of stockholder dividends until such time as the surplus is adequate).~~

(6) ~~((A))~~ Any person within an insurance holding company system subject to registration ~~((shall))~~ is required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with this chapter.

(7) The commissioner shall terminate the registration of an insurer that demonstrates that it no longer is a member of an insurance holding company system.

(8) The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The commissioner may allow an insurer authorized to do business in this state and which is part of an insurance holding company system to register on behalf of an affiliated insurer (~~(that)~~) which is required to register under subsection (1) of this section and to file all information and material required to be filed under this section.

(10) This section does not apply to an insurer, information, or transaction if and to the extent that the commissioner by rule or order exempts the insurer, information, or transaction from this section.

(11) ~~((A))~~ Any person may file with the commissioner a disclaimer of affiliation with ~~((an))~~ any authorized insurer, or ~~((an))~~ any insurer or ~~((a))~~ any member of an insurance holding company system may file the disclaimer. ~~((The person making such a filing with the commissioner shall at the same time deliver a complete copy of the filing to each domestic insurer which is the subject of such filing.))~~ The disclaimer must fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. ~~((After a disclaimer has been filed, the insurer is relieved of any duty to register or report under this section that may arise out of the insurer's relationship with the person unless and until the commissioner disallows the disclaimer. The commissioner shall disallow the disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.))~~

~~((2))~~ A disclaimer of affiliation is deemed to have been granted unless the commissioner, within thirty days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. In the event of disallowance, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party is relieved of its duty to register under this section if approval of the disclaimer has been granted by the commissioner, or if the disclaimer is deemed to have been approved.

(12) The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report must, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report must be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the financial analysis handbook adopted by the national association of insurance commissioners.

(13) The failure to file a registration statement or ((a)) any summary of the registration statement or enterprise risk filing required by this section within the time specified for ((the)) filing is a violation of this section.

Sec. 6. RCW 48.31B.030 and 1993 c 462 s 7 are each amended to read as follows:

(1)(a) Transactions within ~~((a))~~ an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

(i) The terms must be fair and reasonable;

(ii) Agreements for cost-sharing services and management must include such provisions as required by rule issued by the commissioner:

~~((iii))~~ (iii) Charges or fees for services performed must be fair and reasonable;

~~((iiii))~~ (iv) Expenses incurred and payment received must be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

~~((ivv))~~ (v) The books, accounts, and records of each party to all such transactions must be so maintained as to clearly and accurately disclose the nature and details of the transactions~~((;))~~ including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties; and

~~((vvi))~~ (vi) The insurer's surplus regarding policyholders ~~((after))~~ following any dividends or distributions to shareholders or affiliates must be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and a person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to the materiality standards contained in this subsection (1)(b), may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction ~~((and the commissioner declares the notice to be sufficient))~~ at least ~~((sixty))~~ thirty days before, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period. The notice for amendments or modifications must include the reasons for the change and the financial impact on the domestic insurer. Informal notice must be reported, within thirty days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any:

(i) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments if the transactions are equal to or exceed:

(A) With respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(B) With respect to life insurers, three percent of the insurer's admitted assets; each as of ~~((the 31st day of the previous))~~ December 31st next preceding;

(ii) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the insurer making the loans or extensions of credit if the transactions are equal to or exceed:

(A) With respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders;

(B) With respect to life insurers, three percent of the insurer's admitted assets; each as of ~~((the 31st day of the previous))~~ December 31st next preceding;

(iii) Reinsurance agreements or modifications ~~((to them))~~ thereto, including:

(A) All reinsurance pooling agreements;

(B) Agreements in which the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years, equals or exceeds five percent of the insurer's surplus as regards policyholders, as of ~~((the 31st day of the previous))~~ December 31st next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one or more affiliates of the insurer;

(iv) All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements; ~~((and))~~

(v) Guarantees when made by a domestic insurer. However, a guarantee which is quantifiable as to amount is not subject to the notice requirements of this subsection (1)(b)(v) unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or ten percent of surplus as regards policyholders as of December 31st next preceding. Further, all guarantees which are not quantifiable as to amount are subject to the notice requirements of this subsection (1)(b)(v);

(vi) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount which, together with its present holdings in such investments, exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired according to RCW 48.31B.010 or authorized according to chapter 48.13 RCW, or in nonsubsidiary insurance affiliates that are subject to this chapter, are exempt from this requirement; and

(vii) Any material transactions, specified by rule, ~~((that))~~ which the commissioner determines may adversely affect the interests of the insurer's policyholders.

~~((Nothing contained in this section authorizes or permits a))~~ This subsection does not authorize or permit any transaction ~~((that))~~ which, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law.

(c) A domestic insurer may not enter into transactions ~~((that))~~ which are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the commissioner determines that the separate transactions were entered into over ~~((a))~~ any twelve-month period for that purpose, the commissioner may ~~((apply for an order as described in))~~ exercise his or her authority under RCW 48.31B.045~~((+))~~.

(d) The commissioner, in reviewing transactions under (b) of this subsection, ~~((shall))~~ must consider whether the transactions comply with the standards set forth in (a) of this subsection and whether they may adversely affect the interests of policyholders.

(e) The commissioner ~~((shall))~~ must be notified within thirty days of an investment of the domestic insurer in any one corporation if the total investment

in the corporation by the insurance holding company system exceeds ten percent of the corporation's voting securities.

(2)(a) ~~(No)~~ A domestic insurer ~~((may))~~ shall not pay an extraordinary dividend or make any other extraordinary distribution to its shareholders until ~~((+))~~ thirty days after the commissioner declares that he or she has received ~~((sufficient))~~ notice of the declaration thereof and has not within that period disapproved the payment ~~((=))~~, or ~~((+))~~ until the commissioner has approved the payment within the thirty-day period.

(b) For purposes of this section, an extraordinary dividend or distribution is ~~((a))~~ any dividend or distribution of cash or other property, whose fair market value ~~((=))~~ together with that of other dividends or distributions made within the ~~((period of))~~ preceding twelve ~~((consecutive))~~ months ~~((ending on the date on which the proposed dividend is scheduled for payment or distribution,))~~ exceeds the ~~((greater))~~ lesser of:

(i) Ten percent of the ~~((company's))~~ insurer's surplus as regards policyholders or net worth as of ~~((the 31st day of the previous))~~ December next preceding; or

(ii) The net gain from operations of the ~~((company))~~ insurer, if the ~~((company))~~ insurer is a life insurance company, or the net income if the company is not a life insurance company, not including realized capital gains for the twelve month period ending ~~((the 31st day of the previous))~~ December next preceding, but does not include pro rata distributions of any class of the ~~((company's))~~ insurer's own securities.

(c) In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry forward provision must be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

(d) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval. The declaration confers no rights upon shareholders until: (i) The commissioner has approved the payment of the dividend or distribution; or (ii) the commissioner has not disapproved the payment within the thirty-day period referred to in (a) of this subsection.

(3) For purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, ~~((may))~~ must be considered:

(a) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(b) The extent to which the insurer's business is diversified among ~~((the))~~ several lines of insurance;

(c) The number and size of risks insured in each line of business;

(d) The extent of the geographical dispersion of the insurer's insured risks;

(e) The nature and extent of the insurer's reinsurance program;

(f) The quality, diversification, and liquidity of the insurer's investment portfolio;

(g) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders;

(h) The surplus as regards policyholders maintained by other comparable insurers;

(i) The adequacy of the insurer's reserves; and

(j) The quality and liquidity of investments in affiliates. The commissioner may ~~((discount))~~ treat any such investment ~~((or may treat any such investment))~~ as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in ~~((his or her))~~ the judgment of the commissioner the investment so warrants~~((; and~~

~~((k) The quality of the insurer's earnings and the extent to which the reported earnings include extraordinary items)).~~

(4)(a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer are not thereby relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer must be managed so as to assure its separate operating identity consistent with this title.

(b) This section does not preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (1)(a) of this section.

(c) At least one-third of a domestic insurer's directors and at least one-third of the members of each committee of the insurer's board of directors must be persons who are not: (i) Officers or employees of the insurer or of any entity that controls, is controlled by, or is under common control with the insurer; or (ii) beneficial owners of a controlling interest in the voting securities of the insurer or of any such entity. A quorum for transacting business at a meeting of the insurer's board of directors or any committee of the board of directors must include at least one such person.

(d) The board of directors of a domestic insurer shall establish one or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

(e) The provisions of (c) and (d) of this subsection do not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual holding company, or publicly held corporation, has a board of directors and committees thereof that meet the requirements of (c) and (d) of this subsection with respect to such controlling entity.

(f) An insurer may make application to the commissioner for a waiver from the requirements of this subsection, if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the federal crop insurance corporation and federal flood program, is less than three hundred million dollars. An insurer may also make application to the commissioner for a waiver from the requirements of this subsection based upon unique

circumstances. The commissioner may consider various factors including, but not limited to, the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

Sec. 7. RCW 48.31B.035 and 1993 c 462 s 8 are each amended to read as follows:

(1) Subject to the limitation contained in this section and in addition to the powers that the commissioner has under chapter 48.03 RCW relating to the examination of insurers, the commissioner (~~(also may order an insurer registered under RCW 48.31B.025 to produce such records, books, or other information papers in the possession of the insurer or its affiliates as are reasonably necessary to ascertain the financial condition of the insurer or to determine compliance with this title. If the insurer fails to comply with the order, the commissioner may examine the affiliates to obtain the information))~~ has the power to examine any insurer registered under RCW 48.31B.025 and its affiliates to ascertain the financial condition of the insurer, including the enterprise risk to the insurer by the ultimate controlling party, or by any entity or combination of entities within the insurance holding company system, or by the insurance holding company system on a consolidated basis.

(2)(a) The commissioner may order any insurer registered under RCW 48.31B.025 to produce such records, books, papers, or other information in the possession of the insurer or its affiliates as are reasonably necessary to determine compliance with this title.

(b) To determine compliance with this title, the commissioner may order any insurer registered under RCW 48.31B.025 to produce information not in the possession of the insurer if the insurer can obtain access to such information pursuant to contractual relationships, statutory obligations, or other method. In the event the insurer cannot obtain the information requested by the commissioner, the insurer shall provide the commissioner a detailed explanation of the reason that the insurer cannot obtain the information and the identity of the holder of information. Whenever it appears to the commissioner that the detailed explanation is without merit, the commissioner may require, after notice and hearing, the insurer to pay a fine of ten thousand dollars for each day's delay, or may suspend or revoke the insurer's license. The commissioner shall transfer the fine collected under this section to the state treasurer for deposit into the general fund.

(3) The commissioner may retain at the registered insurer's expense such attorneys, actuaries, accountants, and other experts not otherwise a part of the commissioner's staff as are reasonably necessary to assist in the conduct of the examination under subsection (1) of this section. Any persons so retained are under the direction and control of the commissioner and shall act in a purely advisory capacity.

~~((3))~~ (4) Notwithstanding the provisions under RCW 48.03.060, each registered insurer producing for examination records, books, and papers under subsection (1) of this section ((are)) is liable for and ((shall)) must pay the expense of the examination ((in accordance with RCW 48.03.060)).

(5) In the event the insurer fails to comply with an order, the commissioner has the power to examine the affiliates to obtain the information. The commissioner also has the power to issue subpoenas, to administer oaths, and to

examine under oath any person for purposes of determining compliance with this section. Upon the failure or refusal of any person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order is punishable as contempt of court. Every person is required to attend as a witness at the place specified in the subpoena, when subpoenaed, anywhere within the state. Every person is entitled to the same fees and mileage, if claimed, as a witness as provided in RCW 48.03.070. The fees, mileage, and other actual expenses, if any, necessarily incurred in securing the attendance of witnesses, and their testimony, must be itemized and charged against, and be paid by, the company being examined.

NEW SECTION. Sec. 8. A new section is added to chapter 48.31B RCW to read as follows:

(1) With respect to any insurer registered under RCW 48.31B.025, and in accordance with subsection (3) of this section, the commissioner has the power to participate in a supervisory college for any domestic insurer that is part of an insurance holding company system with international operations in order to determine compliance by the insurer with this title. The powers of the commissioner with respect to supervisory colleges include, but are not limited to, the following:

- (a) Initiating the establishment of a supervisory college;
- (b) Clarifying the membership and participation of other supervisors in the supervisory college;
- (c) Clarifying the functions of the supervisory college and the role of other regulators, including the establishment of a group-wide supervisor;
- (d) Coordinating the ongoing activities of the supervisory college, including planning meetings, supervisory activities, and processes for information sharing; and
- (e) Establishing a crisis management plan.

(2) Each registered insurer subject to this section is liable for and must pay the reasonable expenses of the commissioner's participation in a supervisory college in accordance with subsection (3) of this section, including reasonable travel expenses. For purposes of this section, a supervisory college may be convened as either a temporary or permanent forum for communication and cooperation between the regulators charged with the supervision of the insurer or its affiliates, and the commissioner may establish a regular assessment to the insurer for the payment of these expenses.

(3) In order to assess the business strategy, financial position, legal and regulatory position, risk exposure, risk management, and governance processes, and as part of the examination of individual insurers in accordance with RCW 48.31B.035, the commissioner may participate in a supervisory college with other regulators charged with supervision of the insurer or its affiliates, including other state, federal, and international regulatory agencies. The commissioner may enter into agreements in accordance with section 9(3) of this act providing the basis for cooperation between the commissioner and the other regulatory agencies, and the activities of the supervisory college. This section does not delegate to the supervisory college the authority of the commissioner to regulate or supervise the insurer or its affiliates within its jurisdiction.

NEW SECTION. **Sec. 9.** A new section is added to chapter 48.31B RCW to read as follows:

(1) Documents, materials, or other information in the possession or control of the commissioner that are obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to RCW 48.31B.035 and all information reported pursuant to RCW 48.31B.015(2) (l) and (m), 48.31B.025, and 48.31B.030 are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public is served by the publication thereof, in which event the commissioner may publish all or any part in such manner as may be deemed appropriate.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter is permitted or may be required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in section 8 of this act, provided the recipient agrees in writing to maintain the confidentiality and privileged status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality;

(b) Notwithstanding (a) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to RCW 48.31B.025(12) with commissioners of states having statutes or rules substantially similar to subsection (1) of this section and who have agreed in writing not to disclose such information;

(c) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information from the national association of insurance commissioners and its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding

that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(d) Shall enter into written agreements with the national association of insurance commissioners governing sharing and use of information provided pursuant to this chapter consistent with this subsection that shall:

(i) Specify procedures and protocols regarding the confidentiality and security of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the national association of insurance commissioners with other state, federal, or international regulators;

(ii) Specify that ownership of information shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the national association of insurance commissioners' use of the information is subject to the direction of the commissioner;

(iii) Require prompt notice to be given to an insurer whose confidential information in the possession of the national association of insurance commissioners pursuant to this chapter is subject to a request or subpoena to the national association of insurance commissioners for disclosure or production; and

(iv) Require the national association of insurance commissioners and its affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the national association of insurance commissioners and its affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the national association of insurance commissioners and its affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rule making, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(6) Documents, materials, or other information in the possession or control of the national association of insurance commissioners pursuant to this chapter are confidential by law and privileged, are not subject to chapter 42.56 RCW, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action.

Sec. 10. RCW 48.31B.040 and 1993 c 462 s 9 are each amended to read as follows:

The commissioner may, ~~((upon notice and opportunity for all interested persons to be heard, adopt rules and issue orders that are necessary to carry out))~~ in accordance with the administrative procedure act, chapter 34.05 RCW, adopt rules interpreting and implementing this chapter.

Sec. 11. RCW 48.31B.050 and 1993 c 462 s 11 are each amended to read as follows:

(1) The commissioner shall require, after notice and hearing, an insurer failing, without just cause, to file a registration statement as required in this chapter, to pay a ~~((penalty))~~ fine of not more than ten thousand dollars per day. The maximum ~~((penalty))~~ fine under this section is one million dollars. The commissioner may reduce the ~~((penalty))~~ fine if the insurer demonstrates to the commissioner that the imposition of the ~~((penalty))~~ fine would constitute a financial hardship to the insurer. The commissioner shall pay a fine collected under this section to the state treasurer for the account of the general fund.

(2) Every director or officer of an insurance holding company system who knowingly violates this chapter, or participates in, or assents to, or who knowingly permits an officer or agent of the insurer to engage in transactions or make investments that have not been properly reported or submitted under RCW 48.31B.025(1) or 48.31B.030(1)(b) or (2), or that violate this chapter, shall pay, in their individual capacity, a ~~((civil forfeiture))~~ fine of not more than ten thousand dollars per violation, after notice and hearing before the commissioner. In determining the amount of the ~~((civil forfeiture))~~ fine, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) Whenever it appears to the commissioner that an insurer subject to this chapter or a director, officer, employee, or agent of the insurer has engaged in a transaction or entered into a contract that is subject to RCW 48.31B.030 and that would not have been approved had approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if that action is in the best interest of the policyholders, creditors, or the public.

(4) Whenever it appears to the commissioner that an insurer or a director, officer, employee, or agent of the insurer has committed a willful violation of this chapter, the commissioner may refer the matter to the prosecuting attorney of Thurston county or the county in which the principal office of the insurer is located. An insurer that willfully violates this chapter may be fined not more than one million dollars. Any individual who willfully violates this chapter may be fined in his or her individual capacity not more than ten thousand dollars, or be imprisoned for not more than three years, or both.

(5) An officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made a false statement or false report or false filing with the intent to deceive the commissioner in the performance of his or her duties under this chapter, upon conviction thereof, shall be imprisoned for not more than three years or fined not more than ten thousand dollars or both. The officer, director, or employee upon whom the fine is imposed shall pay the fine in his or her individual capacity.

(6) Whenever it appears to the commissioner that any person has committed a violation of RCW 48.31B.015 and which prevents the full understanding of the enterprise risk to the insurer by affiliates or by the insurance holding company system, the violation may serve as an independent basis for disapproving dividends or distributions and for placing the insurer under an order of supervision in accordance with RCW 48.31.400.

Sec. 12. RCW 48.31B.070 and 1993 c 462 s 15 are each amended to read as follows:

(1) A person aggrieved by an act, determination, rule, order, or any other action of the commissioner under this chapter may proceed in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) A person aggrieved by a failure of the commissioner to act or make a determination required by this chapter may petition the commissioner under the procedure described in ~~((RCW 34.05.330))~~ the administrative procedure act, chapter 34.05 RCW.

Sec. 13. RCW 42.56.400 and 2013 c 277 s 5 and 2013 c 65 s 5 are each reenacted and amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW ~~((30.04.075))~~ 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) ~~((Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070))~~ Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or

self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

- (a) "Claimant" has the same meaning as in RCW 48.140.010(2).
- (b) "Health care facility" has the same meaning as in RCW 48.140.010(6).
- (c) "Health care provider" has the same meaning as in RCW 48.140.010(7).
- (d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).
- (e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; ~~((and))~~

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017; and

(23) Information not subject to public inspection or public disclosure under RCW 48.43.730(5).

Sec. 14. RCW 42.56.400 and 2013 c 65 s 5 are each amended to read as follows:

The following information relating to insurance and financial institutions is exempt from disclosure under this chapter:

(1) Records maintained by the board of industrial insurance appeals that are related to appeals of crime victims' compensation claims filed with the board under RCW 7.68.110;

(2) Information obtained and exempted or withheld from public inspection by the health care authority under RCW 41.05.026, whether retained by the authority, transferred to another state purchased health care program by the authority, or transferred by the authority to a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care under chapter 41.05 RCW;

(3) The names and individual identification data of either all owners or all insureds, or both, received by the insurance commissioner under chapter 48.102 RCW;

(4) Information provided under RCW 48.30A.045 through 48.30A.060;

(5) Information provided under RCW 48.05.510 through 48.05.535, 48.43.200 through 48.43.225, 48.44.530 through 48.44.555, and 48.46.600 through 48.46.625;

(6) Examination reports and information obtained by the department of financial institutions from banks under RCW (~~(30.04.075)~~) 30A.04.075, from savings banks under RCW 32.04.220, from savings and loan associations under RCW 33.04.110, from credit unions under RCW 31.12.565, from check cashers and sellers under RCW 31.45.030(3), and from securities brokers and investment advisers under RCW 21.20.100, all of which is confidential and privileged information;

(7) Information provided to the insurance commissioner under RCW 48.110.040(3);

(8) Documents, materials, or information obtained by the insurance commissioner under RCW 48.02.065, all of which are confidential and privileged;

(9) (~~Confidential proprietary and trade secret information provided to the commissioner under RCW 48.31C.020 through 48.31C.050 and 48.31C.070~~) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31B.015(2) (l) and (m), 48.31B.025, 48.31B.030, and 48.31B.035, all of which are confidential and privileged;

(10) Data filed under RCW 48.140.020, 48.140.030, 48.140.050, and 7.70.140 that, alone or in combination with any other data, may reveal the identity of a claimant, health care provider, health care facility, insuring entity, or self-insurer involved in a particular claim or a collection of claims. For the purposes of this subsection:

(a) "Claimant" has the same meaning as in RCW 48.140.010(2).

(b) "Health care facility" has the same meaning as in RCW 48.140.010(6).

(c) "Health care provider" has the same meaning as in RCW 48.140.010(7).

(d) "Insuring entity" has the same meaning as in RCW 48.140.010(8).

(e) "Self-insurer" has the same meaning as in RCW 48.140.010(11);

(11) Documents, materials, or information obtained by the insurance commissioner under RCW 48.135.060;

(12) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.060;

(13) Confidential and privileged documents obtained or produced by the insurance commissioner and identified in RCW 48.37.080;

(14) Documents, materials, or information obtained by the insurance commissioner under RCW 48.37.140;

(15) Documents, materials, or information obtained by the insurance commissioner under RCW 48.17.595;

(16) Documents, materials, or information obtained by the insurance commissioner under RCW 48.102.051(1) and 48.102.140 (3) and (7)(a)(ii);

(17) Documents, materials, or information obtained by the insurance commissioner in the commissioner's capacity as receiver under RCW 48.31.025 and 48.99.017, which are records under the jurisdiction and control of the receivership court. The commissioner is not required to search for, log, produce, or otherwise comply with the public records act for any records that the commissioner obtains under chapters 48.31 and 48.99 RCW in the commissioner's capacity as a receiver, except as directed by the receivership court;

(18) Documents, materials, or information obtained by the insurance commissioner under RCW 48.13.151;

(19) Data, information, and documents provided by a carrier pursuant to section 1, chapter 172, Laws of 2010;

(20) Information in a filing of usage-based insurance about the usage-based component of the rate pursuant to RCW 48.19.040(5)(b);

(21) Data, information, and documents, other than those described in RCW 48.02.210(2), that are submitted to the office of the insurance commissioner by an entity providing health care coverage pursuant to RCW 28A.400.275 and 48.02.210; and

(22) Data, information, and documents obtained by the insurance commissioner under RCW 48.29.017.

Sec. 15. RCW 48.02.065 and 2007 c 126 s 1 are each amended to read as follows:

(1) Documents, materials, or other information as described in either subsection (5) or (6), or both, of this section are confidential by law and privileged, are not subject to public disclosure under chapter 42.56 RCW, and are not subject to subpoena directed to the commissioner or any person who received documents, materials, or other information while acting under the authority of the commissioner. The commissioner is authorized to use such documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties. The confidentiality and privilege created by this section and RCW 42.56.400~~((9))~~ (8) applies only to the commissioner, any person acting under the authority of the commissioner, the national association of insurance commissioners and its affiliates and subsidiaries, regulatory and law enforcement officials of other states and nations, the federal government, and international authorities.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner is permitted or required to testify in any private civil action concerning any confidential and privileged documents, materials, or information subject to subsection (1) of this section.

(3) The commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law

enforcement officials of other states and nations, the federal government, and international authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(b) May receive documents, materials, or information, including otherwise either confidential or privileged, or both, documents, materials, or information, from (i) the national association of insurance commissioners and its affiliates and subsidiaries, and (ii) regulatory and law enforcement officials of other states and nations, the federal government, and international authorities and shall maintain as confidential and privileged any document, material, or information received that is either confidential or privileged, or both, under the laws of the jurisdiction that is the source of the document, material, or information; and

(c) May enter into agreements governing the sharing and use of information consistent with this subsection.

(4) No waiver of an existing privilege or claim of confidentiality in the documents, materials, or information may occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

(5) Documents, materials, or information, which is either confidential or privileged, or both, which has been provided to the commissioner by (a) the national association of insurance commissioners and its affiliates and subsidiaries, (b) regulatory or law enforcement officials of other states and nations, the federal government, or international authorities, or (c) agencies of this state, is confidential and privileged only if the documents, materials, or information is protected from disclosure by the applicable laws of the jurisdiction that is the source of the document, material, or information.

(6) Working papers, documents, materials, or information produced by, obtained by, or disclosed to the commissioner or any other person in the course of a financial or market conduct examination, or in the course of financial analysis or market conduct desk audit, are not required to be disclosed by the commissioner unless cited by the commissioner in connection with an agency action as defined in RCW 34.05.010(3). The commissioner shall notify a party that produced the documents, materials, or information five business days before disclosure in connection with an agency action. The notified party may seek injunctive relief in any Washington state superior court to prevent disclosure of any documents, materials, or information it believes is confidential or privileged. In civil actions between private parties or in criminal actions, disclosure to the commissioner under this section does not create any privilege or claim of confidentiality or waive any existing privilege or claim of confidentiality.

(7)(a) After receipt of a public disclosure request, the commissioner shall disclose the documents, materials, or information under subsection (6) of this section that relate to a financial or market conduct examination undertaken as a result of a proposed change of control of a nonprofit or mutual health insurer governed in whole or in part by chapter 48.31B (~~or 48.31C~~) RCW.

(b) The commissioner is not required to disclose the documents, materials, or information in (a) of this subsection if:

(i) The documents, materials, or information are otherwise privileged or exempted from public disclosure; or

(ii) The commissioner finds that the public interest in disclosure of the documents, materials, or information is outweighed by the public interest in nondisclosure in that particular instance.

(8) Any person may petition a Washington state superior court to allow inspection of information exempt from public disclosure under subsection (6) of this section when the information is connected to allegations of negligence or malfeasance by the commissioner related to a financial or market conduct examination. The court shall conduct an in-camera review after notifying the commissioner and every party that produced the information. The court may order the commissioner to allow the petitioner to have access to the information provided the petitioner maintains the confidentiality of the information. The petitioner must not disclose the information to any other person, except upon further order of the court. After conducting a regular hearing, the court may order that the information can be disclosed publicly if the court finds that there is a public interest in the disclosure of the information and the exemption of the information from public disclosure is clearly unnecessary to protect any individual's right of privacy or any vital governmental function.

Sec. 16. RCW 48.13.061 and 2011 c 188 s 7 are each amended to read as follows:

The following classes of investments may be counted for the purposes specified in RCW 48.13.101, whether they are made directly or as a participant in a partnership, joint venture, or limited liability company. Investments in partnerships, joint ventures, and limited liability companies are authorized investments only pursuant to subsection (12) of this section:

(1) Cash in the direct possession of the insurer or on deposit with a financial institution regulated by any federal or state agency of the United States;

(2) Bonds, debt-like preferred stock, and other evidences of indebtedness of governmental units in the United States or Canada, or the instrumentalities of the governmental units, or private business entities domiciled in the United States or Canada, including asset-backed securities and securities valuation office listed mutual funds;

(3) Loans secured by first mortgages, first trust deeds, or other first security interests in real property located in the United States or Canada or secured by insurance against default issued by a government insurance corporation of the United States or Canada or by an insurer authorized to do business in this state;

(4) Common stock or equity-like preferred stock or equity interests in any United States or Canadian business entity, or shares of mutual funds registered with the securities and exchange commission of the United States under the investment company act of 1940, other than securities valuation office listed mutual funds, and, subsidiaries, as defined in RCW 48.31B.005 (~~(RCW 48.31C.010)~~), engaged exclusively in the following businesses:

(a) Acting as an insurance producer, surplus line broker, or title insurance agent for its parent or for any of its parent's insurer subsidiaries or affiliates;

(b) Investing, reinvesting, or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary;

(c) Rendering management, sales, or other related services to any investment company subject to the federal investment company act of 1940, as amended;

(d) Rendering investment advice;

(e) Rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims appraisal, and collection services;

(f) Acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations, or other organizations or groups;

(g) Ownership and management of assets which the parent could itself own and manage: PROVIDED, that the aggregate investment by the insurer and its subsidiaries acquired pursuant to this subsection (4)(g) shall not exceed the limitations otherwise applicable to such investments by the parent;

(h) Acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;

(i) Financing of insurance premiums;

(j) Any other business activity reasonably ancillary to an insurance business;

(k) Owning one or more subsidiary;

(i) Insurers, health care service contractors, or health maintenance organizations to the extent permitted by this chapter;

(ii) Businesses specified in (a) through (k) of this subsection inclusive; or

(iii) Any combination of such insurers and businesses;

(5) Real property necessary for the convenient transaction of the insurer's business;

(6) Real property, together with the fixtures, furniture, furnishings, and equipment pertaining thereto in the United States or Canada, which produces or after suitable improvement can reasonably be expected to produce income;

(7) Loans, securities, or other investments of the types described in subsections (1) through (6) of this section in national association of insurance commissioners securities valuation office 1 debt rated countries other than the United States and Canada;

(8) Bonds or other evidences of indebtedness of international development organizations of which the United States is a member;

(9) Loans upon the security of the insurer's own policies in amounts that are adequately secured by the policies and that in no case exceed the surrender values of the policies;

(10) Tangible personal property under contract of sale or lease under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within its anticipated useful life;

(11) Other investments the commissioner authorizes by rule; and

(12) Investments not otherwise permitted by this section, and not specifically prohibited by statute, to the extent of not more than five percent of the first five hundred million dollars of the insurer's admitted assets plus ten percent of the insurer's admitted assets exceeding five hundred million dollars.

Sec. 17. RCW 48.97.005 and 2008 c 217 s 75 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners.

(2) "Control" or "controlled by" has the meaning ascribed in RCW 48.31B.005~~((2))~~ (3).

(3) "Controlled insurer" means a licensed insurer that is controlled, directly or indirectly, by a broker.

(4) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

(5) "Licensed insurer" or "insurer" means a person, firm, association, or corporation licensed to transact property and casualty insurance business in this state. The following, among others, are not licensed insurers for purposes of this chapter:

(a) Risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, P.L. 99-499, 100 Stat. 1613 (1986), the Risk Retention Act, 15 U.S.C. Sec. 3901 et seq. (1982 Supp. 1986), and chapter 48.92 RCW;

(b) Residual market pools and joint underwriting associations; and

(c) Captive insurers. For the purposes of this chapter, captive insurers are insurance companies owned by another organization~~((7))~~ whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members, or both, and their affiliates.

(6) "Producer" means an insurance broker or brokers or any other person, firm, association, or corporation when, for compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of an insurance contract on behalf of an insured other than the person, firm, association, or corporation.

Sec. 18. RCW 48.125.140 and 2004 c 260 s 16 are each amended to read as follows:

(1) The commissioner may make an examination of the operations of any self-funded multiple employer welfare arrangement as often as he or she deems necessary in order to carry out the purposes of this chapter.

(2) Every self-funded multiple employer welfare arrangement shall submit its books and records relating to its operation for financial condition and market conduct examinations and in every way facilitate them. For the purpose of examinations, the commissioner may issue subpoenas, administer oaths, and examine the officers and principals of the ~~((self-funded))~~ self-funded multiple employer welfare arrangement.

(3) The commissioner may elect to accept and rely on audit reports made by an independent certified public accountant for the self-funded multiple employer welfare arrangement in the course of that part of the commissioner's examination covering the same general subject matter as the audit. The commissioner may incorporate the audit report in his or her report of the examination.

(4)(a) The commissioner may also examine any affiliate of the self-funded multiple employer welfare arrangement. An examination of an affiliate is limited

to the activities or operations of the affiliate that may impact the financial position of the arrangement.

(b) For the purposes of this section, "affiliate" has the same meaning as defined in RCW ((48.31C.010)) 48.31B.005.

(5) Whenever an examination is made, all of the provisions of chapter 48.03 RCW not inconsistent with this chapter shall be applicable. In lieu of making an examination himself or herself, the commissioner may, in the case of a foreign self-funded multiple employer welfare arrangement, accept an examination report of the applicant by the regulatory official in its state of domicile. In the case of a domestic self-funded multiple employer welfare arrangement, the commissioner may accept an examination report of the applicant by the regulatory official of a state that has already licensed the arrangement.

Sec. 19. RCW 48.155.010 and 2010 c 27 s 4 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the Washington state insurance commissioner.

(3)(a) "Control" or "controlled by" or "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(b) Control exists when any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing ten percent or more of the voting securities of any other person. A presumption of control may be rebutted by a showing made in the manner provided by RCW 48.31B.005((~~2~~)) (3) and 48.31B.025(11) that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4)(a) "Discount plan" means a business arrangement or contract in which a person or organization, in exchange for fees, dues, charges, or other consideration, provides or purports to provide discounts to its members on charges by providers for health care services.

(b) "Discount plan" does not include:

(i) A plan that does not charge a membership or other fee to use the plan's discount card;

(ii) A patient access program as defined in this chapter;

(iii) A medicare prescription drug plan as defined in this chapter; or

(iv) A discount plan offered by a health carrier authorized under chapter 48.20, 48.21, 48.44, or 48.46 RCW.

(5)(a) "Discount plan organization" means a person that, in exchange for fees, dues, charges, or other consideration, provides or purports to provide access to discounts to its members on charges by providers for health care

services. "Discount plan organization" also means a person or organization that contracts with providers, provider networks, or other discount plan organizations to offer discounts on health care services to its members. This term also includes all persons that determine the charge to or other consideration paid by members.

(b) "Discount plan organization" does not mean:

(i) Pharmacy benefit managers;

(ii) Health care provider networks, when the network's only involvement in discount plans is contracting with the plan to provide discounts to the plan's members;

(iii) Marketers who market the discount plans of discount plan organizations which are licensed under this chapter as long as all written communications of the marketer in connection with a discount plan clearly identify the licensed discount plan organization as the responsible entity; or

(iv) Health carriers, if the discount on health care services is offered by a health carrier authorized under chapter 48.20, 48.21, 48.44, or 48.46 RCW.

(6) "Health care facility" or "facility" has the same meaning as in RCW 48.43.005(~~(15)~~) (22).

(7) "Health care provider" or "provider" has the same meaning as in RCW 48.43.005(~~(16)~~) (23).

(8) "Health care provider network," "provider network," or "network" means any network of health care providers, including any person or entity that negotiates directly or indirectly with a discount plan organization on behalf of more than one provider to provide health care services to members.

(9) "Health care services" has the same meaning as in RCW 48.43.005(~~(17)~~) (24).

(10) "Health carrier" or "carrier" has the same meaning as in RCW 48.43.005(~~(18)~~) (25).

(11) "Marketer" means a person or entity that markets, promotes, sells, or distributes a discount plan, including a contracted marketing organization and a private label entity that places its name on and markets or distributes a discount plan pursuant to a marketing agreement with a discount plan organization.

(12) "Medicare prescription drug plan" means a plan that provides a medicare part D prescription drug benefit in accordance with the requirements of the federal medicare prescription drug improvement and modernization act of 2003.

(13) "Member" means any individual who pays fees, dues, charges, or other consideration for the right to receive the benefits of a discount plan, but does not include any individual who enrolls in a patient access program.

(14) "Patient access program" means a voluntary program sponsored by a pharmaceutical manufacturer, or a consortium of pharmaceutical manufacturers, that provides free or discounted health care products for no additional consideration directly to low-income or uninsured individuals either through a discount card or direct shipment.

(15) "Person" means an individual, a corporation, a governmental entity, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the persons listed in this subsection.

(16)(a) "Pharmacy benefit manager" means a person that performs pharmacy benefit management for a covered entity.

(b) For purposes of this subsection, a "covered entity" means an insurer, a health care service contractor, a health maintenance organization, or a multiple employer welfare arrangement licensed, certified, or registered under the provisions of this title. "Covered entity" also means a health program administered by the state as a provider of health coverage, a single employer that provides health coverage to its employees, or a labor union that provides health coverage to its members as part of a collective bargaining agreement.

Sec. 20. RCW 48.155.015 and 2009 c 175 s 4 are each amended to read as follows:

(1) This chapter applies to all discount plans and all discount plan organizations doing business in or from this state or that affect subjects located wholly or in part or to be performed within this state, and all persons having to do with this business.

(2) A discount plan organization that is a health carrier, as defined under RCW 48.43.005, with a license, certificate of authority, or registration (~~under RCW 48.05.030 or chapter 48.31C RCW~~):

(a) Is not required to obtain a license under RCW 48.155.020, except that any of its affiliates that operate as a discount plan organization in this state must obtain a license under RCW 48.155.020 and comply with all other provisions of this chapter;

(b) Is required to comply with RCW 48.155.060 through 48.155.090 and report, in the form and manner as the commissioner may require, any of the information described in RCW 48.155.110(2) (b), (c), or (d) that is not otherwise already reported; and

(c) Is subject to RCW 48.155.130 and 48.155.140.

NEW SECTION. Sec. 21. The following acts or parts of acts are each repealed:

(1) RCW 48.31C.010 (Definitions) and 2001 c 179 s 1;

(2) RCW 48.31C.020 (Acquisition of a foreign health carrier—Preacquisition notification—Review) and 2001 c 179 s 2;

(3) RCW 48.31C.030 (Acquisition of a domestic health carrier—Filing—Review—Jurisdiction of courts) and 2001 c 179 s 3;

(4) RCW 48.31C.040 (Registration with commissioner—Information required—Rule making—Disclaimer of affiliation—Failure to file) and 2001 c 179 s 4;

(5) RCW 48.31C.050 (Health carrier subject to registration—Standards for transactions within a holding company system—Notice to commissioner—Review) and 2001 c 179 s 5;

(6) RCW 48.31C.060 (Extraordinary dividends or distributions—Restrictions—Definition of distribution) and 2001 c 179 s 6;

(7) RCW 48.31C.070 (Examination of health carriers—Commissioner may order production of information—Failure to comply—Costs) and 2001 c 179 s 7;

(8) RCW 48.31C.080 (Violations of chapter—Commissioner may seek superior court order) and 2001 c 179 s 8;

(9) RCW 48.31C.090 (Violations of chapter—Penalties—Civil forfeitures—Orders—Referral to prosecuting attorney—Imprisonment) and 2001 c 179 s 9;

(10) RCW 48.31C.100 (Violations of chapter—Impairment of financial condition) and 2001 c 179 s 10;

(11) RCW 48.31C.110 (Order for liquidation or rehabilitation—Recovery of distributions or payments—Liability—Maximum amount recoverable) and 2001 c 179 s 11;

(12) RCW 48.31C.120 (Violations of chapter—Contrary to interests of subscribers or the public) and 2001 c 179 s 12;

(13) RCW 48.31C.130 (Confidential proprietary and trade secret information—Exempt from public disclosure—Exceptions) and 2001 c 179 s 13;

(14) RCW 48.31C.140 (Person aggrieved by actions of commissioner) and 2001 c 179 s 15;

(15) RCW 48.31C.150 (Rule making) and 2001 c 179 s 16;

(16) RCW 48.31C.160 (Dual holding company system membership) and 2001 c 179 s 17;

(17) RCW 48.31C.900 (Severability—2001 c 179) and 2001 c 179 s 18; and

(18) RCW 48.31C.901 (Effective date—2001 c 179) and 2001 c 179 s 19.

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

NEW SECTION. Sec. 23. Except for section 14 of this act, which takes effect July 1, 2017, this act takes effect January 1, 2016.

NEW SECTION. Sec. 24. Section 13 of this act expires July 1, 2017.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 123

[Senate Bill 5757]

CREDIT UNIONS--CORPORATE GOVERNANCE AND INVESTMENTS

AN ACT Relating to credit unions' corporate governance and investments; and amending RCW 31.12.255, 31.12.365, 31.12.418, and 31.12.436.

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

Sec. 1. RCW 31.12.255 and 2001 c 83 s 8 are each amended to read as follows:

The business and affairs of a credit union shall be managed by the board of the credit union. The duties of the board include, but are not limited to, the duties enumerated in this section. The duties listed in subsection (1) of this section may not be delegated by the credit union's board of directors. The duties listed in subsection (2) of this section may be delegated to a committee, officer, or employee, with appropriate reporting to the board.

(1) The board shall:

(a) Set the par value of shares, if any, of the credit union;

(b) Set the minimum number of shares, if any, required for membership;

(c) Establish ~~((the loan)) policies ((under which loans may be approved))~~ governing the operation of the credit union;

(d) Establish the conditions under which a member may be expelled for cause;

(e) Fill vacancies on all committees except the supervisory committee;

(f) Approve an annual operating budget for the credit union;

(g) Designate those persons or positions authorized to execute or certify documents or records on behalf of the credit union; and

(h) Review the supervisory committee's annual report(~~(; and~~

~~(i) Perform such other duties as the members may direct~~)).

(2) In addition, unless delegated, the board shall:

(a) ~~((Act upon applications for membership in the credit union;~~

~~(b)))~~ Determine the maximum amount of shares and deposits that a member may hold in the credit union;

~~((e) Declare dividends on shares and set))~~ (b) Set the rate of interest on deposits and the rate of dividends on shares and authorize the payment of dividends on shares;

~~((d) Set the fees, if any, to be charged by the credit union to its members for the right to be a member of the credit union and for services rendered by the credit union;~~

~~(e) Determine the amount which may be loaned to a member together with the terms and conditions of loans;~~

~~(f) Establish policies under which the credit union may borrow and invest;))~~ and

~~((g))~~ (c) Approve the charge-off of credit union losses.

Sec. 2. RCW 31.12.365 and 2013 c 34 s 6 are each amended to read as follows:

(1) A credit union may pay to its directors and supervisory committee members reasonable compensation for their service as directors and supervisory committee members. Irrespective of whether it pays compensation to its directors or supervisory committee members, a credit union may (also) provide to its directors and supervisory committee members:

(a) Gifts of minimal value;

(b) Insurance coverage or incidental services, available to employees generally; and

(c) Reimbursement for reasonable expenses incurred on behalf of themselves and their spouses in the performance of the directors' and supervisory committee members' duties.

(2) The director may adopt rules to interpret this section.

Sec. 3. RCW 31.12.418 and 1997 c 397 s 33 are each amended to read as follows:

Dividends may be ~~((declared from the credit union's earnings which remain after the deduction of expenses, interest on deposits, and the amounts required for reserves, or the dividends may be declared in whole or in part))~~ paid from current undivided earnings which remain after deduction of expenses and the amounts required for reserves, or from the undivided earnings that remain from preceding periods.

Sec. 4. RCW 31.12.436 and 2013 c 34 s 8 are each amended to read as follows:

(1) A credit union may invest its funds in any of the following, as long as the investments are deemed prudent by the board:

(a) Loans held by credit unions, out-of-state credit unions, or federal credit unions; loans to members held by other lenders; and loans to nonmembers held by other lenders, with the approval of the director;

(b) Bonds, securities, or other investments that are fully guaranteed as to principal and interest by the United States government, and general obligations of this state and its political subdivisions;

(c) Obligations issued by corporations designated under 31 U.S.C. Sec. 9101, or obligations, participations or other instruments issued and guaranteed by the federal national mortgage association, federal home loan mortgage corporation, government national mortgage association, or other government-sponsored enterprise;

(d) Participations or obligations which have been subjected by one or more government agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States has been named to act as trustee;

(e) Share or deposit accounts of other financial institutions, the accounts of which are federally insured or insured or guaranteed by another insurer or guarantor approved by the director. The shares and deposits made by a credit union under this subsection (1)(e) may exceed the insurance or guarantee limits established by the organization insuring or guaranteeing the institution into which the shares or deposits are made;

(f) Common trust or mutual funds whose investment portfolios consist of securities issued or guaranteed by the federal government or an agency of the government;

(g) Up to five percent of the capital of the credit union, in debt or equity issued by an organization owned by the ~~((Washington credit union league))~~ Northwest credit union association or its successor credit union association;

(h) Shares, stocks, loans, or other obligations of organizations whose primary purpose is to strengthen, advance, or provide services to the credit union industry or credit union members. A credit union may ~~((in the aggregate))~~ invest ~~((an))~~ in or make loans to organizations under this subsection (1)(h) in an aggregate amount not to exceed ((one)) five percent of its assets ((an) organizations under this subsection (1)(h). In addition, a credit union may in the aggregate lend an amount not to exceed one percent of its assets to organizations under this subsection (1)(h). These limits do). This limit does not apply to investments in, and loans to, an organization:

(i) That is wholly owned by one or more credit unions or federal or out-of-state credit unions; and

(ii) Whose activities are limited exclusively to those authorized by this chapter for a credit union;

(i) Loans to credit unions, out-of-state credit unions, or federal credit unions. However, the aggregate of loans issued under this subsection (1)(i) is limited to twenty-five percent of the total shares and deposits of the ~~((lending))~~ credit union making the loans;

(j) Key person insurance policies and investment products related to employee benefits, the proceeds of which inure exclusively to the benefit of the credit union;

(k) A registered investment company or collective investment fund, as long as the prospectus of the company or fund restricts the investment portfolio to investments and investment transactions that are permissible for credit unions; or

(1) Other investments approved by the director upon written application.

(2) If a credit union has lawfully made an investment that later becomes impermissible because of a change in circumstances or law, and the director finds that this investment will have an adverse effect on the safety and soundness of the credit union, then the director may require that the credit union develop a reasonable plan for the divestiture of the investment.

Passed by the Senate March 4, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 124

[Senate Bill 5793]

CHILD SUPPORT OBLIGATIONS--VETERANS BENEFITS

AN ACT Relating to providing credit towards child support obligations for veterans benefits; and amending RCW 26.18.190.

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

Sec. 1. RCW 26.18.190 and 1995 c 236 s 1 are each amended to read as follows:

(1) When the department of labor and industries or a self-insurer pays compensation under chapter 51.32 RCW on behalf of or on account of the child or children of the injured worker for whom the injured worker owes a duty of child support, the amount of compensation the department or self-insurer pays on behalf of the child or children shall be treated for all purposes as if the injured worker paid the compensation toward satisfaction of the injured worker's child support obligations.

(2) When the social security administration pays social security disability dependency benefits, retirement benefits, or survivors insurance benefits on behalf of or on account of the child or children of a ~~((disabled))~~ person with disabilities, a retired person, or a deceased person, the amount of benefits paid for the child or children shall be treated for all purposes as if the ~~((disabled))~~ person with disabilities, the retired person, or the deceased person paid the benefits toward the satisfaction of that person's child support obligation for that period for which benefits are paid.

(3) When the veterans' administration apportions a veteran's benefits to pay child support on behalf of or on account of the child or children of the veteran, the amount paid for the child or children shall be treated for all purposes as if the veteran paid the benefits toward the satisfaction of that person's child support obligation for that period for which benefits are paid.

(4) Under no circumstances shall the person who has the obligation to make the transfer payment have a right to reimbursement of any compensation paid under subsection (1) ~~((or))~~, (2), or (3) of this section.

Passed by the Senate March 9, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.
 Filed in Office of Secretary of State April 25, 2015.

CHAPTER 125

[Engrossed Substitute Senate Bill 5803]

K-12 EDUCATION--ENGLISH LANGUAGE ARTS ASSESSMENT--PARENTAL NOTIFICATION

AN ACT Relating to the notification of parents when their children are below basic on the third grade statewide English language arts assessment; amending RCW 28A.655.230; and declaring an emergency.

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

Sec. 1. RCW 28A.655.230 and 2013 2nd sp.s. c 18 s 105 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section and RCW 28A.655.235 unless the context clearly requires otherwise.

(a) "Basic" means a score on the statewide student assessment at a level two in a four-level scoring system.

(b) "Below basic" means a score on the statewide student assessment at a level one in a four-level scoring system.

(c) "Not meet the state standard" means a score on the statewide student assessment at either a level one or a level two in a four-level scoring system.

(2) ~~((Beginning in the 2014-15 school year, for any student who receives a score of))~~ Prior to the return of the results of the statewide student assessment in English language arts, elementary schools shall require meetings between teachers and parents of students in third grade who are reading below grade-level or who, based on formative or diagnostic assessment, and other indicators, are likely to score in the below basic level on the third grade statewide student assessment in English language arts ((- a meeting must be scheduled before the end of the school year between the student's parent or guardian, teacher, and the principal of the school the student attends or the principal's designee to discuss appropriate grade placement and recommended intensive strategies to improve the student's reading skills)). At the meeting, the teacher shall inform the parents or guardians of the requirements of this section and the intensive reading improvement strategies that will be available to students before fourth grade. The teacher also shall inform the parents and guardians of the school district's grade placement policy for the following year. Schools that have regularly scheduled parent teacher conferences may use those meetings to comply with this section.

(3) ~~For students to be placed in fourth grade, the strategies ((discussed)) provided by the school district must include an intensive improvement strategy provided, supported, or contracted by the school district that includes a summer program or other options ((identified by the parents, teacher, principal, or principal's designee as appropriately meeting the student's need)) developed to meet the needs of students to prepare for fourth grade. ((The parents or guardians must be fully informed about the strategies and))~~

(4) If a student in third grade scores below grade level on the third grade statewide student assessment in English language arts, and there was no meeting

under subsection (2) of this section, the principal or his or her designee shall notify the student's parents or guardians of the following:

(a) The below basic score;

(b) An explanation of the requirements of this section;

(c) The intensive improvement strategy options that are available;

(d) The school district's grade placement policy;

(e) Contact information for a school district employee who can respond to questions and provide additional information; and

(f) A reasonable deadline for obtaining the parent's consent regarding the student's intensive improvement strategies that will be implemented and the student's grade placement.

(5) The parent's or guardian's consent must be obtained regarding the appropriate grade placement and the intensive improvement strategy to be implemented. The school district must implement the strategy selected in consultation with the student's parents or guardians. If the school district does not receive a response from a parent by the deadline or a reasonable time thereafter, the principal or his or her designee shall make a decision on the student's grade placement for the following year and the intensive improvement strategies that will be implemented during the following school year.

(6) If the school principal and parent cannot agree on the appropriate grade placement and improvement strategies from the list of available options, the parent's request will be honored.

~~((3))~~ (7) If a student does not have a score in English language arts on the third grade statewide student assessment but the district determines, or is able to anticipate from, using district or classroom-based formative or diagnostic assessments or another standardized assessment, that the student's performance is equivalent to below basic in English language arts, the policy in subsections (2) through (6) of this section applies.

~~((4))~~ (8) Students participating in the transitional bilingual instruction program are exempt from the policy in subsections (2) through (6) of this section, unless the student has participated in the transitional bilingual instruction program for three school years and receives a score of below basic on the third grade statewide student assessment in English language arts.

~~((5))~~ (9) Students with disabilities whose individualized education program includes specially designed instruction in reading or English language arts are exempt from subsections (2) ~~(, (3), and (4))~~ through (8) of this section. Communication and consultation with parents or guardians of such students shall occur through the individualized education program process required under chapter 28A.155 RCW and associated administrative rules.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate March 3, 2015.

Passed by the House April 9, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 126

[Senate Bill 5805]

K-12 EDUCATION--CONFLICT RESOLUTION PROGRAMS

AN ACT Relating to conflict resolution programs in schools; and amending RCW 28A.300.280.

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

Sec. 1. RCW 28A.300.280 and 1994 sp.s. c 7 s 611 are each amended to read as follows:

The superintendent of public instruction and the office of the attorney general, in cooperation with the Washington state bar association and statewide dispute resolution organizations, shall develop a volunteer-based conflict resolution and mediation program for use in community groups such as neighborhood organizations and the public schools. The program shall use lawyers or certified mediators to train students who in turn become trainers and mediators for their peers in conflict resolution.

Passed by the Senate March 4, 2015.

Passed by the House April 14, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 127

[Senate Bill 5974]

INSURANCE COMMISSIONER--VETERANS--SUPPLEMENTAL COVERAGE

AN ACT Relating to the insurance commissioner review of barriers to offering supplemental coverage options to disabled veterans and their dependents; and creating a new section.

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

NEW SECTION. **Sec. 1.** (1) The insurance commissioner must review the supplemental coverage options offered to the civilian health and medical program of the United States department of veterans affairs, known as CHAMPVA, and identify current barriers to attracting supplemental policies in the state of Washington.

(2) CHAMPVA is a health benefits program in which the federal department of veterans affairs shares the cost of certain health care services and supplies with eligible beneficiaries. CHAMPVA provides reimbursement for most medical expenses including inpatient, outpatient, mental health, prescription medication, skilled nursing care, and durable medical equipment. Supplemental insurance policies are available to offset some or all out-of-pocket costs. CHAMPVA is available to provide coverage to a spouse, widow, or widower and to the children of a veteran who is permanently and totally disabled due to a service-connected disability, was rated permanently and totally disabled due to a service-connected condition at the time of death, died of a service-connected disability, or died on active duty.

(3) The supplemental insurance policies are authorized under RCW 48.43.005(26) and would greatly assist the families of veterans if the policies were available in Washington. The insurance commissioner must review current barriers to attracting supplemental plans into the state and report on steps the

state and the department of veterans affairs can take to promote access to the supplemental policies. The review of barriers and recommendations must be submitted to the appropriate committees of the legislature, the governor, and the department of veterans affairs by November 11, 2015.

Passed by the Senate March 2, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 128

[Substitute Senate Bill 5999]

CASELOAD FORECAST COUNCIL--EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM

AN ACT Relating to the caseload forecast council; amending RCW 43.88C.010, 43.88C.050, 43.215.456, and 43.185C.220; and creating a new section.

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

NEW SECTION. Sec. 1. The first forecast of children eligible for, and the number of children actually served by, the early childhood education and assistance program, as required by RCW 43.88C.010, shall be prepared by the caseload forecast council in time to facilitate the development of budget proposals by the governor for the 2016 legislative session.

Sec. 2. RCW 43.88C.010 and 2013 c 332 s 11 are each amended to read as follows:

(1) The caseload forecast council is hereby created. The council shall consist of two individuals appointed by the governor and four individuals, one of whom is appointed by the chairperson of each of the two largest political caucuses in the senate and house of representatives. The chair of the council shall be selected from among the four caucus appointees. The council may select such other officers as the members deem necessary.

(2) The council shall employ a caseload forecast supervisor to supervise the preparation of all caseload forecasts. As used in this chapter, "supervisor" means the caseload forecast supervisor.

(3) Approval by an affirmative vote of at least five members of the council is required for any decisions regarding employment of the supervisor. Employment of the supervisor shall terminate after each term of three years. At the end of the first year of each three-year term the council shall consider extension of the supervisor's term by one year. The council may fix the compensation of the supervisor. The supervisor shall employ staff sufficient to accomplish the purposes of this section.

(4) The caseload forecast council shall oversee the preparation of and approve, by an affirmative vote of at least four members, the official state caseload forecasts prepared under RCW 43.88C.020. If the council is unable to approve a forecast before a date required in RCW 43.88C.020, the supervisor shall submit the forecast without approval and the forecast shall have the same effect as if approved by the council.

(5) A councilmember who does not cast an affirmative vote for approval of the official caseload forecast may request, and the supervisor shall provide, an alternative forecast based on assumptions specified by the member.

(6) Members of the caseload forecast council shall serve without additional compensation but shall be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) "Caseload," as used in this chapter, means:

(a) The number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;

(b) The number of students who are eligible for the Washington college bound scholarship program and are expected to attend an institution of higher education as defined in RCW 28B.92.030;

(c) The number of children who are eligible, as defined in RCW 43.215.405, to participate in, and the number of children actually served by, the early childhood education and assistance program.

(8) The caseload forecast council shall forecast the temporary assistance for needy families and the working connections child care programs as a courtesy.

(9) The caseload forecast council shall forecast youth participating in the extended foster care program pursuant to RCW 74.13.031 separately from other children who are residing in foster care and who are under eighteen years of age.

(10) Unless the context clearly requires otherwise, the definitions provided in RCW 43.88.020 apply to this chapter.

Sec. 3. RCW 43.88C.050 and 2011 1st sp.s. c 40 s 29 are each amended to read as follows:

The caseload forecast council shall appoint a research staff of sufficient size and with sufficient resources to accomplish its duties. The caseload forecast council may request from the administrative office of the courts (~~and~~), the department of early learning, the department of corrections, the health care authority, the superintendent of public instruction, the Washington student achievement council, the department of social and health services, and other agencies with caseloads forecasted by the council, such data, information, and data processing assistance as it may need to accomplish its duties, and such services shall be provided without cost to the caseload forecast council.

Sec. 4. RCW 43.215.456 and 2010 c 231 s 4 are each amended to read as follows:

(1) Funding for the program of early learning established under this chapter must be appropriated to the department. Allocations must be made on the basis of eligible children enrolled with eligible providers.

(2) The program shall be implemented in phases, so that full implementation is achieved in the 201819 school year.

(3) For the initial phase of the early learning program in school years 2011-12 and 2012-13, the legislature shall appropriate funding to the department for

implementation of the program in an amount not less than the 2009-2011 enacted budget for the early childhood education and assistance program. The appropriation shall be sufficient to fund an equivalent number of slots as funded in the 2009-2011 enacted budget.

(4) Beginning in the 2013-14 school year, additional funding for the program must be phased in beginning in school districts providing all-day kindergarten programs under RCW 28A.150.315.

(5) Funding shall continue to be phased in incrementally each year until full statewide implementation of the early learning program is achieved in the 2018-19 school year, at which time any eligible child shall be entitled to be enrolled in the program.

~~(6) (The department and the office of financial management shall annually review the caseload forecasts for the program and, beginning December 1, 2012, and annually thereafter, report to the governor and the appropriate committees of the legislature with recommendations for phasing in additional funding necessary to achieve statewide implementation in the 2018-19 school year.~~

~~(7))~~ School districts and approved communitybased early learning providers may contract with the department to provide services under the program. The department shall collaborate with school districts, communitybased providers, and educational service districts to promote an adequate supply of approved providers.

Sec. 5. RCW 43.185C.220 and 2013 2nd sp.s. c 10 s 4 are each amended to read as follows:

(1) The department shall distribute funds for the essential needs and housing support program established under this section in a manner consistent with the requirements of this section and the biennial operating budget. The first distribution of funds must be completed by September 1, 2011. Essential needs or housing support is only for persons found eligible for such services under RCW 74.04.805 and is not considered an entitlement.

(2) The department shall distribute funds appropriated for the essential needs and housing support program in the form of grants to designated essential needs support and housing support entities within each county. The department shall not distribute any funds until it approves the expenditure plan submitted by the designated essential needs support and housing support entities. The amount of funds to be distributed pursuant to this section shall be designated in the biennial operating budget. For the sole purpose of meeting the initial distribution of funds date, the department may distribute partial funds upon the department's approval of a preliminary expenditure plan. The department shall not distribute the remaining funds until it has approved a final expenditure plan.

(3)(a) During the 2011-2013 biennium, in awarding housing support that is not funded through the contingency fund in this subsection, the designated housing support entity shall provide housing support to clients who are homeless persons as defined in RCW 43.185C.010. As provided in the biennial operating budget for the 2011-2013 biennium, a contingency fund shall be used solely for those clients who are at substantial risk of losing stable housing or at substantial risk of losing one of the other services defined in RCW 74.62.010(6). For purposes of this chapter, "substantial risk" means the client has provided documentation that he or she will lose his or her housing within the next thirty days or that the services will be discontinued within the next thirty days.

(b) After July 1, 2013, the designated housing support entity shall give first priority to clients who are homeless persons as defined in RCW 43.185C.010 and second priority to clients who would be at substantial risk of losing stable housing without housing support.

(4) For each county, the department shall designate an essential needs support entity and a housing support entity that will begin providing these supports to medical care services program recipients on November 1, 2011. Essential needs and housing support entities are not required to provide assistance to every person referred to the local entity or who meets the priority standards in subsection (3) of this section.

(a) Each designated entity must be a local government or communitybased organization, and may administer the funding for essential needs support, housing support, or both. Designated entities have the authority to subcontract with qualified entities. Upon request, and the approval of the department, two or more counties may combine resources to more effectively deliver services.

(b) The department's designation process must include a review of proficiency in managing housing or human services programs when designating housing support entities.

(c) Within a county, if the department directly awards separate grants to the designated housing support entity and the designated essential needs support entity, the department shall determine the amount allocated for essential needs support as directed in the biennial operating budget.

(5)(a) Essential needs and housing support entities must use funds distributed under this section as flexibly as is practicable to provide essential needs items and housing support to recipients of the essential needs and housing support program, subject to the requirements of this section.

(b) Benefits provided under the essential needs and housing support program shall not be provided to recipients in the form of cash assistance.

~~(c) ((The appropriations by the legislature for the purposes of the essential needs and housing support program established under this section shall be based on forecasted program caseloads. The caseload forecast council shall provide a courtesy forecast of the population eligible for a referral for essential needs and housing support that is homeless or is included in reporting under subsection (7)(e)(iii) of this section.))~~ The department may move funds between entities or between counties to reflect actual caseload changes. In doing so, the department must: (i) Develop a process for reviewing the caseload of designated essential needs and housing support entities, and for redistributing grant funds from those entities experiencing reduced actual caseloads to those with increased actual caseloads; and (ii) inform all designated entities of the redistribution process. Savings resulting from program caseload attrition from the essential needs and housing support program shall not result in increased perclient expenditures.

(d) Essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed under this section, and should attempt to leverage other sources of public and private funds to serve essential needs and housing support recipients. Funds appropriated in the operating budget for essential needs and housing support must be used only to serve persons eligible to receive services under that program.

(6) The department shall use no more than five percent of the funds for administration of the essential needs and housing support program. Each essential needs and housing support entity shall use no more than seven percent of the funds for administrative expenses.

(7) The department shall:

(a) Require housing support entities to enter data into the homeless client management information system;

(b) Require essential needs support entities to report on services provided under this section;

(c) In collaboration with the department of social and health services, submit a report annually to the relevant policy and fiscal committees of the legislature. A preliminary report shall be submitted by December 31, 2011, and must include (c)(i), (iii), and (v) of this subsection. Annual reports must be submitted beginning December 1, 2012, and must include:

(i) A description of the actions the department has taken to achieve the objectives of chapter 36, Laws of 2011 1st sp. sess.;

(ii) The amount of funds used by the department to administer the program;

(iii) Information on the housing status of essential needs and housing support recipients served by housing support entities, and individuals who have requested housing support but did not receive housing support;

(iv) Grantee expenditure data related to administration and services provided under this section; and

(v) Efforts made to partner with other entities and leverage sources of public and private funds;

(d) Review the data submitted by the designated entities, and make recommendations for program improvements and administrative efficiencies. The department has the authority to designate alternative entities as necessary due to performance or other significant issues. Such change must only be made after consultation with the department of social and health services and the impacted entity.

(8) The department, counties, and essential needs and housing support entities are not civilly or criminally liable and may not have any penalty or cause of action of any nature arise against them related to decisions regarding: (a) The provision or lack of provision of housing or essential needs support; or (b) the type of housing arrangement supported with funds allocated under this section, when the decision was made in good faith and in the performance of the powers and duties under this section. However, this section does not prohibit legal actions against the department, county, or essential needs or housing support entity to enforce contractual duties or obligations.

Passed by the Senate March 5, 2015.

Passed by the House April 13, 2015.

Approved by the Governor April 25, 2015.

Filed in Office of Secretary of State April 25, 2015.

CHAPTER 129

[Engrossed House Bill 1091]

TICKET SELLERS--INTERNET SALES--UNAUTHORIZED INTERFERENCE

AN ACT Relating to the unauthorized interference of ticket sales over the internet; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to protect consumers and ticket sellers from software that simulates the action of a human being purchasing tickets from a ticket seller in order to evade controls and measures on a ticket seller's web site. The legislature is concerned by the use of software, commonly referred to as BOTs (web robots), to interfere with the operation of ticket sales over the internet, gaining unauthorized priority access to purchasing tickets, and thereby reducing access to the general public of online ticket sales at the intended original price. In order to protect consumers and ticket sellers, the legislature intends to prohibit acts and practices of persons that use or sell software to circumvent, thwart, interfere with, or evade a security measure, access control system, or other control or measure on a ticket seller's internet web site. It is not the intent of the legislature to interrupt the online ticket buying process established by the authorized ticket seller, including the distribution of tickets to season ticket holders.

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

(1) "Admission ticket" means evidence of a right of entry to a venue or an entertainment event.

(2) "Affinity group" means an identifiable group of people who are members of the same organization, or who are customers of the same person, and who enjoy special privileges.

(3) "Event" means a concert, theatrical performance, sporting event, exhibition, show, or other similar activity held in this state.

(4) "Initial sale" means the first sale of an admission ticket by the ticket seller. "Initial sale" also includes the distribution of admission tickets under an agreement between the ticket seller and the recipient.

(5) "Person" means any individual, partnership, corporation, limited liability company, other organization, or any combination thereof.

(6) "Place of entertainment" means any privately or publicly owned or operated entertainment facility within this state, such as a theater, stadium, museum, arena, park, racetrack, or other place where concerts, theatrical performances, sporting events, exhibitions, shows, or other similar activities are held and for which an entry fee is charged.

(7) "Presale" means a sale of admission tickets at or below the price printed on the ticket by, or with the permission of, a ticket seller, prior to their release to the general public.

(8) "Promoter" means a person who organizes financing and publicity for an entertainment event.

(9) "Ticket seller" means a person that makes admission tickets available, directly or indirectly, at an initial presale or sale to the general public, and may include an owner or operator of a place of entertainment, a sponsor or promoter of an event, a sports team participating in an event, a fan club or affinity group, a

theater company, a musical group, or similar participant in an event, or an employee or agent of any such person.

NEW SECTION. Sec. 3. (1) A person may not:

(a) Use software to circumvent, thwart, interfere with, or evade a security measure, access control system, or other control or measure on a ticket seller's internet web site; or

(b) Sell software that is advertised for profit with the express purpose to circumvent, thwart, interfere with, or evade a security measure, access control system, or other control or measure on a ticket seller's internet web site.

(2) The use or sale of software as described in subsection (1) of this section only violates this section if the user or seller knows or should know that the purpose of the software is to circumvent, thwart, interfere with, or evade a security measure, access control system, or other control or measure on a ticket seller's internet web site.

(3) The legislature finds that the conduct described in subsection (1) of this section vitally affects the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Using or selling software to circumvent, thwart, or evade a control or measure, which is used on a ticket seller's internet web site to ensure an equitable distribution of tickets, is not reasonable in relation to the development and preservation of business and is an unfair or deceptive act in trade or commerce and an unfair method of competition for the purposes of applying the consumer protection act, chapter 19.86 RCW.

NEW SECTION. Sec. 4. Sections 1 through 3 of this act constitute a new chapter in Title 19 RCW.

Passed by the House April 20, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor April 28, 2015.

Filed in Office of Secretary of State April 28, 2015.

CHAPTER 130

[Substitute Senate Bill 5381]

FIREARMS--RETURN BY LAW ENFORCEMENT--NOTIFICATION PROTOCOL

AN ACT Relating to creating a protocol for the return of firearms in the possession of law enforcement agencies; adding new sections to chapter 9.41 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.41 RCW to read as follows:

(1) Each law enforcement agency shall develop a notification protocol that allows a family or household member to use an incident or case number to request to be notified when a law enforcement agency returns a privately owned firearm to the individual from whom it was obtained or to an authorized representative of that person.

(a) Notification may be made via telephone, email, text message, or another method that allows notification to be provided without unnecessary delay.

(b) If a law enforcement agency is in possession of more than one privately owned firearm from a single person, notification relating to the return of one

firearm shall be considered notification for all privately owned firearms for that person.

(c) "Family or household member" has the same meaning as in RCW 26.50.010.

(2) A law enforcement agency shall not provide notification to any party other than a family or household member who has an incident or case number and who has requested to be notified pursuant to this section or another criminal justice agency.

(3) The information provided by a family or household member pursuant to this act, including the existence of the request for notification, is not subject to public disclosure pursuant to chapter 42.56 RCW.

(4) An appointed or elected official, public employee, or public agency as defined in RCW 4.24.470, or combination of units of local government and its employees, as provided in RCW 36.28A.010, are immune from civil liability for damages for any release of information or the failure to release information related to this section, so long as the release or failure was without gross negligence.

(5) An individual who knowingly makes a request for notification under this section based on false information may be held liable under RCW 9A.76.175.

NEW SECTION. Sec. 2. A new section is added to chapter 9.41 RCW to read as follows:

(1) Before a law enforcement agency returns a privately owned firearm, the law enforcement agency must:

(a) Confirm that the individual to whom the firearm will be returned is the individual from whom the firearm was obtained or an authorized representative of that person;

(b) Confirm that the individual to whom the firearm will be returned is eligible to possess a firearm pursuant to RCW 9.41.040;

(c) Ensure that the firearm is not otherwise required to be held in custody or otherwise prohibited from being released; and

(d) Ensure that twenty-four hours have elapsed from the time the firearm was obtained by law enforcement.

(2)(a) Once the requirements in subsections (1) and (3) of this section have been met, a law enforcement agency must release a firearm to the individual from whom it was obtained or an authorized representative of that person upon request without unnecessary delay.

(b)(i) If a firearm cannot be returned because it is required to be held in custody or is otherwise prohibited from being released, a law enforcement agency must provide written notice to the individual from whom it was obtained within five business days of the individual requesting return of his or her firearm and specify the reason the firearm must be held in custody.

(ii) Notification may be made via email, text message, mail service, or personal service. For methods other than personal service, service shall be considered complete once the notification is sent.

(3) If a family or household member has requested to be notified pursuant to section 1 of this act, a law enforcement agency must:

(a) Provide notice to the family or household member within one business day of verifying that the requirements in subsection (1) of this section have been met; and

(b) Hold the firearm in custody for seventy-two hours from the time notification has been provided.

(4) The provisions of this act shall not apply to circumstances where a law enforcement officer has momentarily obtained a firearm from an individual and would otherwise immediately return the firearm to the individual during the same interaction.

NEW SECTION. **Sec. 3.** This act may be known and cited as the Sheena Henderson act.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor April 28, 2015.

Filed in Office of Secretary of State April 28, 2015.

CHAPTER 131

[House Bill 1279]

TOURISM PROMOTION AREAS

AN ACT Relating to local tourism promotion areas; and amending RCW 35.101.010.

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

Sec. 1. RCW 35.101.010 and 2009 c 442 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Area" means a tourism promotion area.

(2)(a) Except as otherwise provided in this subsection, "legislative authority" means the legislative authority of any county with a population greater than forty thousand, or of any city or town within such a county, including unclassified cities or towns operating under special charters. ~~((However,))~~

(b) Except as provided in (c) of this subsection, in any county with a population of one million or more, ~~((the))~~ "legislative authority" ~~((shall be comprised of))~~ means two or more jurisdictions acting jointly as the legislative authority under an interlocal agreement created under chapter 39.34 RCW for the joint establishment and operation of a tourism promotion area.

(c) For a city incorporated after January 1990, with a population greater than eighty-nine thousand, and located in a county described in (b) of this subsection, "legislative authority" means the city's legislative authority.

(3) "Lodging business" means a person that furnishes lodging taxable by the state under chapter 82.08 RCW that has forty or more lodging units.

(4) "Tourism promotion" means activities and expenditures designed to increase tourism and convention business, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists, and operating tourism destination marketing organizations.

Passed by the House March 5, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 132

[House Bill 1308]

INSURANCE--SURPLUS LINE COVERAGE

AN ACT Relating to surplus lines; and amending RCW 48.15.050 and 48.15.120.

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

Sec. 1. RCW 48.15.050 and 1947 c 79 s .15.05 are each amended to read as follows:

Every insurance contract procured and delivered as a surplus line coverage pursuant to this chapter (~~shall~~) must have stamped upon it and be initialed by or bear the name of the surplus line broker who procured it, the following:

"This contract is registered and delivered as a surplus line coverage under the insurance code of the state of Washington, (~~enacted in 1947~~) Title 48 RCW."

Sec. 2. RCW 48.15.120 and 2011 c 31 s 8 are each amended to read as follows:

(1) On or before the first day of March of each year each surplus line broker must remit to the state treasurer through the commissioner a tax on the premiums, exclusive of sums collected to cover federal and state taxes and examination fees, on surplus line insurance subject to tax transacted by him or her during the preceding calendar year as shown by his or her annual statement filed with the commissioner, and at the same rate as is applicable to the premiums of authorized foreign insurers under this code. The tax when collected must be credited to the general fund.

(2) For property and casualty insurance other than industrial insurance under Title 51 RCW, (~~if~~) when this state is the insured's home state:

(a) If the surplus line insurance covers risks or exposures located inside the United States, its territories, or both, the tax so payable must be computed upon the entire premium under subsection (1) of this section, without regard to whether the policy covers risks or exposures that are located in this state; and

(b) If the surplus line insurance covers risks or exposures located outside of the United States and its territories, no tax under subsection (1) of this section is due or payable for the premium properly allocable to the risks and exposures located outside the United States and its territories.

(3) For all other lines of insurance, if a surplus line policy covers risks or exposures only partially in this state, the tax so payable must be computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

Passed by the House March 2, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 133

[House Bill 1309]

REAL ESTATE BROKERS--FLOATING HOMES

AN ACT Relating to the sale of floating homes or floating on-water residences by brokers; and amending RCW 18.85.011 and 88.02.720.

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

Sec. 1. RCW 18.85.011 and 2008 c 23 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Advertising" means any attempt by publication or broadcast, whether oral, written, or otherwise, to induce a person to use the services of a real estate firm, broker, managing broker, or designated broker.

(2) "Broker" means a natural person acting on behalf of a real estate firm to perform real estate brokerage services under the supervision of a designated broker or managing broker.

(3) "Business opportunity" means and includes business, business entity, and good will of an existing business or any one or combination thereof when the transaction or business includes an interest in real property.

(4) "Clear and conspicuous" in an advertising statement means the representation or term being used is of such a color, contrast, size, or audibility, and presented in a manner so as to be readily noticed and understood.

(5) "Clock hours of instruction" means actual hours spent in classroom instruction in any tax supported, public technical college, community college, or any other institution of higher learning or a correspondence course from any of the aforementioned institutions certified by such institution as the equivalent of the required number of clock hours, and the real estate commission may certify courses of instruction other than in the aforementioned institutions.

(6) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include a single-family residential lot or single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are part of a larger building or parcel of real estate, unless the property is sold or leased for a commercial purpose.

(7) "Commission" means the real estate commission of the state of Washington.

(8) "Controlling interest" means the ability to control either the operational or financial, or both, decisions of a firm.

(9) "Department" means the Washington department of licensing.

(10) "Designated broker" means:

(a) A natural person who owns a sole proprietorship real estate firm; or

(b) A natural person with a controlling interest in the firm who is designated by a legally recognized business entity such as a corporation, limited liability company, limited liability partnership, or partnership real estate firm, to act as a designated broker on behalf of the real estate firm, and whose managing broker's license receives an endorsement from the department of "designated broker."

(11) "Director" means the director of the department of licensing.

(12) "Inactive license" means the status of a license that is not expired and is not affiliated with a firm.

(13) "Licensee" means a person holding a license as a real estate firm, managing broker, or broker.

(14) "Managing broker" means a natural person acting on behalf of a real estate firm to perform real estate brokerage services under the supervision of the designated broker, and who may supervise other brokers or managing brokers licensed to the firm.

(15) "Person" includes a natural person, corporation, limited liability company, limited liability partnership, partnership, or public or private organization or entity of any character, except where otherwise restricted.

(16) "Real estate brokerage services" means any of the following services offered or rendered directly or indirectly to another, or on behalf of another for compensation or the promise or expectation of compensation, or by a licensee on the licensee's own behalf:

(a) Listing, selling, purchasing, exchanging, optioning, leasing, renting of real estate, or any real property interest therein; or any interest in a cooperative; or any interest in a floating home or floating on-water residence, as defined in RCW 90.58.270;

(b) Negotiating or offering to negotiate, either directly or indirectly, the purchase, sale, exchange, lease, or rental of real estate, or any real property interest therein; or any interest in a cooperative; or any interest in a floating home or floating on-water residence, as defined in RCW 90.58.270;

(c) Listing, selling, purchasing, exchanging, optioning, leasing, renting, or negotiating the purchase, sale, lease, or exchange of a manufactured or mobile home in conjunction with the purchase, sale, lease, exchange, or rental of the land upon which the manufactured or mobile home is or will be located;

(d) Advertising or holding oneself out to the public by any solicitation or representation that one is engaged in real estate brokerage services;

(e) Advising, counseling, or consulting buyers, sellers, landlords, or tenants in connection with a real estate transaction;

(f) Issuing a broker's price opinion. For the purposes of this chapter, "broker's price opinion" means an oral or written report of property value that is prepared by a licensee under this chapter and is not an appraisal as defined in RCW 18.140.010 unless it complies with the requirements established under chapter 18.140 RCW;

(g) Collecting, holding, or disbursing funds in connection with the negotiating, listing, selling, purchasing, exchanging, optioning, leasing, or renting of real estate or any real property interest; and

(h) Performing property management services, which includes with no limitation: Marketing; leasing; renting; the physical, administrative, or financial maintenance of real property; or the supervision of such actions.

(17) "Real estate firm" or "firm" means a sole proprietorship, partnership, limited liability partnership, corporation, limited liability company, or other legally recognized business entity conducting real estate brokerage services in this state and licensed by the department as a real estate firm.

Sec. 2. RCW 88.02.720 and 2010 c 161 s 1033 are each amended to read as follows:

(1) The department may exempt from compliance with the vessel dealer requirements of this chapter, any person who is engaged in the business of selling in this state at wholesale or retail, human-powered watercraft that is: (a) Under sixteen feet in length; (b) unable to be powered by propulsion machinery or wind propulsion as designed by the manufacturer; and (c) not designed for use on commonly-used navigable waters.

(2) Any person engaged in the business of selling at wholesale or retail, exempt and nonexempt watercraft under this section is only required to comply with this chapter in regard to the sale of nonexempt watercraft.

(3) An auction company licensed under chapter 18.11 RCW and licensed as a motor vehicle dealer under chapter 46.70 RCW may sell at auction, without being licensed as a vessel dealer, all vessels that a vessel dealer is authorized to sell, so long as the sale of vessels is incidental to the auction company's primary source of business and the length of any vessel being sold is no greater than twenty-five feet. The auction company shall comply with all other vessel dealer requirements of this chapter and rules adopted by the department if the vessel dealer license fees and surety bond requirements in RCW 88.02.710 are determined to not be due.

(4) A broker licensed under chapter 18.85 RCW may sell, without being licensed as a vessel dealer, floating on-water residences, as defined in RCW 90.58.270.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 134

[Substitute House Bill 1319]

JUVENILE OFFENSES--SENTENCING

AN ACT Relating to technical corrections to processes for persons sentenced for offenses committed prior to reaching eighteen years of age; amending RCW 9.94A.501, 9.94A.533, 9.94A.728, 9.94A.729, 10.95.030, 9.94A.730, 10.95.035, and 9.94A.704; and declaring an emergency.

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

Sec. 1. RCW 9.94A.501 and 2013 2nd sp.s. c 35 s 15 are each amended to read as follows:

(1) The department shall supervise the following offenders who are sentenced to probation in superior court, pursuant to RCW 9.92.060, 9.95.204, or 9.95.210:

(a) Offenders convicted of:

(i) Sexual misconduct with a minor second degree;

(ii) Custodial sexual misconduct second degree;

(iii) Communication with a minor for immoral purposes; and

(iv) Violation of RCW 9A.44.132(2) (failure to register); and

(b) Offenders who have:

(i) A current conviction for a repetitive domestic violence offense where domestic violence has been plead and proven after August 1, 2011; and

(ii) A prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011.

(2) Misdemeanor and gross misdemeanor offenders supervised by the department pursuant to this section shall be placed on community custody.

(3) The department shall supervise every felony offender sentenced to community custody pursuant to RCW 9.94A.701 or 9.94A.702 whose risk assessment classifies the offender as one who is at a high risk to reoffend.

(4) Notwithstanding any other provision of this section, the department shall supervise an offender sentenced to community custody regardless of risk classification if the offender:

(a) Has a current conviction for a sex offense or a serious violent offense and was sentenced to a term of community custody pursuant to RCW 9.94A.701, 9.94A.702, or 9.94A.507;

(b) Has been identified by the department as a dangerous mentally ill offender pursuant to RCW 72.09.370;

(c) Has an indeterminate sentence and is subject to parole pursuant to RCW 9.95.017;

(d) Has a current conviction for violating RCW 9A.44.132(1) (failure to register) and was sentenced to a term of community custody pursuant to RCW 9.94A.701;

(e) Has a current conviction for a domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011, and a prior conviction for a repetitive domestic violence offense or domestic violence felony offense where domestic violence has been plead and proven after August 1, 2011;

(f) Was sentenced under RCW 9.94A.650, 9.94A.655, 9.94A.660, or 9.94A.670;

(g) Is subject to supervision pursuant to RCW 9.94A.745; or

(h) Was convicted and sentenced under RCW 46.61.520 (vehicular homicide), RCW 46.61.522 (vehicular assault), RCW 46.61.502(6) (felony DUI), or RCW 46.61.504(6) (felony physical control).

(5) The department shall supervise any offender who is released by the indeterminate sentence review board and who was sentenced to community custody or subject to community custody under the terms of release.

(6) The department is not authorized to, and may not, supervise any offender sentenced to a term of community custody or any probationer unless the offender or probationer is one for whom supervision is required under this section or RCW 9.94A.5011.

~~((6))~~ (7) The department shall conduct a risk assessment for every felony offender sentenced to a term of community custody who may be subject to supervision under this section or RCW 9.94A.5011.

Sec. 2. RCW 9.94A.533 and 2013 c 270 s 2 are each amended to read as follows:

(1) The provisions of this section apply to the standard sentence ranges determined by RCW 9.94A.510 or 9.94A.517.

(2) For persons convicted of the anticipatory offenses of criminal attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the standard sentence range is determined by locating the sentencing grid sentence range defined by

the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by seventy-five percent.

(3) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any firearm enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the firearm enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a firearm enhancement. If the offender or an accomplice was armed with a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any firearm enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Five years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) Three years for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Eighteen months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced for any firearm enhancements under (a), (b), and/or (c) of this subsection and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (4)(a), (b), and/or (c) of this section, or both, all firearm enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all firearm enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(3); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The firearm enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a firearm enhancement increases the sentence so that it would exceed the

statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(4) The following additional times shall be added to the standard sentence range for felony crimes committed after July 23, 1995, if the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for one of the crimes listed in this subsection as eligible for any deadly weapon enhancements based on the classification of the completed felony crime. If the offender is being sentenced for more than one offense, the deadly weapon enhancement or enhancements must be added to the total period of confinement for all offenses, regardless of which underlying offense is subject to a deadly weapon enhancement. If the offender or an accomplice was armed with a deadly weapon other than a firearm as defined in RCW 9.41.010 and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection as eligible for any deadly weapon enhancements, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(a) Two years for any felony defined under any law as a class A felony or with a statutory maximum sentence of at least twenty years, or both, and not covered under (f) of this subsection;

(b) One year for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both, and not covered under (f) of this subsection;

(c) Six months for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both, and not covered under (f) of this subsection;

(d) If the offender is being sentenced under (a), (b), and/or (c) of this subsection for any deadly weapon enhancements and the offender has previously been sentenced for any deadly weapon enhancements after July 23, 1995, under (a), (b), and/or (c) of this subsection or subsection (3)(a), (b), and/or (c) of this section, or both, all deadly weapon enhancements under this subsection shall be twice the amount of the enhancement listed;

(e) Notwithstanding any other provision of law, all deadly weapon enhancements under this section are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other firearm or deadly weapon enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(3); or

(ii) Released under the provisions of RCW 9.94A.730;

(f) The deadly weapon enhancements in this section shall apply to all felony crimes except the following: Possession of a machine gun, possessing a stolen firearm, drive-by shooting, theft of a firearm, unlawful possession of a firearm in the first and second degree, and use of a machine gun in a felony;

(g) If the standard sentence range under this section exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition

of a deadly weapon enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(5) The following additional times shall be added to the standard sentence range if the offender or an accomplice committed the offense while in a county jail or state correctional facility and the offender is being sentenced for one of the crimes listed in this subsection. If the offender or an accomplice committed one of the crimes listed in this subsection while in a county jail or state correctional facility, and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW to commit one of the crimes listed in this subsection, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section:

(a) Eighteen months for offenses committed under RCW 69.50.401(2) (a) or (b) or 69.50.410;

(b) Fifteen months for offenses committed under RCW 69.50.401(2) (c), (d), or (e);

(c) Twelve months for offenses committed under RCW 69.50.4013.

For the purposes of this subsection, all of the real property of a state correctional facility or county jail shall be deemed to be part of that facility or county jail.

(6) An additional twenty-four months shall be added to the standard sentence range for any ranked offense involving a violation of chapter 69.50 RCW if the offense was also a violation of RCW 69.50.435 or 9.94A.827. All enhancements under this subsection shall run consecutively to all other sentencing provisions, for all offenses sentenced under this chapter.

(7) An additional two years shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502 for each prior offense as defined in RCW 46.61.5055. All enhancements under this subsection shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions.

(8)(a) The following additional times shall be added to the standard sentence range for felony crimes committed on or after July 1, 2006, if the offense was committed with sexual motivation, as that term is defined in RCW 9.94A.030. If the offender is being sentenced for more than one offense, the sexual motivation enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to a sexual motivation enhancement. If the offender committed the offense with sexual motivation and the offender is being sentenced for an anticipatory offense under chapter 9A.28 RCW, the following additional times shall be added to the standard sentence range determined under subsection (2) of this section based on the felony crime of conviction as classified under RCW 9A.28.020:

(i) Two years for any felony defined under the law as a class A felony or with a statutory maximum sentence of at least twenty years, or both;

(ii) Eighteen months for any felony defined under any law as a class B felony or with a statutory maximum sentence of ten years, or both;

(iii) One year for any felony defined under any law as a class C felony or with a statutory maximum sentence of five years, or both;

(iv) If the offender is being sentenced for any sexual motivation enhancements under (a)(i), (ii), and/or (iii) of this subsection and the offender has previously been sentenced for any sexual motivation enhancements on or after July 1, 2006, under (a)(i), (ii), and/or (iii) of this subsection, all sexual motivation enhancements under this subsection shall be twice the amount of the enhancement listed;

(b) Notwithstanding any other provision of law, all sexual motivation enhancements under this subsection are mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions, including other sexual motivation enhancements, for all offenses sentenced under this chapter. However, whether or not a mandatory minimum term has expired, an offender serving a sentence under this subsection may be:

(i) Granted an extraordinary medical placement when authorized under RCW 9.94A.728(3); or

(ii) Released under the provisions of RCW 9.94A.730;

(c) The sexual motivation enhancements in this subsection apply to all felony crimes;

(d) If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence shall be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced;

(e) The portion of the total confinement sentence which the offender must serve under this subsection shall be calculated before any earned early release time is credited to the offender;

(f) Nothing in this subsection prevents a sentencing court from imposing a sentence outside the standard sentence range pursuant to RCW 9.94A.535.

(9) An additional oneyear enhancement shall be added to the standard sentence range for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089 committed on or after July 22, 2007, if the offender engaged, agreed, or offered to engage the victim in the sexual conduct in return for a fee. If the offender is being sentenced for more than one offense, the oneyear enhancement must be added to the total period of total confinement for all offenses, regardless of which underlying offense is subject to the enhancement. If the offender is being sentenced for an anticipatory offense for the felony crimes of RCW 9A.44.073, 9A.44.076, 9A.44.079, 9A.44.083, 9A.44.086, or 9A.44.089, and the offender attempted, solicited another, or conspired to engage, agree, or offer to engage the victim in the sexual conduct in return for a fee, an additional oneyear enhancement shall be added to the standard sentence range determined under subsection (2) of this section. For purposes of this subsection, "sexual conduct" means sexual intercourse or sexual contact, both as defined in chapter 9A.44 RCW.

(10)(a) For a person age eighteen or older convicted of any criminal street gang-related felony offense for which the person compensated, threatened, or solicited a minor in order to involve the minor in the commission of the felony offense, the standard sentence range is determined by locating the sentencing grid sentence range defined by the appropriate offender score and the seriousness level of the completed crime, and multiplying the range by one

hundred twenty-five percent. If the standard sentence range under this subsection exceeds the statutory maximum sentence for the offense, the statutory maximum sentence is the presumptive sentence unless the offender is a persistent offender.

(b) This subsection does not apply to any criminal street gang-related felony offense for which involving a minor in the commission of the felony offense is an element of the offense.

(c) The increased penalty specified in (a) of this subsection is unavailable in the event that the prosecution gives notice that it will seek an exceptional sentence based on an aggravating factor under RCW 9.94A.535.

(11) An additional twelve months and one day shall be added to the standard sentence range for a conviction of attempting to elude a police vehicle as defined by RCW 46.61.024, if the conviction included a finding by special allegation of endangering one or more persons under RCW 9.94A.834.

(12) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.831.

(13) An additional twelve months shall be added to the standard sentence range for vehicular homicide committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.520 or for vehicular assault committed while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.522, or for any felony driving under the influence (RCW 46.61.502(6)) or felony physical control under the influence (RCW 46.61.504(6)) for each child passenger under the age of sixteen who is an occupant in the defendant's vehicle. These enhancements shall be mandatory, shall be served in total confinement, and shall run consecutively to all other sentencing provisions. If the addition of a minor child enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

(14) An additional twelve months shall be added to the standard sentence range for an offense that is also a violation of RCW 9.94A.832.

Sec. 3. RCW 9.94A.728 and 2010 c 224 s 6 are each amended to read as follows:

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) An offender may earn early release time as authorized by RCW 9.94A.729;

(2) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

(3)(a) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

(i) The offender has a medical condition that is serious and is expected to require costly care or treatment;

(ii) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

(iii) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

(b) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

(c) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

(d) The secretary may revoke an extraordinary medical placement under this subsection at any time.

(e) Persistent offenders are not eligible for extraordinary medical placement;

(4) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

(5) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community or no more than the final twelve months of the offender's term of confinement may be served in partial confinement as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

(6) The governor may pardon any offender;

(7) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

(8) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870; ~~((and))~~

(9) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540; and

(10) Any person convicted of one or more crimes committed prior to the person's eighteenth birthday may be released from confinement pursuant to RCW 9.94A.730.

Sec. 4. RCW 9.94A.729 and 2014 c 130 s 4 are each amended to read as follows:

(1)(a) The term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and adopted by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction. The correctional

agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

(b) Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the number of days of early release credits lost or not earned. The department may approve a jail certification from a correctional agency that calculates early release time based on the actual amount of confinement time served by the offender before sentencing when an erroneous calculation of confinement time served by the offender before sentencing appears on the judgment and sentence. The department must adjust an offender's rate of early release listed on the jail certification to be consistent with the rate applicable to offenders in the department's facilities. However, the department is not authorized to adjust the number of presentence early release days that the jail has certified as lost or not earned.

(2) An offender who has been convicted of a felony committed after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9.94A.533 (3) or (4), or both, shall not receive any good time credits or earned release time for that portion of his or her sentence that results from any deadly weapon enhancements.

(3) An offender may earn early release time as follows:

(a) In the case of an offender sentenced pursuant to RCW 10.95.030(3) or 10.95.035, the offender may not receive any earned early release time during the minimum term of confinement imposed by the court; for any remaining portion of the sentence served by the offender. the aggregate earned release time may not exceed ten percent of the sentence.

(b) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence.

(c) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(d) An offender is qualified to earn up to fifty percent of aggregate earned release time if he or she:

(i) Is not classified as an offender who is at a high risk to reoffend as provided in subsection (4) of this section;

(ii) Is not confined pursuant to a sentence for:

(A) A sex offense;

(B) A violent offense;

(C) A crime against persons as defined in RCW 9.94A.411;

(D) A felony that is domestic violence as defined in RCW 10.99.020;

(E) A violation of RCW 9A.52.025 (residential burglary);

(F) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine; or

(G) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery of a controlled substance to a minor);

(iii) Has no prior conviction for the offenses listed in (d)(ii) of this subsection;

(iv) Participates in programming or activities as directed by the offender's individual reentry plan as provided under RCW 72.09.270 to the extent that such programming or activities are made available by the department; and

(v) Has not committed a new felony after July 22, 2007, while under community custody.

(e) In no other case shall the aggregate earned release time exceed one-third of the total sentence.

(4) The department shall perform a risk assessment of each offender who may qualify for earned early release under subsection (3)(d) of this section utilizing the risk assessment tool recommended by the Washington state institute for public policy. Subsection (3)(d) of this section does not apply to offenders convicted after July 1, 2010.

(5)(a) A person who is eligible for earned early release as provided in this section and who will be supervised by the department pursuant to RCW 9.94A.501 or 9.94A.5011, shall be transferred to community custody in lieu of earned release time;

(b) The department shall, as a part of its program for release to the community in lieu of earned release, require the offender to propose a release plan that includes an approved residence and living arrangement. All offenders with community custody terms eligible for release to community custody in lieu of earned release shall provide an approved residence and living arrangement prior to release to the community;

(c) The department may deny transfer to community custody in lieu of earned release time if the department determines an offender's release plan, including proposed residence location and living arrangements, may violate the conditions of the sentence or conditions of supervision, place the offender at risk to violate the conditions of the sentence, place the offender at risk to reoffend, or present a risk to victim safety or community safety. The department's authority under this section is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody;

(d) If the department is unable to approve the offender's release plan, the department may do one or more of the following:

(i) Transfer an offender to partial confinement in lieu of earned early release for a period not to exceed three months. The three months in partial confinement is in addition to that portion of the offender's term of confinement that may be served in partial confinement as provided in RCW 9.94A.728(5);

(ii) Provide rental vouchers to the offender for a period not to exceed three months if rental assistance will result in an approved release plan.

A voucher must be provided in conjunction with additional transition support programming or services that enable an offender to participate in services including, but not limited to, substance abuse treatment, mental health treatment, sex offender treatment, educational programming, or employment programming;

(e) The department shall maintain a list of housing providers that meets the requirements of RCW 72.09.285. If more than two voucher recipients will be residing per dwelling unit, as defined in RCW 59.18.030, rental vouchers for those recipients may only be paid to a housing provider on the department's list;

(f) For each offender who is the recipient of a rental voucher, the department shall gather data as recommended by the Washington state institute for public policy in order to best demonstrate whether rental vouchers are effective in reducing recidivism.

(6) An offender serving a term of confinement imposed under RCW 9.94A.670(5)(a) is not eligible for earned release credits under this section.

Sec. 5. RCW 10.95.030 and 2014 c 130 s 9 are each amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, any person convicted of the crime of aggravated first degree murder shall be sentenced to life imprisonment without possibility of release or parole. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer and the indeterminate sentence review board or its successor may not parole such prisoner nor reduce the period of confinement in any manner whatsoever including but not limited to any sort of goodtime calculation. The department of social and health services or its successor or any executive official may not permit such prisoner to participate in any sort of release or furlough program.

(2) If, pursuant to a special sentencing proceeding held under RCW 10.95.050, the trier of fact finds that there are not sufficient mitigating circumstances to merit leniency, the sentence shall be death. In no case, however, shall a person be sentenced to death if the person had an intellectual disability at the time the crime was committed, under the definition of intellectual disability set forth in (a) of this subsection. A diagnosis of intellectual disability shall be documented by a licensed psychiatrist or licensed psychologist designated by the court, who is an expert in the diagnosis and evaluation of intellectual disabilities. The defense must establish an intellectual disability by a preponderance of the evidence and the court must make a finding as to the existence of an intellectual disability.

(a) "Intellectual disability" means the individual has: (i) Significantly subaverage general intellectual functioning; (ii) existing concurrently with deficits in adaptive behavior; and (iii) both significantly subaverage general intellectual functioning and deficits in adaptive behavior were manifested during the developmental period.

(b) "General intellectual functioning" means the results obtained by assessment with one or more of the individually administered general intelligence tests developed for the purpose of assessing intellectual functioning.

(c) "Significantly subaverage general intellectual functioning" means intelligence quotient seventy or below.

(d) "Adaptive behavior" means the effectiveness or degree with which individuals meet the standards of personal independence and social responsibility expected for his or her age.

(e) "Developmental period" means the period of time between conception and the eighteenth birthday.

(3)(a)(i) Any person convicted of the crime of aggravated first degree murder for an offense committed prior to the person's sixteenth birthday shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of twenty-five years.

(ii) Any person convicted of the crime of aggravated first degree murder for an offense committed when the person is at least sixteen years old but less than eighteen years old shall be sentenced to a maximum term of life imprisonment and a minimum term of total confinement of no less than twenty-five years. A minimum term of life may be imposed, in which case the person will be ineligible for parole or early release.

(b) In setting a minimum term, the court must take into account mitigating factors that account for the diminished culpability of youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth's childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth's chances of becoming rehabilitated.

(c) A person sentenced under this subsection shall serve the sentence in a facility or institution operated, or utilized under contract, by the state. During the minimum term of total confinement, the person shall not be eligible for community custody, earned release time, furlough, home detention, partial confinement, work crew, work release, or any other form of early release authorized under RCW 9.94A.728, or any other form of authorized leave or absence from the correctional facility while not in the direct custody of a corrections officer. The provisions of this subsection shall not apply: (i) In the case of an offender in need of emergency medical treatment; or (ii) for an extraordinary medical placement when authorized under RCW 9.94A.728(3).

(d) Any person sentenced pursuant to this subsection shall be subject to community custody under the supervision of the department of corrections and the authority of the indeterminate sentence review board. As part of any sentence under this subsection, the court shall require the person to comply with any conditions imposed by the board.

(e) No later than five years prior to the expiration of the person's minimum term, the department of corrections shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(f) No later than one hundred eighty days prior to the expiration of the person's minimum term, the department of corrections shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released, under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. If the board does not order the person released, the board shall set a new minimum term not to exceed five additional years. The board shall give public safety considerations the highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(g) In a hearing conducted under (f) of this subsection, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be ~~((developed))~~ provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(h) An offender released by the board is subject to the supervision of the department of corrections for a period of time to be determined by the board. The department shall monitor the offender's compliance with conditions of community custody imposed by the court ~~((, department,))~~ or board ~~((,))~~ and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(i) An offender released or discharged under this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. The board shall set a new minimum term of incarceration not to exceed five years.

Sec. 6. RCW 9.94A.730 and 2014 c 130 s 10 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, any person convicted of one or more crimes committed prior to the person's eighteenth birthday may petition the indeterminate sentence review board for early release after serving no less than twenty years of total confinement, provided the person has not been convicted for any crime committed subsequent to the person's eighteenth birthday, the person has not committed a ~~((major violation))~~ disqualifying serious infraction as defined by the department in the twelve months prior to filing the petition for early release, and the current sentence was not imposed under RCW 10.95.030 or 9.94A.507.

(2) ~~((When an))~~ No later than five years prior to the date the offender ~~((who))~~ will be eligible to petition ~~((under this section has served fifteen years))~~ for release, the department shall conduct an assessment of the offender and identify programming and services that would be appropriate to prepare the offender for return to the community. To the extent possible, the department shall make programming available as identified by the assessment.

(3) No later than one hundred eighty days from receipt of the petition for early release, the department shall conduct, and the offender shall participate in, an examination of the person, incorporating methodologies that are recognized by experts in the prediction of dangerousness, and including a prediction of the probability that the person will engage in future criminal behavior if released on conditions to be set by the board. The board may consider a person's failure to participate in an evaluation under this subsection in determining whether to release the person. The board shall order the person released under such affirmative and other conditions as the board determines appropriate, unless the board determines by a preponderance of the evidence that, despite such conditions, it is more likely than not that the person will commit new criminal law violations if released. The board shall give public safety considerations the

highest priority when making all discretionary decisions regarding the ability for release and conditions of release.

(4) In a hearing conducted under subsection (3) of this section, the board shall provide opportunities for victims and survivors of victims of any crimes for which the offender has been convicted to present statements as set forth in RCW 7.69.032. The procedures for victim and survivor of victim input shall be ~~((developed))~~ provided by rule. To facilitate victim and survivor of victim involvement, county prosecutor's offices shall ensure that any victim impact statements and known contact information for victims of record and survivors of victims are forwarded as part of the judgment and sentence.

(5) An offender released by the board is subject to the supervision of the department for a period of time to be determined by the board, up to the length of the court-imposed term of incarceration. The department shall monitor the offender's compliance with conditions of community custody imposed by the court ~~((department,))~~ or board ~~((;))~~ and promptly report any violations to the board. Any violation of conditions of community custody established or modified by the board are subject to the provisions of RCW 9.95.425 through 9.95.440.

(6) An offender whose petition for release is denied may file a new petition for release five years from the date of denial or at an earlier date as may be set by the board.

(7) An offender released under the provisions of this section may be returned to the institution at the discretion of the board if the offender is found to have violated a condition of community custody. The offender is entitled to a hearing pursuant to RCW 9.95.435. If the board finds that the offender has committed a new violation, the board may return the offender to the institution for up to the remainder of the court-imposed term of incarceration. The offender may file a new petition for release five years from the date of return to the institution or at an earlier date as may be set by the board.

Sec. 7. RCW 10.95.035 and 2014 c 130 s 11 are each amended to read as follows:

(1) A person, who was sentenced prior to June 1, 2014, under this chapter or any prior law, to a term of life without the possibility of parole for an offense committed prior to their eighteenth birthday, shall be returned to the sentencing court or the sentencing court's successor for sentencing consistent with RCW 10.95.030. Release and supervision of a person who receives a minimum term of less than life will be governed by RCW 10.95.030.

(2) The court shall provide an opportunity for victims and survivors of victims of any crimes for which the offender has been convicted to present a statement personally or by representation.

(3) The court's order setting a minimum term is subject to review to the same extent as a minimum term decision by the parole board before July 1, 1986.

(4) A resentencing under this section shall not reopen the defendant's conviction to challenges that would otherwise be barred by RCW 10.73.090, 10.73.100, 10.73.140, or other procedural barriers.

Sec. 8. RCW 9.94A.704 and 2014 c 35 s 1 are each amended to read as follows:

(1) Every person who is sentenced to a period of community custody shall report to and be placed under the supervision of the department, subject to RCW 9.94A.501.

(2)(a) The department shall assess the offender's risk of reoffense and may establish and modify additional conditions of community custody based upon the risk to community safety.

(b) Within the funds available for community custody, the department shall determine conditions on the basis of risk to community safety, and shall supervise offenders during community custody on the basis of risk to community safety and conditions imposed by the court. The secretary shall adopt rules to implement the provisions of this subsection (2)(b).

(3) If the offender is supervised by the department, the department shall at a minimum instruct the offender to:

(a) Report as directed to a community corrections officer;

(b) Remain within prescribed geographical boundaries;

(c) Notify the community corrections officer of any change in the offender's address or employment;

(d) Pay the supervision fee assessment; and

(e) Disclose the fact of supervision to any mental health or chemical dependency treatment provider, as required by RCW 9.94A.722.

(4) The department may require the offender to participate in rehabilitative programs, or otherwise perform affirmative conduct, and to obey all laws.

(5) If the offender was sentenced pursuant to a conviction for a sex offense, the department may:

(a) Require the offender to refrain from direct or indirect contact with the victim of the crime or immediate family member of the victim of the crime. If a victim or an immediate family member of a victim has requested that the offender not contact him or her after notice as provided in RCW 72.09.340, the department shall require the offender to refrain from contact with the requestor. Where the victim is a minor, the parent or guardian of the victim may make a request on the victim's behalf.

(b) Impose electronic monitoring. Within the resources made available by the department for this purpose, the department shall carry out any electronic monitoring using the most appropriate technology given the individual circumstances of the offender. As used in this section, "electronic monitoring" means the monitoring of an offender using an electronic offender tracking system including, but not limited to, a system using radio frequency or active or passive global positioning system technology.

(6) The department may not impose conditions that are contrary to those ordered by the court and may not contravene or decrease court-imposed conditions.

(7)(a) The department shall notify the offender in writing of any additional conditions or modifications.

(b) By the close of the next business day after receiving notice of a condition imposed or modified by the department, an offender may request an administrative review under rules adopted by the department. The condition shall remain in effect unless the reviewing officer finds that it is not reasonably related to the crime of conviction, the offender's risk of reoffending, or the safety of the community.

(8) The department shall notify the offender in writing upon community custody intake of the department's violation process.

(9) The department may require offenders to pay for special services rendered including electronic monitoring, day reporting, and telephone reporting, dependent on the offender's ability to pay. The department may pay for these services for offenders who are not able to pay.

(10)(a) When ~~((a sex))~~ an offender ~~((has been sentenced pursuant to RCW 9.94A.507))~~ on community custody is under the authority of the board, the department shall assess the offender's risk of recidivism and shall recommend to the board any additional or modified conditions based upon the offender's risk to community safety and may recommend affirmative conduct or electronic monitoring consistent with subsections (4) through (6) of this section.

(b) The board may impose conditions in addition to court-ordered conditions. The board must consider and may impose department-recommended conditions. The board must impose a condition requiring the offender to refrain from contact with the victim or immediate family member of the victim as provided in subsection (5)(a) of this section.

(c) By the close of the next business day, after receiving notice of a condition imposed by the board or the department, an offender may request an administrative hearing under rules adopted by the board. The condition shall remain in effect unless the hearing examiner finds that it is not reasonably related to any of the following:

- (i) The crime of conviction;
- (ii) The offender's risk of reoffending;
- (iii) The safety of the community.

(d) If the department finds that an emergency exists requiring the immediate imposition of additional conditions in order to prevent the offender from committing a crime, the department may impose such conditions. The department may not impose conditions that are contrary to those set by the board or the court and may not contravene or decrease court-imposed or board-imposed conditions. Conditions imposed under this subsection shall take effect immediately after notice to the offender by personal service, but shall not remain in effect longer than seven working days unless approved by the board.

(11) In setting, modifying, and enforcing conditions of community custody, the department shall be deemed to be performing a quasijudicial function.

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the House March 6, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 135

[Substitute House Bill 1337]

PORT DISTRICTS--INDUSTRIAL DEVELOPMENT DISTRICT LEVIES

AN ACT Relating to increasing the flexibility for industrial development district levies for public port districts; amending RCW 53.25.040; adding a new section to chapter 53.36 RCW; adding

a new section to chapter 84.55 RCW; creating new sections; repealing RCW 53.36.100 and 53.36.110; and providing an effective date.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 53.36 RCW to read as follows:

(1)(a) A port district having adopted a comprehensive scheme of harbor improvements and industrial developments may thereafter raise revenue through:

(i) A first multiyear levy period, if it meets the requirements of this subsection (1);

(ii) A second multiyear levy period, if it meets the requirements of this subsection (1) and subsection (2) of this section; and

(iii) A third multiyear levy period, if it meets the requirements of subsection (3) of this section.

(b) First and second multiyear levy periods do not have to be consecutive.

(c) First and second multiyear levy periods may not overlap.

(d) The aggregate revenue that may be collected over a first or second multiyear levy period may not exceed the sum of: (i) Two dollars and seventy cents per thousand dollars of assessed value multiplied by the assessed valuation of the taxable property in the port district for taxes collected in the base year; and (ii) the difference of:

(A) The maximum allowable amount that could have been collected under RCW 84.55.010 for the first six collection years of the levy period; and

(B) The amount calculated under (d)(i) of this subsection (1).

(e) The levy rate in any year may not exceed forty-five cents per thousand dollars of assessed value.

(f) A levy period may not exceed twenty years from the date the initial levy is made in the period.

(g) A port district must adopt a resolution during the base year approving the use of a first or second multiyear levy period.

(2) If a port district intends to impose levies over a second multiyear levy period, the port commission must publish notice of this intention, in one or more newspapers of general circulation within the district, by April 1st of the year in which the first levy in the second multiyear levy period is to be made. If within ninety days of the date of publication a petition is filed with the county auditor containing the signatures of eight percent of the number of voters registered and voting in the port district for the office of the governor at the last preceding gubernatorial election, the county auditor must canvass the signatures in the same manner as prescribed in RCW 29A.72.230 and certify their sufficiency to the port commission within two weeks. The proposition to impose levies over a second multiyear levy period must be submitted to the voters of the port district at a special election, called for this purpose, no later than the date on which a primary election would be held under RCW 29A.04.311. The levies may be made in the second multiyear levy period only if approved by a majority of the voters of the port district voting on the proposition.

(3) In addition, if voters approve a ballot proposition authorizing additional levies by a simple majority vote, a port district located in a county bordering on the Pacific Ocean having adopted a comprehensive scheme of harbor improvements and industrial developments may impose a third levy for a period

that may not exceed six years. The levy rate in any year may not exceed forty-five cents per thousand dollars of assessed value. Except for the initial levy in the third levy period, RCW 84.55.010 applies to the tax authorized in this subsection.

(4) The levy of such taxes under this section is authorized notwithstanding the provisions of RCW 84.52.043 and 84.52.050. The revenues derived from levies made under this section not expended in the year in which the levies are made may be paid into a fund for future use in carrying out the powers granted under chapter 53.25 RCW, which fund may be accumulated and carried over from year to year, with the right to continue to levy the taxes provided for under this section for the purposes herein authorized.

(5) In the event a levy authorized in this section produces revenue in excess of the requirements to complete the projects of a port district then provided for in its comprehensive scheme of harbor improvements and industrial developments or amendments thereto, the excess must be used solely for the retirement of general obligation bonded indebtedness.

(6)(a) Except as otherwise provided in this subsection, a port district that has levied the tax authorized under RCW 53.36.100 may not levy a tax authorized under this section.

(b) A port district that levied the tax authorized under RCW 53.36.100 for taxes collected in 2015 as part of the initial six-year period may levy the tax authorized under this section for a second and third multiyear levy period in accordance with this section after the initial six-year levy period under RCW 53.36.100.

(c) A port district that levied the tax authorized under RCW 53.36.100 for taxes collected in 2015 as part of the second six-year period may levy the tax authorized under this section for a third multiyear levy period in accordance with this section after the second six-year levy period under RCW 53.36.100.

(d) A port district that did not levy the tax authorized under RCW 53.36.100 for taxes collected in 2015 but has previously levied a tax under RCW 53.36.100 for only the initial six-year period may impose levies in accordance with this section for a second and third multiyear levy period.

(e) A port district that did not levy the tax authorized under RCW 53.36.100 for taxes collected in 2015 but has previously levied a tax under RCW 53.36.100 for the initial and second six-year periods may impose levies in accordance with this section for a third multiyear levy period.

(7) For the purposes of this section, "base year" means the year prior to the first collection year in a first or second multiyear levy period.

Sec. 2. RCW 53.25.040 and 1989 c 167 s 1 are each amended to read as follows:

(1) A port commission may, after a public hearing thereon, of which at least ten days' notice (~~shall~~) must be published in a newspaper of general circulation in the port district, create industrial development districts within the district and define the boundaries thereof, if it finds that the creation of the industrial development district is proper and desirable in establishing and developing a system of harbor improvements and industrial development in the port district.

(2)(a) The boundaries of an industrial development district created by subsection (1) of this section may be revised from time to time by resolution of the port commission, to delete land area therefrom, if the land area to be deleted

was acquired by the port district with its own funds or by gift or transfer other than pursuant to RCW 53.25.050 or 53.25.060.

(b) As to any land area to be deleted under this subsection that was acquired or improved by the port district with funds obtained through RCW 53.36.100 or section 1 of this act, the port district ~~((shall))~~ must deposit funds equal to the fair market value of the lands and improvements into the fund for future use described in RCW 53.36.100 or section 1 of this act and such funds ~~((shall be))~~ are thereafter subject to RCW 53.36.100 or section 1 of this act. The fair market value of the land and improvements ~~((shall))~~ must be determined as of the effective date of the port commission action deleting the land from the industrial development district and ~~((shall))~~ must be determined by an average of at least two independent appraisals by professionally designated real estate appraisers ~~((as defined in RCW 74.46.020))~~ or licensed real estate brokers. The funds ~~((shall))~~ must be deposited into the fund for future use described in RCW 53.36.100 within ninety days of the effective date of the port commission action deleting the land area from the industrial district. Land areas deleted from an industrial development district under this subsection ~~((shall))~~ are not ~~((be))~~ further subject to the provisions of this chapter. This subsection ~~((shall apply))~~ applies to presently existing and future industrial development districts. Land areas deleted from an industrial development district under this subsection that were included within such district for less than two years, if the port district acquired the land through condemnation or as a consequence of threatened condemnation, ~~((shall))~~ must be offered for sale, for cash, at the appraised price, to the former owner of the property from whom the district obtained title. Such offer ~~((shall))~~ must be made by certified or registered letter to the last known address of the former owner. The letter ~~((shall))~~ must include the appraised price of the property and notice that the former owner must respond in writing within thirty days or lose the right to purchase. If this right to purchase is exercised, the sale ~~((shall))~~ must be closed by midnight of the sixtieth day, including nonbusiness days, following close of the thirty-day period.

NEW SECTION. Sec. 3. A new section is added to chapter 84.55 RCW to read as follows:

(1) Except as provided in section 1(3) of this act, RCW 84.55.010 does not apply to a levy under section 1 of this act.

(2) For purposes of applying the provisions of this chapter, a levy by or for a port district under section 1(3) of this act must be treated in the same manner as a separate regular property tax levy made by or for a separate taxing district.

NEW SECTION. Sec. 4. A port district may not levy taxes under RCW 53.36.100 for collection in 2026 and thereafter.

NEW SECTION. Sec. 5. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2026:

1RCW 53.36.100 (Levy for industrial development district purposes—Notice—Petition—Election) and 1994 c 278 s 1, 1982 1st ex.s. c 3 s 1, 1979 c 76 s 1, 1973 1st ex.s. c 195 s 58, & 1957 c 265 s 1; and

2RCW 53.36.110 (Levy for industrial development district purposes—Excess funds to be used solely for retirement of general obligations) and 1957 c 265 s 2.

NEW SECTION. **Sec. 6.** Section 1 of this act applies to taxes levied for collection in 2016 and thereafter.

Passed by the House March 10, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 136

[Engrossed Substitute House Bill 1410]

WATER-SEWER DISTRICTS--COMPETITIVE BIDDING PROCESS

AN ACT Relating to modifying provisions governing the competitive bidding process of water-sewer districts; and amending RCW 57.08.050.

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

Sec. 1. RCW 57.08.050 and 2009 c 229 s 11 are each amended to read as follows:

(1) All work ordered, the estimated cost of which is in excess of ~~((twenty))~~ fifty thousand dollars, shall be let by contract and competitive bidding. Before awarding any such contract the board of commissioners shall publish a notice in a newspaper of general circulation where the district is located at least one thirteen days before the last date upon which bids will be received, inviting sealed proposals for such work, plans and specifications which must at the time of publication of such notice be on file in the office of the board of commissioners subject to the public inspection. The notice shall state generally the work to be done and shall call for proposals for doing the same to be sealed and filed with the board of commissioners on or before the day and hour named therein.

Each bid shall be accompanied by a certified or cashier's check or postal money order payable to the order of the county treasurer for a sum not less than five percent of the amount of the bid, or accompanied by a bid bond in an amount not less than five percent of the bid with a corporate surety licensed to do business in the state, conditioned that the bidder will pay the district as liquidated damages the amount specified in the bond, unless the bidder enters into a contract in accordance with the bidder's bid, and no bid shall be considered unless accompanied by such check, cash or bid bond. At the time and place named such bids shall be publicly opened and read and the board of commissioners shall proceed to canvass the bids and may let such contract to the lowest responsible bidder upon plans and specifications on file or to the best bidder submitting the bidder's own plans and specifications. The board of commissioners may reject all bids for good cause and readvertise and in such case all checks, cash or bid bonds shall be returned to the bidders. If the contract is let, then all checks, cash, or bid bonds shall be returned to the bidders, except that of the successful bidder, which shall be retained until a contract shall be entered into for doing the work, and a bond to perform such work furnished with sureties satisfactory to the board of commissioners in the full amount of the contract price between the bidder and the commission in accordance with the bid. If the bidder fails to enter into the contract in accordance with the bid and furnish the bond within ten days from the date at which the bidder is notified that

the bidder is the successful bidder, the check, cash, or bid bonds and the amount thereof shall be forfeited to the district. If the bidder fails to enter into a contract in accordance with the bidder's bid, and the board of commissioners deems it necessary to take legal action to collect on any bid bond required by this section, then the district shall be entitled to collect from the bidder any legal expenses, including reasonable attorneys' fees occasioned thereby. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project if a second or subsequent call for bids is made for the project.

(2) As an alternative to requirements under subsection (1) of this section, a water-sewer district may let contracts using the small works roster process under RCW 39.04.155.

(3) Any purchase of materials, supplies, or equipment, with an estimated cost in excess of forty thousand dollars, shall be by contract. Any purchase of materials, supplies, or equipment, with an estimated cost of less than fifty thousand dollars shall be made using the process provided in RCW 39.04.190. Any purchase of materials, supplies, or equipment with an estimated cost of fifty thousand dollars or more shall be made by competitive bidding following the procedure for letting contracts for projects under subsection (1) of this section.

(4) As an alternative to requirements under subsection (3) of this section, a water-sewer district may let contracts for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with the competitive bidding law for purchases applicable to the state agency, county, city, or town. The price and terms for purchases shall be as described on the applicable roster.

(5) The board may waive the competitive bidding requirements of this section pursuant to RCW 39.04.280 if an exemption contained within that section applies to the purchase or public work.

Passed by the House March 3, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 137

[Substitute House Bill 1496]

VOCATIONAL REHABILITATION

AN ACT Relating to addressing vocational rehabilitation by making certain recommendations from the vocational rehabilitation subcommittee permanent and creating certain incentives for employers to employ injured workers with permanent disabilities; amending RCW 51.16.120, 51.32.095, and 51.44.040; reenacting and amending RCW 51.32.099; adding a new section to chapter 51.32 RCW; creating new sections; and repealing 2013 c 331 s 3, 2011 c 291 s 3, and 2013 c 331 s 6 (uncodified).

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

Sec. 1. RCW 51.16.120 and 2010 c 213 s 1 are each amended to read as follows:

(1) Whenever a worker has a previous bodily disability from any previous injury or disease, whether known or unknown to the employer, and ~~((shall))~~ suffers a further disability from injury or occupational disease in employment

covered by this title and becomes totally and permanently disabled from the combined effects thereof or dies when death was substantially accelerated by the combined effects thereof, then the experience record of an employer insured with the state fund at the time of the further injury or disease ((shall) must be charged and a self-insured employer ((shall) must pay directly into the reserve fund only the accident cost which would have resulted solely from the further injury or disease, had there been no preexisting disability, and which accident cost ((shall) must be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to such employer at the time of the further injury or disease and the total cost of the pension reserve ((shall) must be assessed against the second injury fund. Except as provided in subsection (2) of this section, the department ((shall) must pass upon the application of this section in all cases where benefits are paid for total permanent disability or death and issue an order thereon appealable by the employer. Pending outcome of such appeal the transfer or payment ((shall) must be made as required by such order.

(2) If a self-insured employer is in default or the director has withdrawn the certification of a self-insured employer, the department ((shall) may not pass on the application of this section. In such cases, the total cost of the pension reserve ((shall) must first be assessed against the defaulting self-insured employer's deposit required by RCW 51.14.020 and in cases where the surety funds are insufficient the remaining cost of the pension reserve ((shall) must be assessed against the insolvency trust fund.

(3) The department ((shall) must, in cases of claims of workers sustaining injuries or occupational diseases in the employ of state fund employers, recompute the experience record of such employers when the claims of workers injured in their employ have been found to qualify for payments from the second injury fund after the regular time for computation of such experience records and the department may make appropriate adjustments in such cases including cash refunds or credits to such employers.

~~(4) ((To encourage employment of injured workers who are not reemployed by the employer at the time of injury, the department may adopt rules providing for the reduction or elimination of premiums or assessments from subsequent employers of such workers and may also adopt rules for the reduction or elimination of charges against such employers in the event of further injury to such workers in their employ.~~

~~(5))~~ To encourage employment of injured workers who have a developmental disability as defined in RCW 71A.10.020, the department may adopt rules providing for the reduction or elimination of premiums or assessments from employers of such workers and may also adopt rules for the reduction or elimination of charges against their employers in the event of further injury to such workers in their employ.

Sec. 2. RCW 51.32.095 and 2013 c 331 s 1 are each amended to read as follows:

(1) One of the primary purposes of this title is to enable the injured worker to become employable at gainful employment. To this end, the department or self-insurers ((shall) must utilize the services of individuals and organizations, public or private, whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the

supervisor of industrial insurance in such programs of vocational rehabilitation as may be reasonable to make the worker employable consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals or organizations and prior to final evaluation of the worker's permanent disability and in the sole opinion of the supervisor or supervisor's designee, whether or not medical treatment has been concluded, vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment, the supervisor or supervisor's designee may, in his or her sole discretion, pay or, if the employer is a self-insurer, direct the self-insurer to pay the cost as provided in subsection ~~((4))~~ (5) of this section or RCW 51.32.099, as appropriate. An injured worker may not participate in vocational rehabilitation under this section or RCW 51.32.099 if such participation would result in a payment of benefits as described in RCW 51.32.240(5), and any benefits so paid ~~((shall))~~ must be recovered according to the terms of that section.

(2) ~~((When in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, then the following order of priorities shall be used))~~ Vocational rehabilitation services may be provided to an injured worker when in the sole discretion of the supervisor or the supervisor's designee vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment. In determining whether to provide vocational services and at what level, the following list must be used, in order of priority with the highest priority given to returning a worker to employment:

- (a) Return to the previous job with the same employer;
- (b) Modification of the previous job with the same employer including transitional return to work;
- (c) A new job with the same employer in keeping with any limitations or restrictions;
- (d) Modification of a new job with the same employer including transitional return to work;
- (e) Modification of the previous job with a new employer;
- (f) A new job with a new employer or self-employment based upon transferable skills;
- (g) Modification of a new job with a new employer;
- (h) A new job with a new employer or self-employment involving on-the-job training;
- (i) Short-term retraining ~~((and job placement))~~.

(3) Notwithstanding subsection (2) of this section, vocational services may be provided to an injured worker who has suffered the loss or complete use of both legs, or arms, or one leg and one arm, or total eyesight when, in the sole discretion of the supervisor or the supervisor's designee, these services will either substantially improve the worker's quality of life or substantially improve the worker's ability to function in an employment setting, regardless of whether or not these services are either necessary or reasonably likely to make the worker employable at any gainful employment. Vocational services must be completed prior to the commencement of the worker's entitlement to benefits under RCW 51.32.060. However, workers who are eligible for vocational services under this

subsection are not eligible for option 2 benefits, as provided in RCW 51.32.099(4) and section 5 of this act.

(4) To encourage the employment of individuals who have suffered an injury or occupational disease resulting in permanent disability which may be a substantial obstacle to employment, the supervisor or supervisor's designee, in his or her sole discretion, may provide assistance including job placement services for eligible injured workers who are receiving vocational services under the return-to-work priorities listed in subsection (2)(b) through (i) of this section, except for self-employment, and to employers that employ them. The assistance listed in (a) through (f) of this subsection is only available in cases where the worker is employed:

(a) Reduction or elimination of premiums or assessments owed by employers for such workers;

(b) Reduction or elimination of charges against the employers in the event of further injury to such workers in their employ;

(c) Reimbursement of the injured worker's wages for light duty or transitional work consistent with the limitations in RCW 51.32.090(4)(c);

(d) Reimbursement for the costs of clothing that is necessary to allow the worker to perform the offered work consistent with the limitations in RCW 51.32.090(4)(e);

(e) Reimbursement for the costs of tools or equipment to allow the worker to perform the work consistent with the limitations in RCW 51.32.090(4)(f);

(f) A one-time payment equal to the lesser of ten percent of the worker's wages including commissions and bonuses paid or ten thousand dollars for continuous employment without reduction in base wages for at least twelve months. The twelve months begin the first date of employment and the one-time payment is available at the sole discretion of the supervisor of industrial insurance;

(g) The benefits described in this section are available to a state fund employer without regard to whether the worker was employed by the state fund employer at the time of injury. The benefits are available to a self-insured employer only in cases where the worker was employed by a state fund employer at the time of injury or occupational disease manifestation;

(h) The benefits described in (a) through (f) of this subsection (4) are only available in instances where a vocational rehabilitation professional and the injured worker's health care provider have confirmed that the worker has returned to work that is consistent with the worker's limitations and physical restrictions.

(5)(a) For vocational plans approved prior to July 1, 1999, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, transportation, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed three thousand dollars in any fifty-two week period, and the cost of continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(b) When the department has approved a vocational plan for a worker between July 1, 1999, through December 31, 2007, costs for vocational

rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section may include the cost of books, tuition, fees, supplies, equipment, child or dependent care, and other necessary expenses for any such worker in an amount not to exceed four thousand dollars in any fifty-two week period, and the cost of transportation and continuing the temporary total disability compensation under RCW 51.32.090 while the worker is actively and successfully undergoing a formal program of vocational rehabilitation.

(c) The expenses allowed under (a) or (b) of this subsection may include training fees for on-the-job training and the cost of furnishing tools and other equipment necessary for self-employment or reemployment. However, compensation or payment of retraining with job placement expenses under (a) or (b) of this subsection may not be authorized for a period of more than fifty-two weeks, except that such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

(d) In cases where the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging (~~((shall))~~) must also be paid.

(e) Costs paid under this subsection (~~((shall))~~) must be chargeable to the employer's cost experience or (~~((shall))~~) must be paid by the self-insurer as the case may be.

~~((5))~~ (6) In addition to the vocational rehabilitation expenditures provided for under subsection (~~((4))~~) (5) of this section and RCW 51.32.099, an additional five thousand dollars may, upon authorization of the supervisor or the supervisor's designee, be expended for: (a) Accommodations for an injured worker that are medically necessary for the worker to participate in an approved retraining plan; and (b) accommodations necessary to perform the essential functions of an occupation in which an injured worker is seeking employment, consistent with the retraining plan or the recommendations of a vocational evaluation. The injured worker's attending physician or licensed advanced registered nurse practitioner must verify the necessity of the modifications or accommodations. The total expenditures authorized in this subsection and the expenditures authorized under RCW 51.32.250 (~~((shall))~~) may not exceed five thousand dollars.

~~((6))~~ (7)(a) When the department has approved a vocational plan for a worker prior to January 1, 2008, regardless of whether the worker has begun participating in the approved plan, costs for vocational rehabilitation benefits allowed by the supervisor or supervisor's designee under subsection (1) of this section are limited to those provided under subsections (~~((4) and))~~ (5) and (6) of this section.

(b) For vocational plans approved for a worker between January 1, 2008, through (~~((June 30, 2016))~~) July 31, 2015, total vocational costs allowed by the supervisor or supervisor's designee under subsection (1) of this section (~~((shall be))~~) is limited to those provided under the pilot program established in RCW 51.32.099, and vocational rehabilitation services (~~((shall))~~) must conform to the requirements in RCW 51.32.099.

~~((7))~~ (8) The department (~~((shall))~~) must establish criteria to monitor the quality and effectiveness of rehabilitation services provided by the individuals and organizations (~~((used under subsection (1) of this section and under RCW~~

51.32.099)). The state fund ~~((shall))~~ must make referrals for vocational rehabilitation services based on these performance criteria.

~~((8))~~ (9) The department ~~((shall))~~ must engage in, where feasible and cost-effective, a cooperative program with the state employment security department to provide job placement services under this section ~~((and RCW 51.32.099))~~ including participation by the department as a partner with WorkSource and with the private vocational rehabilitation community to refer workers to these vocational professionals for job search and job placement assistance. As a partner, the department must place vocational professional full-time employees at selected WorkSource locations who will work with employers to market the benefits of on-the-job training programs and preferred worker financial incentives as described in RCW 51.32.095(4). For the purposes of this subsection, "WorkSource" means the established state system that administers the federal workforce investment act of 1998.

~~((9))~~ (10) The benefits in this section ~~((and))~~, RCW 51.32.099 ~~((shall))~~, and section 5 of this act must be provided for the injured workers of self-insured employers. Self-insurers ~~((shall))~~ must report both benefits provided and benefits denied ~~((under this section and RCW 51.32.099))~~ in the manner prescribed by the department by rule adopted under chapter 34.05 RCW. The director may, in his or her sole discretion and upon his or her own initiative or at any time that a dispute arises under this section ~~((or))~~, RCW 51.32.099 or section 5 of this act, promptly make such inquiries as circumstances require and take such other action as he or she considers will properly determine the matter and protect the rights of the parties.

~~((10))~~ (11) Except as otherwise provided ~~((in this section or RCW 51.32.099))~~, the benefits provided for in this section ~~((and))~~, RCW 51.32.099, and section 5 of this act are available to any otherwise eligible worker regardless of the date of industrial injury. However, claims ~~((shall))~~ may not be reopened solely for vocational rehabilitation purposes.

NEW SECTION. Sec. 3. The following acts or parts of acts are each repealed:

- (1) 2013 c 331 s 3 and 2011 c 291 s 3 (uncodified); and
- (2) 2013 c 331 s 6 (uncodified).

Sec. 4. RCW 51.32.099 and 2013 c 331 s 2 and 2013 c 326 s 1 are each reenacted and amended to read as follows:

(1)(a) The legislature intends to create improved vocational outcomes for Washington state injured workers and employers through legislative and regulatory change under a pilot program for the period of January 1, 2008, through ~~((June 30, 2016))~~ July 31, 2015. This pilot vocational system is intended to allow opportunities for eligible workers to participate in meaningful retraining in high-demand occupations, improve successful return to work and achieve positive outcomes for workers, reduce the incidence of repeat vocational services, increase accountability and responsibility, and improve cost predictability. To facilitate the study and evaluation of the results of the proposed changes, the department ~~((shall))~~ must establish the temporary funding of certain state fund vocational costs through the medical aid account to ensure the appropriate assessments to employers for the costs of their claims for vocational services in accordance with RCW 51.32.0991.

(b) In implementing the pilot program, the department (~~(shall)~~) must:

(i) Establish a vocational initiative project that includes participation by the department as a partner with WorkSource, the established state system that administers the federal workforce investment act of 1998. As a partner, the department (~~(shall)~~) must place vocational professional full-time employees at pilot WorkSource locations; refer some workers for vocational services to these vocational professionals; and work with employers in work source pilot areas to market the benefits of on-the-job training programs and with community colleges to reserve slots in high employer demand programs of study as defined in RCW 28B.50.030. These on-the-job training programs and community college slots may be considered by both department and private sector vocational professionals for vocational plan development. The department will also assist stakeholders in developing additional vocational training programs in various industries, including but not limited to agriculture and construction. These programs will expand the choices available to injured workers in developing their vocational training plans with the assistance of vocational professionals.

(ii) Develop and maintain a register of state fund and self-insured workers who have been retrained or have selected any of the vocational options described in this section for at least the duration of the pilot program.

(iii) Create a vocational rehabilitation subcommittee made up of members appointed by the director for at least the duration of the pilot program. This subcommittee (~~(shall)~~) must provide the business and labor partnership needed to maintain focus on the intent of the pilot program, as described in this section, and provide consistency and transparency to the development of rules and policies. The subcommittee (~~(shall)~~) must report to the director at least annually and recommend to the director and the legislature any additional statutory changes needed, which may include extension of the pilot period. The subcommittee (~~(shall)~~) must provide input and oversight with the department concerning the study required under (b) of this subsection. The subcommittee (~~(shall)~~) must provide recommendations for additional changes or incentives for injured workers to return to work with their employer of injury. The subcommittee (~~(shall)~~) must also consider options that, under limited circumstances, would allow injured workers to attend baccalaureate institutions under their vocational rehabilitation plans and, by December 31, 2013, the subcommittee (~~(shall)~~) must provide recommendations to the director and the legislature on statutory changes needed to develop those options.

(iv) In collaboration with the subcommittee, the department (~~(shall)~~) must develop an annual report concerning Washington's workers' compensation vocational rehabilitation system to the legislature with the final report due by December 1, (~~(2015)~~) 2014. The final report (~~(shall)~~) must include an assessment and recommendations for further legislative action.

(2)(a) For the purposes of this section, the day the worker commences vocational plan development means the date the department or selfinsurer notifies the worker of his or her eligibility for plan development services or of an eligibility determination in response to a dispute of a vocational decision.

(b) When the supervisor or supervisor's designee has decided that vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, he or she (~~(shall)~~) must be provided with services

necessary to develop a vocational plan that, if completed, would render the worker employable. The vocational professional assigned to the claim (~~(shall)~~) must, at the initial meeting with the worker, fully inform the worker of the return-to-work priorities set forth in RCW 51.32.095(2) and of his or her rights and responsibilities under the workers' compensation vocational system. The department (~~(shall)~~) must provide tools to the vocational professional for communicating this and other information required by RCW 51.32.095 and this section to the worker.

(c) On the date the worker commences vocational plan development, the department (~~(shall)~~) must also inform the employer in writing of the employer's right to make a valid return-to-work offer during the first fifteen days following the commencement of vocational plan development. However, at the sole discretion of the supervisor or the supervisor's designee, an employer may be granted an extension of time of up to ten additional days to make a valid return-to-work offer. The additional days may be allowed by the department with or without a request from the employer. The extension may only be granted if the employer made a return-to-work offer to the worker within fifteen days of the date the worker commenced vocational plan development that met some but not all of the requirements in this section. To be valid, the offer must be for bona fide employment with the employer of injury, consistent with the worker's documented physical and mental restrictions as provided by the worker's health care provider. When the employer makes a valid return-to-work offer, the vocational plan development services and temporary total disability compensation (~~(shall be)~~) are terminated effective on the starting date for the job without regard to whether the worker accepts the return-to-work offer.

(d) Following the time period described in (c) of this subsection, the employer may still provide, and the worker may accept, any valid return-to-work offer. The worker's acceptance of such an offer (~~(shall)~~) must result in the termination of vocational plan development or implementation services and temporary total disability compensation effective the day the employment begins.

(3)(a) All vocational plans must contain an accountability agreement signed by the worker detailing expectations regarding progress, attendance, and other factors influencing successful participation in the plan. Failure to abide by the agreed expectations (~~(shall)~~) must result in suspension of vocational benefits pursuant to RCW 51.32.110, including the opportunity for the worker to demonstrate good cause.

(b) Any formal education included as part of the vocational plan must be for an accredited or licensed program or other program approved by the department. The department (~~(shall)~~) must develop rules that provide criteria for the approval of nonaccredited or unlicensed programs.

(c) The vocational plan for an individual worker must be completed and submitted to the department within ninety days of the day the worker commences vocational plan development. The department may extend the ninety days for good cause. Criteria for good cause (~~(shall)~~) must be provided in rule. The frequency and reasons for good cause extensions (~~(shall)~~) must be reported to the subcommittee created under subsection (1) (b)(iii) of this section.

(d) Costs for the vocational plan may include books, tuition, fees, supplies, equipment, child or dependent care, training fees for on-the-job training, the cost

of furnishing tools and other equipment necessary for self-employment or reemployment, and other necessary expenses in an amount not to exceed twelve thousand dollars. This amount ((shall)) must be adjusted effective July 1 of each year for vocational plans or retraining benefits available under subsection (4)(b) of this section approved on or after this date but before June 30 of the next year based on the average percentage change in tuition for the next fall quarter for all Washington state community colleges.

(e) The duration of the vocational plan ((shall)) may not exceed two years from the date the plan is implemented. The worker ((shall)) must receive temporary total disability compensation under RCW 51.32.090 and the cost of transportation while he or she is actively and successfully participating in a vocational plan.

(f) If the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging ((shall)) must also be paid.

(4) Vocational plan development services ((shall)) must be completed within ninety days of commencing. Except as provided in RCW 51.32.095(3), during vocational plan development the worker ((shall)) must, with the assistance of a vocational professional, participate in vocational counseling and occupational exploration to include, but not be limited to, identifying possible job goals, training needs, resources, and expenses, consistent with the worker's physical and mental status. A vocational rehabilitation plan ((shall)) must be developed by the worker and the vocational professional and submitted to the department or selfinsurer. Following this submission, the worker ((shall)) must elect one of the following options:

(a) Option 1: The department or selfinsurer implements and the worker participates in the vocational plan developed by the vocational professional and approved by the worker and the department or selfinsurer. For state fund claims, the department must review and approve the vocational plan before implementation may begin. If the department takes no action within fifteen days, the plan is deemed approved. The worker may, within fifteen days of the department's approval of the plan or of a determination that the plan is valid following a dispute, elect option 2. However, in the sole discretion of the supervisor or supervisor's designee, the department may approve an election for option 2 benefits that was submitted in writing within twenty-five days of the department's approval of the plan or of a determination that the plan is valid following a dispute if the worker provides a written explanation establishing that he or she was unable to submit his or her election of option 2 benefits within fifteen days. In no circumstance may the department approve of an election for option 2 benefits that was submitted more than twenty-five days after the department's approval of a retraining plan or of a determination that a plan is valid following a dispute.

(i) Following successful completion of the vocational plan, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1) ((shall)) must include consideration of transferable skills obtained in the vocational plan.

(ii) If a vocational plan is successfully completed on a claim which is thereafter reopened as provided in RCW 51.32.160, the cost and duration

available for any subsequent vocational plan is limited to that in subsection (3)(d) and (e) of this section, less that previously expended.

(b) Option 2: The worker declines further vocational services under the claim and receives an amount equal to six months of temporary total disability compensation under RCW 51.32.090. The award is payable in biweekly payments in accordance with the schedule of temporary total disability payments, until such award is paid in full. These payments (~~(shall)~~ may not include interest on the unpaid balance. However, upon application by the worker, and at the discretion of the department, the compensation may be converted to a lump sum payment. The vocational costs defined in subsection (3)(d) of this section (~~(shall)~~ must remain available to the worker, upon application to the department or selfinsurer, for a period of five years. The vocational costs (~~(shall)~~ must, if expended, be available for programs or courses at any accredited or licensed institution or program from a list of those approved by the department for tuition, books, fees, supplies, equipment, and tools, without department or selfinsurer oversight. The department (~~(shall)~~ must issue an order as provided in RCW 51.52.050 confirming the option 2 election, setting a payment schedule, and terminating temporary total disability benefits effective the date of the order confirming that election. The department (~~(shall)~~ must thereafter close the claim. A worker who elects option 2 benefits (~~(shall not be)~~ is not entitled to further temporary total, or to permanent total, disability benefits except upon a showing of a worsening in the condition or conditions accepted under the claim such that claim closure is not appropriate, in which case the option 2 selection will be rescinded and the amount paid to the worker will be assessed as an overpayment. A claim that was closed based on the worker's election of option 2 benefits may be reopened as provided in RCW 51.32.160, but cannot be reopened for the sole purpose of allowing the worker to seek vocational assistance.

(i) If within five years from the date the option 2 order becomes final, the worker is subsequently injured or suffers an occupational disease or reopens the claim as provided in RCW 51.32.160, and vocational rehabilitation is found both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1), the duration of any vocational plan under subsection (3)(e) of this section (~~(shall)~~ may not exceed eighteen months.

(ii) If the available vocational costs are utilized by the worker, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1) (~~(shall)~~ must include consideration of the transferable skills obtained.

(iii) If the available vocational costs are utilized by the worker and the claim is thereafter reopened as provided in RCW 51.32.160, the cost available for any vocational plan is limited to that in subsection (3)(d) of this section less that previously expended.

(iv) Option 2 may only be elected once per worker.

(c) The director, in his or her sole discretion, may provide the worker vocational assistance not to exceed that in subsection (3) of this section, without regard to the worker's prior option selection or benefits expended, where

vocational assistance would prevent permanent total disability under RCW 51.32.060.

(5)(a) As used in this section, "vocational plan interruption" means an occurrence (~~which~~) that disrupts the plan to the extent the employability goal is no longer attainable. "Vocational plan interruption" does not include institutionally scheduled breaks in educational programs, occasional absence due to illness, or modifications to the plan which will allow it to be completed within the cost and time provisions of subsection (3)(d) and (e) of this section.

(b) When a vocational plan interruption is beyond the control of the worker, the department or selfinsurer (~~shall~~) must recommence plan development. If necessary to complete vocational services, the cost and duration of the plan may include credit for that expended prior to the interruption. A vocational plan interruption is considered outside the control of the worker when it is due to the closure of the accredited institution, when it is due to a death in the worker's immediate family, or when documented changes in the worker's accepted medical conditions prevent further participation in the vocational plan.

(c) When a vocational plan interruption is the result of the worker's actions, the worker's entitlement to benefits (~~shall~~) must be suspended in accordance with RCW 51.32.110, including the opportunity for the worker to demonstrate good cause. If plan development or implementation is recommenced, the cost and duration of the plan (~~shall~~) may not include credit for that expended prior to the interruption. A vocational plan interruption is considered a result of the worker's actions when it is due to the failure to meet attendance expectations set by the training or educational institution, failure to achieve passing grades or acceptable performance review, unaccepted or postinjury conditions that prevent further participation in the vocational plan, or the worker's failure to abide by the accountability agreement per subsection (3)(a) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 51.32 RCW to read as follows:

(1) Through the collaboration of the vocational rehabilitation subcommittee established in RCW 51.32.099, certain vocational rehabilitation benefits and options have been identified as permanently needed to support appropriate outcomes for eligible injured workers. To continue the partnership of business and labor with regard to best practices in the provision of vocational services and to identify further improvements to Washington's vocational rehabilitation system and benefits, the director must appoint a vocational rehabilitation advisory committee to consist of at least one member representing employers insured by the state fund, one member representing self-insured employers, and two members representing workers. The appointments must be made from lists of nominations provided by statewide business, self-insured employers, and labor organizations.

(2)(a) For the purposes of this section, the day the worker commences vocational plan development means the date the department or self-insurer notifies the worker of his or her eligibility for plan development services or of an eligibility determination in response to a dispute of a vocational decision.

(b) When the supervisor or supervisor's designee has decided that vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment, he or she must be provided with services necessary to develop a vocational plan that, if completed, would render the worker

employable. The vocational professional assigned to the claim must, at the initial meeting with the worker, fully inform the worker of the return-to-work priorities set forth in RCW 51.32.095(2) and of his or her rights and responsibilities under the workers' compensation vocational system. The department must provide tools to the vocational professional for communicating this and other information required by RCW 51.32.095 and this section to the worker.

(c) On the date the worker commences vocational plan development, the department must also inform the employer in writing of the employer's right to make a valid return-to-work offer during the first fifteen days following the commencement of vocational plan development. However, at the sole discretion of the supervisor or the supervisor's designee, an employer may be granted an extension of time of up to ten additional days to make a valid return-to-work offer. The additional days may be allowed by the department with or without a request from the employer. The extension may only be granted if the employer made a return-to-work offer to the worker within fifteen days of the date the worker commenced vocational plan development that met some but not all of the requirements in this section. To be valid, the offer must be for bona fide employment with the employer of injury, consistent with the worker's documented physical and mental restrictions as provided by the worker's health care provider. When the employer makes a valid return-to-work offer, the vocational plan development services and temporary total disability compensation must be terminated effective on the starting date for the job without regard to whether the worker accepts the return-to-work offer.

(d) Following the time period described in (c) of this subsection, the employer may still provide, and the worker may accept, any valid return-to-work offer. The worker's acceptance of such an offer must result in the termination of vocational plan development or implementation services and temporary total disability compensation effective the day the employment begins.

(3)(a) All vocational plans must contain an accountability agreement signed by the worker detailing expectations regarding progress, attendance, and other factors influencing successful participation in the plan. Failure to abide by the agreed expectations must result in suspension of vocational benefits pursuant to RCW 51.32.110, including the opportunity for the worker to demonstrate good cause.

(b) Any formal education included as part of the vocational plan must be for an accredited or licensed program or other program approved by the department. The department must develop rules that provide criteria for the approval of nonaccredited or unlicensed programs.

(c) The vocational plan for an individual worker must be completed and submitted to the department within ninety days of the day the worker commences vocational plan development. The department may extend the ninety days for good cause. Criteria for good cause must be provided in rule.

(d) Costs for the vocational plan may include books, tuition, fees, supplies, equipment, child or dependent care, training fees for on-the-job training, the cost of furnishing tools and other equipment necessary for self-employment or reemployment, and other necessary expenses in an amount not to exceed seventeen thousand five hundred dollars. This amount must be adjusted effective July 1st of each year for vocational plans or retraining benefits available under subsection (4)(b) of this section approved on or after this date but before June

30th of the next year based on the average percentage change in tuition for the next fall quarter for all Washington state community colleges. Effective July 1, 2016, and each July 1st thereafter, the increase cannot exceed two percent per year, unless the amount available would be less than one hundred fifty percent of the average cost of a two-year community college training plan. Effective July 1st following the calendar year in which the amount available is less than one hundred fifty percent of the average cost of a two-year community college plan, costs for newly approved plans can be up to one hundred fifty percent of this community college plan average. The average cost of two-year community college training plans will be calculated by the department based on plans completed during the preceding calendar year.

(e) The duration of the vocational plan may not exceed two years from the date the plan is implemented. The worker must receive temporary total disability compensation under RCW 51.32.090 and the cost of transportation while he or she is actively and successfully participating in a vocational plan.

(f) If the worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging must also be paid.

(4) Except as provided in RCW 51.32.095(3), during vocational plan development the worker must, with the assistance of a vocational professional, participate in vocational counseling and occupational exploration to include, but not be limited to, identifying possible job goals, training needs, resources, and expenses, consistent with the worker's physical and mental status. A vocational rehabilitation plan must be developed by the worker and the vocational professional and submitted to the department or self-insurer. Following this submission, the worker must elect one of the following options:

(a) Option 1: The department or self-insurer implements and the worker participates in the vocational plan developed by the vocational professional and approved by the worker and the department or self-insurer. For state fund claims, the department must review and approve the vocational plan before implementation may begin. If the department takes no action within fifteen days, the plan is deemed approved. Beginning the date the department approves the plan, or the date of a determination that the plan is valid following a dispute, through completion of the first academic quarter or three months' training, the worker may elect option 2. However, in the sole discretion of the supervisor or supervisor's designee, the department may approve an election for option 2 benefits that was submitted in writing within twenty-five days of the end of the first academic quarter or three months' training if the worker provides a written explanation establishing that he or she was unable to submit his or her election of option 2 benefits within fifteen days. In no circumstance may the department approve of an election for option 2 benefits that was submitted more than twenty-five days after the end of the first academic quarter or three months' training.

(i) Following successful completion of the vocational plan, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1) must include consideration of transferable skills obtained in the vocational plan.

(ii) If a vocational plan is successfully completed on a claim which is thereafter reopened as provided in RCW 51.32.160, the cost and duration

available for any subsequent vocational plan is limited to that in subsection (3)(d) and (e) of this section, less that previously expended.

(b) Option 2: The worker declines further vocational services under the claim and receives an amount equal to nine months of temporary total disability compensation under RCW 51.32.090. The award must be reduced by the amount of any temporary total disability compensation paid for days starting with the first day of the academic quarter or three months' training and for any days through the date the department received the worker's written election of option 2. The award is payable in biweekly payments in accordance with the schedule of temporary total disability payments, until such award is paid in full. These payments may not include interest on the unpaid balance. However, upon application by the worker, and at the discretion of the department, the compensation may be converted to a lump sum payment. The vocational costs defined in subsection (3)(d) of this section must remain available to the worker less any amount expended for the worker's participation in the first academic quarter or three months' training, upon application to the department or self-insurer, for a period of five years. The vocational costs must, if expended, be available for programs or courses at any accredited or licensed institution or program from a list of those approved by the department for tuition, books, fees, supplies, equipment, and tools, without department or self-insurer oversight. Up to ten percent of the total funds available to the worker can be used for vocational counseling and job placement services. The department must issue an order as provided in RCW 51.52.050 confirming the option 2 election, setting a payment schedule, and terminating temporary total disability benefits effective the date of the order confirming that election. The department must thereafter close the claim. A worker who elects option 2 benefits is not entitled to further temporary total, or to permanent total, disability benefits except upon a showing of a worsening in the condition or conditions accepted under the claim such that claim closure is not appropriate, in which case the option 2 selection must be rescinded and the amount paid to the worker must be assessed as an overpayment. A claim that was closed based on the worker's election of option 2 benefits may be reopened as provided in RCW 51.32.160, but cannot be reopened for the sole purpose of allowing the worker to seek vocational assistance.

(i) If, within five years from the date the option 2 order becomes final, the worker is subsequently injured or suffers an occupational disease or reopens the claim as provided in RCW 51.32.160, and vocational rehabilitation is found both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1), the duration of any vocational plan under subsection (3)(e) of this section may not exceed fifteen months.

(ii) If the available vocational costs are utilized by the worker, any subsequent assessment of whether vocational rehabilitation is both necessary and likely to enable the injured worker to become employable at gainful employment under RCW 51.32.095(1) must include consideration of the transferable skills obtained.

(iii) If the available vocational costs are utilized by the worker and the claim is thereafter reopened as provided in RCW 51.32.160, the cost available for any vocational plan is limited to that in subsection (3)(d) of this section less that previously expended.

(iv) Option 2 may only be elected once per worker.

(c) The director, in his or her sole discretion, may provide the worker vocational assistance not to exceed that in subsection (3) of this section, without regard to the worker's prior option selection or benefits expended, where vocational assistance would prevent permanent total disability under RCW 51.32.060.

(5)(a) "Vocational plan interruption" for the purposes of this section means an occurrence which disrupts the plan to the extent the employability goal is no longer attainable. "Vocational plan interruption" does not include institutionally scheduled breaks in educational programs, occasional absence due to illness, or modifications to the plan which will allow it to be completed within the cost and time provisions of subsection (3)(d) and (e) of this section.

(b) When a vocational plan interruption is beyond the control of the worker, the department or self-insurer must recommence plan development. If necessary to complete vocational services, the cost and duration of the plan may include credit for that expended prior to the interruption. A vocational plan interruption is considered outside the control of the worker when it is due to the closure of the accredited institution, when it is due to a death in the worker's immediate family, or when documented changes in the worker's accepted medical conditions prevent further participation in the vocational plan.

(c) When a vocational plan interruption is the result of the worker's actions, the worker's entitlement to benefits must be suspended in accordance with RCW 51.32.110, including the opportunity for the worker to demonstrate good cause. If plan development or implementation is recommenced, the cost and duration of the plan may not include credit for that expended prior to the interruption. A vocational plan interruption is considered a result of the worker's actions when it is due to the failure to meet attendance expectations set by the training or educational institution, failure to achieve passing grades or acceptable performance review, unaccepted or postinjury conditions that prevent further participation in the vocational plan, or the worker's failure to abide by the accountability agreement in subsection (3)(a) of this section.

(6) Costs paid for vocational services and plans must be chargeable to the employer's cost experience or must be paid by the self-insurer, as the case may be. For state fund vocational plans implemented on or after January 1, 2008, the costs may be paid from the medical aid fund at the sole discretion of the director under the following circumstances:

(a) The worker previously participated in a vocational plan or selected a worker option as described in RCW 51.32.099(4) or in subsection (4) of this section;

(b) The worker's prior vocational plan or selected option was based on an approved plan or option on or after January 1, 2008;

(c) For state fund employers, the date of injury or disease manifestation of the subsequent claim is within the period of time used to calculate their experience factor;

(d) The subsequent claim is for an injury or occupational disease that resulted from employment and work-related activities beyond the worker's documented restrictions.

(7) The vocational plan costs payable from the medical aid fund must include the costs of temporary total disability benefits, except those payable

from the supplemental pension fund, from the date the vocational plan is implemented to the date the worker completes the plan or ceases participation. The vocational costs paid from the medical aid fund may not be charged to the state fund employer's cost experience.

Sec. 6. RCW 51.44.040 and 2005 c 475 s 1 are each amended to read as follows:

(1) There ~~((shall be))~~ is in the office of the state treasurer~~(;)~~ a fund to be known and designated as the "second injury fund," which ~~((shall))~~ may be used only for the purpose of defraying charges against ~~((#))~~ employers and for supporting return-to-work outcomes for injured workers as provided in RCW 51.16.120, 51.32.095(4), and 51.32.250. The fund ~~((shall))~~ must be administered by the director. The state treasurer ~~((shall))~~ must be the custodian of the second injury fund and ~~((shall be))~~ is authorized to disburse moneys from it only upon written order of the director.

(2) Payments to the second injury fund from the accident fund ~~((shall))~~ must be made pursuant to rules adopted by the director. Costs of these payments may not affect the experience rating of employers insured by the state fund.

(3)(a) Assessments for the second injury fund ~~((shall))~~ must be imposed on self-insurers pursuant to rules adopted by the director. Such rules ~~((shall))~~ must provide for at least the following:

(i) Except as provided in (a)(ii) of this subsection, the amount assessed each self-insurer must be in the proportion that the payments made from the fund on account of claims made against self-insurers bears to the total sum of payments from the fund.

(ii) Except as provided in section 2, chapter 475, Laws of 2005, beginning with assessments imposed on or after July 1, 2009, the department ~~((shall))~~ must experience rate the amount assessed each self-insurer as long as the aggregate amount assessed is in the proportion that the payments made from the fund on account of claims made against self-insurers bears to the total sum of payments from the fund. The experience rating factor must provide equal weight to the ratio between expenditures made by the second injury fund for claims of the self-insurer to the total expenditures made by the second injury fund for claims of all self-insurers for the prior three fiscal years and the ratio of workers' compensation claim payments under this title made by the self-insurer to the total worker's compensation claim payments made by all self-insurers under this title for the prior three fiscal years. The weighted average of these two ratios must be divided by the latter ratio to arrive at the experience factor.

(b) For purposes of this subsection, "expenditures made by the second injury fund" mean the costs and charges described under RCW 51.32.250 and 51.16.120 ~~((3) and))~~ (4), and the amounts assessed to the second injury fund as described under RCW 51.16.120(1). Under no circumstances does "expenditures made by the second injury fund" include any subsequent payments, assessments, or adjustments for pensions, where the applicable second injury fund entitlement was established outside of the three fiscal years.

NEW SECTION. **Sec. 7.** The department of labor and industries is authorized to establish and adopt rules governing the eligibility for and administration of benefits available under RCW 51.16.120, 51.32.095, 51.32.099, 51.44.040, and section 5 of this act.

NEW SECTION. **Sec. 8.** The department of labor and industries must conduct a study of injured workers whose employers participate in the incentives provided in RCW 51.32.095(4) to determine the impact on return-to-work outcomes, long-term disability, and claim costs. By December 1, 2018, and in compliance with RCW 43.01.036, the department must submit a report to the appropriate committees of the legislature that details the results of the study conducted under this section.

NEW SECTION. **Sec. 9.** Sections 1, 2, and 6 of this act apply to all workers' compensation claims that are open on or after January 1, 2016, without regard to the date of injury or occupational disease manifestation.

NEW SECTION. **Sec. 10.** Section 5 of this act applies to all claims commencing vocational plan development on or after July 31, 2015, without regard to the date of injury or occupational disease manifestation.

Passed by the House March 9, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 138

[House Bill 1601]

COUNTIES--PUBLIC WORKS CONTRACTS--VENUE OF ACTIONS

AN ACT Relating to venue of actions by or against counties; and amending RCW 36.01.050.

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

Sec. 1. RCW 36.01.050 and 2005 c 282 s 42 are each amended to read as follows:

(1) All actions against any county may be commenced in the superior court of such county, or in the superior court of either of the two nearest judicial districts. All actions by any county shall be commenced in the superior court of the county in which the defendant resides, or in either of the two judicial districts nearest to the county bringing the action.

(2) The determination of the nearest judicial districts is measured by the travel time between county seats using major surface routes, as determined by the administrative office of the courts.

(3) Any provision in a public works contract with any county that requires actions arising under the contract to be commenced in the superior court of the county is against public policy and the provision is void and unenforceable. This subsection shall not be construed to void any contract provision requiring a dispute arising under the contract to be submitted to arbitration.

Passed by the House March 3, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 139

[Substitute House Bill 1604]

DEPARTMENT OF LABOR AND INDUSTRIES--WORK GROUP--FIREFIGHTERS--HAZARDOUS EXPOSURES

AN ACT Relating to an occupational disease exposure reporting requirement for firefighters; creating a new section; and providing an expiration date.

Be enacted by the Legislature of the State of Washington:

NEW SECTION. Sec. 1. (1) Beginning August 1, 2015, the department of labor and industries shall convene a work group to discuss establishing definitions, policies, and procedures for mandatory reporting of hazardous exposures suffered in the course of employment by firefighters.

(2) The work group must include, at a minimum, stakeholders representing firefighter unions, fire departments, fire chiefs, state fund public employers, and self-insured employers.

(3) By January 1, 2016, the department must report to the appropriate committees of the legislature any recommendations for legislation or rule making.

(4) This section expires January 31, 2016.

Passed by the House March 2, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 140

[Substitute House Bill 1617]

COURTS--CONSULTATION OF JUDICIAL INFORMATION SYSTEM

AN ACT Relating to the courts' consultation of the judicial information system before granting orders; and adding a new section to chapter 2.28 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 2.28 RCW to read as follows:

(1) Before granting an order under any of the following titles of the laws of the state of Washington, the court may consult the judicial information system or any related databases, if available, to determine criminal history or the pendency of other proceedings involving the parties:

(a) Granting any temporary or final order establishing a parenting plan or residential schedule or directing residential placement of a child or restraining or limiting a party's contact with a child under Title 26 RCW;

(b) Granting any order regarding a vulnerable child or adult or alleged incapacitated person irrespective of the title or where contained in the laws of the state of Washington;

(c) Granting letters of guardianship or administration or letters testamentary under Title 11 RCW;

(d) Granting any relief under Title 71 RCW;

(e) Granting any relief in a juvenile proceeding under Title 13 RCW; or

(f) Granting any order of protection, temporary order of protection, or criminal no-contact order under chapter 7.90, 7.92, 9A.46, 10.14, 10.99, 26.50, or 26.52 RCW.

(2) In the event that the court consults such a database, the court shall disclose that fact to the parties and shall disclose any particular matters relied upon by the court in rendering the decision. A copy of the document relied upon must be filed, as a confidential document, within the court file, with any confidential contact information such as addresses, phone numbers, or other information that might disclose the location or whereabouts of any person redacted from the document or documents.

Passed by the House March 9, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 141

[House Bill 1641]

CRIMES--TRAFFICKING IN SHELLFISH

AN ACT Relating to adding shellfish to the list of species types listed in RCW 77.15.260(1)(a); and amending RCW 77.15.260.

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

Sec. 1. RCW 77.15.260 and 2012 c 176 s 19 are each amended to read as follows:

(1) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the second degree if the person traffics in fish, shellfish, or wildlife with a wholesale value of less than two hundred fifty dollars and:

(a) The fish(~~(f, shellfish,))~~, shellfish, or wildlife is classified as game, food fish, shellfish, game fish, or protected wildlife and the trafficking is not authorized by statute or department rule; or

(b) The fish, shellfish, or wildlife is unclassified and the trafficking violates any department rule.

(2)(a) A person is guilty of unlawful trafficking in fish, shellfish, or wildlife in the first degree if the person commits the act described by subsection (1) of this section and:

(i) The fish, shellfish, or wildlife has a value of two hundred fifty dollars or more; or

(ii) The fish, shellfish, or wildlife is designated as an endangered species or deleterious exotic wildlife and such trafficking is not authorized by any statute or department rule.

(b) For purposes of this subsection (2), whenever any series of transactions that constitute unlawful trafficking would, when considered separately, constitute unlawful trafficking in the second degree due to the value of the fish, shellfish, or wildlife, and the series of transactions are part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all the transactions considered when determining the degree of unlawful trafficking involved.

(3)(a) Unlawful trafficking in fish, shellfish, or wildlife in the second degree is a class C felony.

(b) Unlawful trafficking in fish, shellfish, or wildlife in the first degree is a class B felony.

Passed by the House March 3, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 142

[Engrossed Substitute House Bill 1695]

TRANSPORTATION CONSTRUCTION MATERIALS--RECYCLING

AN ACT Relating to establishing a priority for the use, reuse, and recycling of construction aggregate and recycled concrete materials in Washington; adding new sections to chapter 70.95 RCW; creating a new section; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the Washington state highway system is extensive, with over one hundred seventy-five thousand miles of public, city, county, and state highway pavements and over eight thousand seven hundred built structures, built using large quantities of construction aggregates, asphalt, concrete, steel, and cement. Much of our transportation and infrastructure system is in need of major rehabilitation or total reconstruction. These natural resource construction materials used to build our existing system are too valuable to be wasted and landfilled. Some of the best natural construction materials produced in Washington state are already in use for highways, bridges, and building construction. Effective and responsible recycling is an effective life-cycle strategy to reuse these construction materials in the construction of new state and local transportation and infrastructure projects as well as to repair, reconstruct, and maintain them.

(2) The legislature further finds that the recycling of aggregates and other transportation construction materials makes sound economic, environmental, and engineering sense and is in keeping with meeting Washington state's greenhouse gas reduction priorities. The economic benefits from the reuse and recycling of these valuable, finite, and nonrenewable materials can be very effective in reducing the cost of designing, engineering, and construction of new transportation projects and will make greater use of limited state and local transportation funds for additional highway construction, rehabilitation, preservation, or maintenance projects.

(3) The legislature further finds that the reuse of construction aggregate and recycled concrete materials into new transportation and infrastructure structure projects is known to:

(a) Promote the conservation and protection of permitted and unpermitted construction aggregate resources;

(b) Reduce the need for the consumption of new construction aggregate materials;

(c) Encourage the reuse and recycling of currently classified waste materials and discourage landfilling of valuable natural resources;

(d) Reduce waste, preserve finite landfill space, and reduce illegal dumping by encouraging reuse and recycling through sound and practical environmental best management and handling practices;

(e) Reduce truck trips and related transportation emissions;

(f) Reduce greenhouse gases related to the construction of new transportation projects, reduce embodied energy, and improve and advance the sustainable principles and practices of the state of Washington and its transportation system;

(g) Reduce project material and construction costs for state and local level projects; and

(h) Be consistent with the governor's executive order No. 13-04 (September 2013), the state department of transportation sustainability executive order No. E1082.00 (August 2012), and presidential executive order No. 13423 (January 2007).

NEW SECTION. Sec. 2. A new section is added to chapter 70.95 RCW to read as follows:

(1) The department of transportation and its implementation partners must collaboratively develop and establish objectives and strategies for the reuse and recycling of construction aggregate and recycled concrete materials. This process must include the development of criteria for the successful and sustainable long-term recycling of construction aggregate and recycled concrete materials in Washington state transportation, roadway, street, highway, and other transportation infrastructure projects.

(2) The department of transportation must, unless construction aggregate and recycled concrete materials are not readily available and cost-effective, specify and annually use a minimum of twentyfive percent construction aggregate and recycled concrete materials on its cumulative transportation, roadway, street, highway, and other transportation infrastructure projects.

(3)(a) All local governmental entities with a population of one hundred thousand residents or more must, as part of their contracting process, request and accept bids that include the use of construction aggregate and recycled concrete materials for each transportation, roadway, street, highway, or other transportation infrastructure project.

(b) Prior to awarding a contract for a transportation, roadway, street, highway, or other transportation infrastructure project, the local governmental entity must compare the lowest responsible bid proposing to use construction aggregate and recycled concrete materials with the lowest responsible bid not proposing to use construction aggregate and recycled concrete materials, and award the contract to the bidder proposing to use the highest percentage of construction aggregate and recycled concrete materials if that bid is the same as, or less than, a bidder not proposing to use construction aggregate and recycled concrete materials or proposing to use a lower percentage of construction aggregate and recycled concrete materials.

(4) Any local governmental entity with a population of less than one hundred thousand residents must:

(a) Review and determine the capacity for recycling and reuse of construction aggregate and recycled concrete materials for roadway, street, highway, and other transportation infrastructure projects in its jurisdiction;

(b) Establish practical and applicable strategies to recycle and reuse construction aggregate and recycled concrete materials for roadway, street, highway, and other transportation infrastructure projects in its jurisdiction; and

(c) Upon the completion of the review and strategy development, begin implementing the strategies to achieve the recycling and reuse objectives established for its jurisdiction.

(5) The applications and related specification standards for state and local transportation and infrastructure projects that reuse and recycle construction aggregate and recycled concrete materials to be used in the implementation of this section are outlined in the department of transportation's standard specifications for road, bridge, and municipal construction, section 9-03.21, table 9-03.21(1)E.

(6) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Construction aggregate and recycled concrete materials" means reclaimed coarse and fine aggregate cement and concrete mixtures as commonly defined by the American public works association, the federal highway administration, and department of transportation specifications.

(b) "Implementation partners" means local governmental entities and interested Washington-based associations representing the appropriate sectors of the construction industry.

(c) "Local governmental entities" means cities or counties.

NEW SECTION. Sec. 3. A new section is added to chapter 70.95 RCW to read as follows:

(1) The department of transportation, together with its implementation partners, as that term is defined in section 2 of this act, must report annually to the legislature on the implementation of section 2 of this act. The annual report must be submitted to the legislature, consistent with RCW 43.01.036, by January 2nd of each year from 2017 through 2020.

(2) This section expires July 1, 2021.

NEW SECTION. Sec. 4. This act takes effect January 1, 2016.

Passed by the House March 11, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 143

[House Bill 1706]

HIGHER EDUCATION--MILITARY EXEMPTIONS--BUILDING AND SERVICES AND ACTIVITIES FEES

AN ACT Relating to authorizing waivers of building fees and services and activities fees for certain military service members; and adding a new section to chapter 28B.15 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.15 RCW to read as follows:

For military service members eligible to participate in the United States department of defense tuition assistance program, the governing boards of the

community and technical colleges, the state universities, the regional universities, and The Evergreen State College may waive all or a portion of the following fees not covered by that program:

- (1) Building fees as defined in RCW 28B.15.025; and
- (2) Services and activities fees as defined in RCW 28B.15.041.

Passed by the House March 2, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 144

[Substitute House Bill 1851]

BRIDGES--STRUCTURALLY DEFICIENT--EXPEDITED PERMITTING AND CONTRACTING

AN ACT Relating to expedited permitting and contracting for bridges owned by local governments that are deemed structurally deficient; amending RCW 47.28.170; adding a new section to chapter 43.21C RCW; and adding a new section to chapter 39.04 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21C RCW to read as follows:

(1) The department must amend the categorical exemption available to Washington department of transportation projects under WAC 197-11-800(26) as of the effective date of this section so that the same categorical exemption applies to structurally deficient city, town, or county bridge repair or replacement projects.

(2) For purposes of this section, "structurally deficient" means a bridge that is classified as in poor condition under the state bridge condition rating system and is reported by the state to the national bridge inventory as having a deck, superstructure, or substructure rating of four or below. Structurally deficient bridges are characterized by deteriorated conditions of significant bridge elements and potentially reduced load-carrying capacity. Bridges deemed structurally deficient typically require significant maintenance and repair to remain in service, and require major rehabilitation or replacement to address the underlying deficiency.

Sec. 2. RCW 47.28.170 and 2006 c 334 s 23 are each amended to read as follows:

(1) Whenever the department finds that as a consequence of accident, natural disaster, or other emergency, an existing state highway is in jeopardy or is rendered impassible in one or both directions and the department further finds that prompt reconstruction, repair, or other work is needed to preserve or restore the highway for public travel, the department may obtain at least three written bids for the work without publishing a call for bids, and the secretary of transportation may award a contract forthwith to the lowest responsible bidder.

The department shall notify any association or organization of contractors filing a request to regularly receive notification. Notification to an association or organization of contractors shall include: (a) The location of the work to be done; (b) the general anticipated nature of the work to be done; and (c) the date

determined by the department as reasonable in view of the nature of the work and emergent nature of the problem after which the department will not receive bids.

(2) Whenever the department finds it necessary to protect a highway facility from imminent damage or to perform emergency work to reopen a highway facility, the department may contract for such work on a negotiated basis not to exceed force account rates for a period not to exceed thirty working days.

(3) The secretary shall review any contract exceeding seven hundred thousand dollars awarded under subsection (1) or (2) of this section with the office of financial management within thirty days of the contract award.

(4) Any person, firm, or corporation awarded a contract for work must be prequalified pursuant to RCW 47.28.070 and may be required to furnish a bid deposit or performance bond.

(5) A city, town, or county may use the contracting process available to the department under subsection (1) of this section for the repair or replacement of a bridge deemed structurally deficient, as defined in section 1 of this act.

NEW SECTION. Sec. 3. A new section is added to chapter 39.04 RCW to read as follows:

The repair or replacement of a city, town, or county bridge deemed structurally deficient, as defined in section 1 of this act, may use the contracting process available under RCW 47.28.170.

Passed by the House March 10, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 145

[House Bill 1884]

ELECTRONIC PERSONAL ASSISTIVE MOBILITY DEVICES--ONE-WHEELED SELF-BALANCING DEVICES

AN ACT Relating to the definition of a one-wheeled self-balancing device; amending RCW 46.04.1695; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that at least two companies in Washington have developed a one-wheeled device for people to use to travel from place to place. These devices are unregulated and can travel wherever and however they like. By adding these devices to the definition of an electric personal assistive mobility device, they become regulated and local communities can determine locations that are appropriate for their use.

Sec. 2. RCW 46.04.1695 and 2002 c 247 s 1 are each amended to read as follows:

"Electric personal assistive mobility device" (EPAMD) means (1) a self-balancing device with two wheels not in tandem, designed to transport only one person by an electric propulsion system with an average power of seven hundred fifty watts (one horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system while ridden by an operator weighing one hundred seventy pounds, of less than twenty miles per hour or (2)

a self-balancing device with one wheel designed to transport only one person by an electric propulsion system with an average power of two thousand watts (two and two-thirds horsepower) having a maximum speed on a paved level surface, when powered solely by such a propulsion system, of less than twenty miles per hour.

Passed by the House March 9, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 146

[Substitute House Bill 1919]

SPECIAL ELECTIONS--TIMING

AN ACT Relating to the timing of special elections; amending RCW 29A.04.321, 29A.04.330, 29A.32.280, and 35.17.260; and reenacting and amending RCW 29A.60.190.

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

Sec. 1. RCW 29A.04.321 and 2013 c 11 s 8 are each amended to read as follows:

(1) All state, county, city, town, and district general elections for the election of federal, state, legislative, judicial, county, city, town, and district officers, and for the submission to the voters of the state, county, city, town, or district of any measure for their adoption and approval or rejection, shall be held on the first Tuesday after the first Monday of November, in the year in which they may be called. A statewide general election shall be held on the first Tuesday after the first Monday of November of each year. However, the statewide general election held in odd-numbered years shall be limited to (a) city, town, and district general elections as provided for in RCW 29A.04.330, or as otherwise provided by law; (b) the election of federal officers for the remainder of any unexpired terms in the membership of either branch of the Congress of the United States; (c) the election of state and county officers for the remainder of any unexpired terms of offices created by or whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22, and 23, and Article IV, sections 3 and 5 of the state Constitution and RCW 2.06.080; (d) the election of county officers in any county governed by a charter containing provisions calling for general county elections at this time; and (e) the approval or rejection of state measures, including proposed constitutional amendments, matters pertaining to any proposed constitutional convention, initiative measures and referendum measures proposed by the electorate, referendum bills, and any other matter provided by the legislature for submission to the electorate.

(2) A county legislative authority may call a special county election by presenting a resolution to the county auditor prior to the proposed election date. A special election called by the county legislative authority shall be held on one of the following dates as decided by such governing body:

- (a) The second Tuesday in February;
- (b) The fourth Tuesday in April;
- (c) The day of the primary as specified by RCW 29A.04.311; or
- (d) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) and (b) of this section must be presented to the county auditor at least (~~(forty-six)~~) sixty days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(c) of this section must be presented to the county auditor no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(d) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to the dates set forth in subsection (2)(a) through (d) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God. Such county special election shall be noticed and conducted in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections. This section shall not be construed as fixing the time for holding primary elections, or elections for the recall of any elective public officer.

Sec. 2. RCW 29A.04.330 and 2013 c 11 s 9 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

- (a) Elections for the recall of any elective public officer;
- (b) Public utility districts, conservation districts, or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;
- (c) Consolidation proposals as provided for in RCW 28A.315.235 and nonhigh capital fund aid proposals as provided for in chapter 28A.540 RCW; and

(d) Special flood control districts consisting of three or more counties.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to the auditor prior to the proposed election date, shall call a special election in such city, town, or district, and for the purpose of such special election he or she may combine, unite, or divide precincts. Such a special election shall be held on one of the following dates as decided by the governing body:

- (a) The second Tuesday in February;
- (b) The fourth Tuesday in April;
- (c) The day of the primary election as specified by RCW 29A.04.311; or
- (d) The first Tuesday after the first Monday in November.

(3) A resolution calling for a special election on a date set forth in subsection (2)(a) and (b) of this section must be presented to the county auditor at least (~~(forty-six)~~) sixty days prior to the election date. A resolution calling for a special election on a date set forth in subsection (2)(c) of this section must be

presented to the county auditor no later than the Friday immediately before the first day of regular candidate filing. A resolution calling for a special election on a date set forth in subsection (2)(d) of this section must be presented to the county auditor no later than the day of the primary.

(4) In addition to subsection (2)(a) through (d) of this section, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in subsection (2)(c) and (d) of this section. Such special election shall be conducted and notice thereof given in the manner provided by law.

(5) This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

Sec. 3. RCW 29A.32.280 and 2003 c 111 s 820 are each amended to read as follows:

For each measure from a unit of local government that is included in a local voters' pamphlet, the legislative authority of that jurisdiction shall, not later than ~~((forty-five days before the publication of the pamphlet))~~ the resolution deadline, formally appoint a committee to prepare arguments advocating voters' approval of the measure and shall formally appoint a committee to prepare arguments advocating voters' rejection of the measure. The authority shall appoint persons known to favor the measure to serve on the committee advocating approval and shall, whenever possible, appoint persons known to oppose the measure to serve on the committee advocating rejection. Each committee shall have not more than three members, however, a committee may seek the advice of any person or persons. If the legislative authority of a unit of local government fails to make such appointments by the prescribed deadline, the county auditor shall whenever possible make the appointments.

Sec. 4. RCW 29A.60.190 and 2011 c 349 s 21 and 2011 c 10 s 58 are each reenacted and amended to read as follows:

Ten days after a special election held in February or April, fourteen days after a primary, ~~or ((special election and))~~ twenty-one days after a general election, the county canvassing board shall complete the canvass and certify the results. Each ballot that was returned before 8:00 p.m. on the day of the special election, general election, or primary, and each ballot bearing a postmark on or before the date of the special election, general election, or primary and received no later than the day before certification, must be included in the canvass report.

Sec. 5. RCW 35.17.260 and 1996 c 286 s 4 are each amended to read as follows:

Ordinances may be initiated by petition of registered voters of the city filed with the commission. If the petition accompanying the proposed ordinance is signed by the registered voters in the city equal in number to twenty-five percent of the votes cast for all candidates for mayor at the last preceding city election, and if it contains a request that, unless passed by the commission, the ordinance

be submitted to a vote of the registered voters of the city, the commission shall either:

(1) Pass the proposed ordinance without alteration within twenty days after the county auditor's certificate of sufficiency has been received by the commission; or

(2) Immediately after the county auditor's certificate of sufficiency for the petition is received, cause to be called a special election to be held on the next election date, as provided in RCW ~~((29-13-020))~~ 29A.04.330, ~~((that occurs not less than forty five days thereafter))~~ provided that the resolution deadline for that election has not passed, for submission of the proposed ordinance without alteration, to a vote of the people unless a general election will occur within ninety days, in which event submission must be made on the general election ballot.

Passed by the House March 11, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 147

[House Bill 2007]

MEDICAID REIMBURSEMENT--GROUND EMERGENCY MEDICAL TRANSPORTATION SERVICES

AN ACT Relating to reimbursement to eligible providers for medicaid ground emergency medical transportation services; and adding new sections to chapter 41.05 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 41.05 RCW to read as follows:

(1) An eligible provider, as described in subsection (2) of this section, must, in addition to the rate of payment that the provider would otherwise receive for medicaid ground emergency medical transportation services, receive supplemental medicaid reimbursement to the extent provided by law.

(2) A provider is eligible for supplemental reimbursement only if the provider has all of the following characteristics continuously during a state fiscal year:

(a) Provides ground emergency medical transportation services to medicaid beneficiaries:

(b) Is a provider that is enrolled as a medicaid provider for the period being claimed;

(c) Is owned or operated by the state, a city, county, fire protection district, community services district, health care district, federally recognized Indian tribe or any unit of government as defined in 42 C.F.R. Sec. 433.50;

(3) An eligible provider's supplemental reimbursement pursuant to this section must be calculated and paid as follows:

(a) The supplemental reimbursement to an eligible provider, as described in subsection (2) of this section, must be equal to the amount of federal financial participation received as a result of the claims submitted pursuant to subsection (6)(b) of this section;

(b) In no instance may the amount certified pursuant to subsection (5)(a) of this section, when combined with the amount received from all other sources of reimbursement from the medicaid program, exceed one hundred percent of actual costs, as determined pursuant to the medicaid state plan, for ground emergency medical transportation services;

(c) The supplemental medicaid reimbursement provided by this section must be distributed exclusively to eligible providers under a payment methodology based on ground emergency medical transportation services provided to medicaid beneficiaries by eligible providers on a per-transport basis or other federally permissible basis. The authority shall obtain approval from the federal centers for medicare and medicaid services for the payment methodology to be utilized, and may not make any payment pursuant to this section prior to obtaining that approval.

(4)(a) It is the legislature's intent in enacting this section to provide the supplemental reimbursement described in this section without any expenditure from the general fund. An eligible provider, as a condition of receiving supplemental reimbursement pursuant to this section, shall enter into, and maintain, an agreement with the authority for the purposes of implementing this section and reimbursing the department for the costs of administering this section.

(b) The nonfederal share of the supplemental reimbursement submitted to the federal centers for medicare and medicaid services for purposes of claiming federal financial participation shall be paid only with funds from the governmental entities described in subsection (2)(c) of this section and certified to the state as provided in subsection (5) of this section.

(5) Participation in the program by an eligible provider described in this section is voluntary. If an applicable governmental entity elects to seek supplemental reimbursement pursuant to this section on behalf of an eligible provider owned or operated by the entity, as described in subsection (2)(c) of this section, the governmental entity shall do all of the following:

(a) Certify, in conformity with the requirements of 42 C.F.R. Sec. 433.51, that the claimed expenditures for the ground emergency medical transportation services are eligible for federal financial participation;

(b) Provide evidence supporting the certification as specified by the department;

(c) Submit data as specified by the department to determine the appropriate amounts to claim as expenditures qualifying for federal financial participation;

(d) Keep, maintain, and have readily retrievable, any records specified by the department to fully disclose reimbursement amounts to which the eligible provider is entitled, and any other records required by the federal centers for medicare and medicaid services.

(6) The department shall promptly seek any necessary federal approvals for the implementation of this section. The department may limit the program to those costs that are allowable expenditures under Title XIX of the federal social security act (42 U.S.C. Sec. 1396 et seq.). If federal approval is not obtained for implementation of this section, this section may not be implemented.

(a) The department shall submit claims for federal financial participation for the expenditures for the services described in subsection (5) of this section that are allowable expenditures under federal law.

(b) The department shall, on an annual basis, submit any necessary materials to the federal government to provide assurances that claims for federal financial participation will include only those expenditures that are allowable under federal law.

(7) If either a final judicial determination is made by any court of appellate jurisdiction or a final determination is made by the administrator of the federal centers for medicare and medicaid services that the supplemental reimbursement provided for in this section must be made to any provider not described in this section, the director shall execute a declaration stating that the determination has been made and on that date this section becomes inoperative.

NEW SECTION, Sec. 2. A new section is added to chapter 41.05 RCW to read as follows:

(1) The authority shall design and implement, in consultation with eligible providers as described in subsection (2) of this section, an intergovernmental transfer program relating to medicaid managed care, ground emergency medical transport services including those services provided by emergency medical technicians at the basic, advanced, and paramedic levels in the prestabilization and preparation for transport in order to increase capitation payments for the purpose of increasing reimbursement to eligible providers.

(2) A provider is eligible for increased reimbursement pursuant to this section only if the provider meets both of the following conditions in an applicable state fiscal year:

(a) Provides ground emergency medical transport services to medicaid managed care enrollees pursuant to a contract or other arrangement with a medicaid managed care plan.

(b) Is owned or operated by the state, a city, county, fire protection district, special district, community services district, health care district, federally recognized Indian tribe or unit of government as defined in 42 C.F.R. Sec. 433.50.

(3) To the extent intergovernmental transfers are voluntarily made by, and accepted from, an eligible provider described in subsection (2) of this section, or a governmental entity affiliated with an eligible provider, the department shall make increased capitation payments to applicable medicaid managed care plans for covered ground emergency medical transportation services.

(a) The increased capitation payments made pursuant to this section must be in amounts at least actuarially equivalent to the supplemental fee-for-service payments available for eligible providers to the extent permissible under federal law.

(b) Except as provided in subsection (6) of this section, all funds associated with intergovernmental transfers made and accepted pursuant to this section must be used to fund additional payments to eligible providers.

(c) Medicaid managed care plans shall pay one hundred percent of any amount of increased capitation payments made pursuant to this section to eligible providers for providing and making available ground emergency medical transportation and paramedical services pursuant to a contract or other arrangement with a medicaid managed care plan.

(4) The intergovernmental transfer program developed pursuant to this section must be implemented on the date federal approval was obtained, and only to the extent intergovernmental transfers from the eligible provider, or the

governmental entity with which it is affiliated, are provided for this purpose. To the extent permitted by federal law, the department may implement the intergovernmental transfer program and increased capitation payments pursuant to this section on a retroactive basis as needed.

(5) Participation in the intergovernmental transfers under this section is voluntary on the part of the transferring entities for purposes of all applicable federal laws.

(6) This section must be implemented without any additional expenditure from the state general fund. As a condition of participation under this section, each eligible provider as described in subsection (2) of this section, or the governmental entity affiliated with an eligible provider, shall agree to reimburse the department for any costs associated with implementing this section. Intergovernmental transfers described in this section are subject to a twenty percent administration fee of the nonfederal share paid to the department and is allowed to count as a cost of providing the services.

(7) As a condition of participation under this section, medicaid managed care plans, eligible providers as described in subsection (2) of this section, and governmental entities affiliated with eligible providers shall agree to comply with any requests for information or similar data requirements imposed by the department for purposes of obtaining supporting documentation necessary to claim federal funds or to obtain federal approvals.

(8) This section must be implemented only if and to the extent federal financial participation is available and is not otherwise jeopardized, and any necessary federal approvals have been obtained.

(9) To the extent that the director determines that the payments made pursuant to this section do not comply with federal medicaid requirements, the director retains the discretion to return or not accept an intergovernmental transfer, and may adjust payments pursuant to this section as necessary to comply with federal medicaid requirements.

(10) To the extent federal approval is obtained, the increased capitation payments under this section may commence for dates of service on or after January 1, 2015.

Passed by the House March 4, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 148

[Engrossed House Bill 2190]

VESSEL REPORTS OF SALE

AN ACT Relating to vessel reports of sale; amending RCW 88.02.370; and providing an effective date.

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

Sec. 1. RCW 88.02.370 and 2010 c 161 s 1014 are each amended to read as follows:

(1) A vessel owner shall notify the department in writing within five business days after a vessel is or has been:

- (a) Sold;
- (b) Given as a gift to another person;
- (c) Traded, either privately or to a vessel dealer;
- (d) Donated to charity;
- (e) Turned over to an insurance company or wrecking yard; or
- (f) Disposed of.

(2) A report of sale is properly filed if it is received by the department within five business days after the date of sale or transfer and it includes:

- (a) The date of sale or transfer;
- (b) The owner's name and address;
- (c) The name and address of the person acquiring the vessel;
- (d) The vessel hull identification number and vessel registration number;

and

(e) A date stamp by the department showing it was received on or before the fifth business day after the date of sale or transfer.

(3) The department shall:

(a) Provide or approve reports of sale forms;

(b) Provide a system enabling a vessel owner to submit reports of sale electronically;

(c) Immediately update the department's vessel record when a report of sale has been filed;

(d) Provide instructions on release of interest forms that allow the seller of a vessel to release their interest in a vessel at the same time a financial institution, as defined in RCW 30A.22.040, releases its lien on the vessel; and

(e) Send a report to the department of revenue that lists vessels for which a report of sale has been received but no transfer of ownership has taken place. The department shall send the report once each quarter.

NEW SECTION. Sec. 2. This act takes effect January 1, 2017.

Passed by the House March 11, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor April 29, 2015.

Filed in Office of Secretary of State April 29, 2015.

CHAPTER 149

[House Bill 1282]

CRIMES--DRIVING WHILE LICENSE SUSPENDED--NONCOMPLIANCE WITH CHILD SUPPORT ORDER

AN ACT Relating to the crime of driving while license suspended where the suspension is based on noncompliance with a child support order; amending RCW 46.20.342; and prescribing penalties.

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

Sec. 1. RCW 46.20.342 and 2011 c 372 s 2 are each amended to read as follows:

(1) It is unlawful for any person to drive a motor vehicle in this state while that person is in a suspended or revoked status or when his or her privilege to drive is suspended or revoked in this or any other state. Any person who has a valid Washington driver's license is not guilty of a violation of this section.

(a) A person found to be a habitual offender under chapter 46.65 RCW, who violates this section while an order of revocation issued under chapter 46.65 RCW prohibiting such operation is in effect, is guilty of driving while license suspended or revoked in the first degree, a gross misdemeanor. Upon the first such conviction, the person shall be punished by imprisonment for not less than ten days. Upon the second conviction, the person shall be punished by imprisonment for not less than ninety days. Upon the third or subsequent conviction, the person shall be punished by imprisonment for not less than one hundred eighty days. If the person is also convicted of the offense defined in RCW 46.61.502 or 46.61.504, when both convictions arise from the same event, the minimum sentence of confinement shall be not less than ninety days. The minimum sentence of confinement required shall not be suspended or deferred. A conviction under this subsection does not prevent a person from petitioning for reinstatement as provided by RCW 46.65.080.

(b) A person who violates this section while an order of suspension or revocation prohibiting such operation is in effect and while the person is not eligible to reinstate his or her driver's license or driving privilege, other than for a suspension for the reasons described in (c) of this subsection, is guilty of driving while license suspended or revoked in the second degree, a gross misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license. This subsection applies when a person's driver's license or driving privilege has been suspended or revoked by reason of:

(i) A conviction of a felony in the commission of which a motor vehicle was used;

(ii) A previous conviction under this section;

(iii) A notice received by the department from a court or diversion unit as provided by RCW 46.20.265, relating to a minor who has committed, or who has entered a diversion unit concerning an offense relating to alcohol, legend drugs, controlled substances, or imitation controlled substances;

(iv) A conviction of RCW 46.20.410, relating to the violation of restrictions of an occupational driver's license, a temporary restricted driver's license, or an ignition interlock driver's license;

(v) A conviction of RCW 46.20.345, relating to the operation of a motor vehicle with a suspended or revoked license;

(vi) A conviction of RCW 46.52.020, relating to duty in case of injury to or death of a person or damage to an attended vehicle;

(vii) A conviction of RCW 46.61.024, relating to attempting to elude pursuing police vehicles;

(viii) A conviction of RCW 46.61.212(4), relating to reckless endangerment of emergency zone workers;

(ix) A conviction of RCW 46.61.500, relating to reckless driving;

(x) A conviction of RCW 46.61.502 or 46.61.504, relating to a person under the influence of intoxicating liquor or drugs;

(xi) A conviction of RCW 46.61.520, relating to vehicular homicide;

(xii) A conviction of RCW 46.61.522, relating to vehicular assault;

(xiii) A conviction of RCW 46.61.527(4), relating to reckless endangerment of roadway workers;

(xiv) A conviction of RCW 46.61.530, relating to racing of vehicles on highways;

(xv) A conviction of RCW 46.61.685, relating to leaving children in an unattended vehicle with motor running;

(xvi) A conviction of RCW 46.61.740, relating to theft of motor vehicle fuel;

(xvii) A conviction of RCW 46.64.048, relating to attempting, aiding, abetting, coercing, and committing crimes;

(xviii) An administrative action taken by the department under chapter 46.20 RCW;

(xix) A conviction of a local law, ordinance, regulation, or resolution of a political subdivision of this state, the federal government, or any other state, of an offense substantially similar to a violation included in this subsection; or

(xx) A finding that a person has committed a traffic infraction under RCW 46.61.526 and suspension of driving privileges pursuant to RCW 46.61.526 (4)(b) or (7)(a)(ii).

(c) A person who violates this section when his or her driver's license or driving privilege is, at the time of the violation, suspended or revoked solely because (i) the person must furnish proof of satisfactory progress in a required alcoholism or drug treatment program, (ii) the person must furnish proof of financial responsibility for the future as provided by chapter 46.29 RCW, (iii) the person has failed to comply with the provisions of chapter 46.29 RCW relating to uninsured accidents, (iv) the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation, as provided in RCW 46.20.289, (v) the person has committed an offense in another state that, if committed in this state, would not be grounds for the suspension or revocation of the person's driver's license, (vi) the person has been suspended or revoked by reason of one or more of the items listed in (b) of this subsection, but was eligible to reinstate his or her driver's license or driving privilege at the time of the violation, ~~((¶))~~ (vii) the person has received traffic citations or notices of traffic infraction that have resulted in a suspension under RCW 46.20.267 relating to intermediate drivers' licenses, or (viii) the person has been certified by the department of social and health services as a person who is not in compliance with a child support order as provided in RCW 74.20A.320, or any combination of (c)(i) through ~~((vii))~~ (viii) of this subsection, is guilty of driving while license suspended or revoked in the third degree, a misdemeanor. For the purposes of this subsection, a person is not considered to be eligible to reinstate his or her driver's license or driving privilege if the person is eligible to obtain an ignition interlock driver's license but did not obtain such a license.

(2) Upon receiving a record of conviction of any person or upon receiving an order by any juvenile court or any duly authorized court officer of the conviction of any juvenile under this section, the department shall:

(a) For a conviction of driving while suspended or revoked in the first degree, as provided by subsection (1)(a) of this section, extend the period of administrative revocation imposed under chapter 46.65 RCW for an additional period of one year from and after the date the person would otherwise have been

entitled to apply for a new license or have his or her driving privilege restored; or

(b) For a conviction of driving while suspended or revoked in the second degree, as provided by subsection (1)(b) of this section, not issue a new license or restore the driving privilege for an additional period of one year from and after the date the person would otherwise have been entitled to apply for a new license or have his or her driving privilege restored; or

(c) Not extend the period of suspension or revocation if the conviction was under subsection (1)(c) of this section. If the conviction was under subsection (1)(a) or (b) of this section and the court recommends against the extension and the convicted person has obtained a valid driver's license, the period of suspension or revocation shall not be extended.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 150

[House Bill 1431]

REAL ESTATE APPRAISALS--PUBLIC RECORDS--EXEMPTIONS

AN ACT Relating to modifying exemptions relating to real estate appraisals; and amending RCW 42.56.260.

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

Sec. 1. RCW 42.56.260 and 2005 c 274 s 406 are each amended to read as follows:

(1) Subject to the time limitations in subsection (2) of this section, the following documents relating to an agency's real estate transactions are exempt from public inspection and copying under this chapter:

(a) Except as provided by chapter 8.26 RCW, the contents of real estate appraisals, made for or by any agency relative to the acquisition or sale of property (~~(, until the project or prospective sale is abandoned or until such time as all of the property has been acquired or the property to which the sale appraisal relates is sold, are exempt from disclosure under this chapter. In no event may disclosure be denied for more than three years after the appraisal)~~);

(b) Documents prepared for the purpose of considering the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price, including records prepared for executive session pursuant to RCW 42.30.110(1)(b); and

(c) Documents prepared for the purpose of considering the minimum price of real estate that will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price, including records prepared for executive session pursuant to RCW 42.30.110(1)(c).

(2) The exemptions in this section do not apply when disclosure is mandated by another statute or after the project or prospective project is abandoned or all

properties that are part of the project have been purchased, sold, or leased. No appraisal may be withheld for more than three years.

Passed by the House March 4, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 151

[Substitute House Bill 1516]

TAXES--CONVENTION AND TRADE CENTER TAX--LODGING SERVICES EXEMPTION

AN ACT Relating to providing an exemption for certain lodging services from the convention and trade center tax; amending RCW 36.100.040; and providing an effective date.

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

Sec. 1. RCW 36.100.040 and 2010 1st sp.s. c 15 s 5 are each amended to read as follows:

(1) A public facilities district may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises having fewer than forty lodging units. Except for any tax imposed under subsection (4) or (5) of this section, if a public facilities district has not imposed such an excise tax prior to December 31, 1995, the public facilities district may only impose the excise tax if a ballot proposition authorizing the imposition of the tax has been approved by a simple majority vote of voters of the public facilities district voting on the proposition.

(2) The rate of the tax may not exceed two percent and the proceeds of the tax may only be used for the acquisition, design, construction, remodeling, maintenance, equipping, reequipping, repairing, and operation of its public facilities. This excise tax may not be imposed until the district has approved the proposal to acquire, design, and construct the public facilities.

(3) Except for a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center, a public facilities district may not impose the tax authorized in this section if, after the tax authorized in this section was imposed, the effective combined rate of state and local excise taxes, including sales and use taxes and excise taxes on lodging, imposed on the sale of or charge made for furnishing of lodging in any jurisdiction in the public facilities district exceeds eleven and one-half percent.

(4) To replace the tax authorized by RCW 67.40.090, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises: (a) Having fewer than sixty lodging units; or (b) classified as a hostel. The rate of the tax may not exceed seven percent within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not exceed 2.8 percent in the remainder of the district. The tax imposed under this

subsection (4) may not be collected prior to the transfer date defined in RCW 36.100.230.

(5) To replace the tax authorized by RCW 67.40.130, a public facilities district created within a county with a population of one million five hundred thousand or more for the purpose of acquiring, owning, and operating a convention and trade center may impose an additional excise tax on the sale of or charge made for the furnishing of lodging that is subject to tax under chapter 82.08 RCW, except that no such tax may be levied on any premises: (a) Having fewer than sixty lodging units; or (b) classified as a hostel. The rate of the additional excise tax may not exceed two percent and may be imposed only within the portion of the district that corresponds to the boundaries of the largest city within the public facilities district and may not be imposed in the remainder of the district. The tax imposed under this subsection (5) may not be collected prior to the transfer date specified in RCW 36.100.230. The tax imposed under this subsection (5) must be credited against the amount of the tax otherwise due to the state from those same taxpayers under chapter 82.08 RCW. The tax under this subsection (5) may be imposed only for the purpose of paying or securing the payment of the principal of and interest on obligations issued or incurred by the public facilities district and paying annual payment amounts to the state under subsection (6)(a) of this section. The authority to impose the additional excise tax under this subsection (5) expires on the date that is the earlier of (a) July 1, 2029, or (b) the date on which all obligations issued or incurred by the public facilities district to implement any redemption, prepayment, or legal defeasance of outstanding obligations under RCW 36.100.230(3)(a) are no longer outstanding.

(6)(a) Commencing with the first full fiscal year of the state after the transfer date defined in RCW 36.100.230 and for so long as a public facilities district imposes a tax under subsection (5) of this section, the public facilities district must transfer to the state of Washington on June 30th of each state fiscal year an annual payment amount.

(b) For the purposes of this subsection (6), "annual payment amount" means an amount equal to revenues received by the public facilities district in the fiscal year from the additional excise tax imposed under subsection (5) of this section plus an interest charge calculated on one-half the annual payment amount times an interest rate equal to the average annual rate of return for the prior calendar year in the Washington state local government investment pool created in chapter 43.250 RCW.

(c)(i) If the public facilities district in any fiscal year is required to apply additional lodging excise tax revenues to the payment of principal and interest on obligations it issues or incurs, and the public facilities district is unable to pay all or any portion of the annual payment amount to the state, the deficiency is deemed to be a loan from the state to the public facilities district for the purpose of assisting the district in paying such principal and interest and must be repaid by the public facilities district to the state after providing for the payment of the principal of and interest on obligations issued or incurred by the public facilities district, all on terms established by an agreement between the state treasurer and the public facilities district executed prior to the transfer date. Any agreement between the state treasurer and the public facilities district must specify the term for the repayment of the deficiency in the annual payment amount with an

interest rate equal to the twenty bond general obligation bond buyer index plus one percentage point.

(ii) Outstanding obligations to repay any loans deemed to have been made to the public facilities district as provided in any such agreements between the state treasurer and the public facilities district survive the expiration of the additional excise tax under subsection (5) of this section.

(iii) For the purposes of this subsection (6)(c), "additional lodging excise tax revenues" mean the tax revenues received by the public facilities district under subsection (5) of this section.

(7) A public facilities district is authorized to pledge any of its revenues, including without limitation revenues from the taxes authorized in this section, to pay or secure the payment of obligations issued or incurred by the public facilities district, subject to the terms established by the board of directors of the public facilities district. So long as a pledge of the taxes authorized under this section is in effect, the legislature may not withdraw or modify the authority to levy and collect the taxes at the rates permitted under this section and may not increase the annual payment amount to be transferred to the state under subsection (6) of this section.

(8) The department of revenue must perform the collection of such taxes on behalf of the public facilities district at no cost to the district, and the state treasurer must distribute those taxes as available on a monthly basis to the district or, upon the direction of the district, to a fiscal agent, paying agent, or trustee for obligations issued or incurred by the district.

(9) Except as expressly provided in this chapter, all of the provisions contained in RCW 82.08.050 and 82.08.060 and chapter 82.32 RCW have full force and application with respect to taxes imposed under the provisions of this section.

(10) The taxes imposed in this section do not apply to sales of temporary medical housing exempt under RCW 82.08.997.

(11)(a) For the purposes of this section, "hostel" means a structure or facility where a majority of the rooms for sleeping accommodations are hostel dormitories containing a minimum of four standard beds designed for single-person occupancy within the facility. Hostel accommodations are supervised and must include at least one common area and at least one common kitchen for guest use.

(b) For the purpose of this subsection, "hostel dormitory" means a single room, containing four or more standard beds designed for single-person occupancy, used exclusively as nonprivate communal sleeping quarters, generally for unrelated persons, where such persons independently acquire the right to occupy individual beds, with the operator supervising and determining which bed each person will occupy.

NEW SECTION. Sec. 2. This act takes effect August 1, 2015.

Passed by the House March 5, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 152

[House Bill 1531]

LONG-TERM CARE WORKERS--TRAINING AND CERTIFICATION EXEMPTIONS

AN ACT Relating to removing expiration dates for training and certification exemptions for certain long-term care workers; and amending RCW 18.88B.041, 74.39A.076, 74.39A.341, and 18.88B.035.

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

Sec. 1. RCW 18.88B.041 and 2014 c 139 s 6 are each amended to read as follows:

(1) The following long-term care workers are not required to become a certified home care aide pursuant to this chapter:

(a)(i)(A) Registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved training program for certified nursing assistants under chapter 18.88A RCW, medicare-certified home health aides, or other persons who hold a similar health credential, as determined by the secretary, or persons with special education training and an endorsement granted by the superintendent of public instruction, as described in RCW 28A.300.010, if the secretary determines that the circumstances do not require certification.

(B) A person who was initially hired as a longterm care worker prior to January 7, 2012, and who completes all of his or her training requirements in effect as of the date he or she was hired.

(ii) Individuals exempted by (a)(i) of this subsection may obtain certification as a home care aide without fulfilling the training requirements in RCW 74.39A.074(1)(d)(ii) but must successfully complete a certification examination pursuant to RCW 18.88B.031.

(b) All long-term care workers employed by community residential service businesses.

(c) An individual provider caring only for his or her biological, step, or adoptive child or parent.

(d) ~~((Until July 1, 2016,))~~ A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month.

(e) ~~((Until July 1, 2016,))~~ A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(2) A long-term care worker exempted by this section from the training requirements contained in RCW 74.39A.074 may not be prohibited from enrolling in training pursuant to that section.

(3) The department shall adopt rules to implement this section.

Sec. 2. RCW 74.39A.076 and 2014 c 139 s 7 are each amended to read as follows:

(1) Beginning January 7, 2012, except for long-term care workers exempt from certification under RCW 18.88B.041(1)(a):

(a) A biological, step, or adoptive parent who is the individual provider only for his or her developmentally disabled son or daughter must receive twelve hours of training relevant to the needs of adults with developmental disabilities within the first one hundred twenty days after becoming an individual provider or within one hundred twenty calendar days after March 29, 2012, whichever is later.

(b) Individual providers identified in (b)(i), (ii), and (iii) of this subsection must complete thirtyfive hours of training within the first one hundred twenty days after becoming an individual provider or within one hundred twenty calendar days after March 29, 2012, whichever is later. Five of the thirtyfive hours must be completed before becoming eligible to provide care. Two of these five hours shall be devoted to an orientation training regarding an individual provider's role as caregiver and the applicable terms of employment, and three hours shall be devoted to safety training, including basic safety precautions, emergency procedures, and infection control. Individual providers subject to this requirement include:

- (i) An individual provider caring only for his or her biological, step, or adoptive child or parent unless covered by (a) of this subsection;
- (ii) ~~((Until July 1, 2016,))~~ A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; and
- (iii) ~~((Until July 1, 2016,))~~ A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(2) In computing the time periods in this section, the first day is the date of hire or March 29, 2012, whichever is applicable.

(3) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

- (a) Has been developed with input from consumer and worker representatives; and
 - (b) Requires comprehensive instruction by qualified instructors.
- (4) The department shall adopt rules to implement this section.

Sec. 3. RCW 74.39A.341 and 2014 c 139 s 8 are each amended to read as follows:

(1) All long-term care workers shall complete twelve hours of continuing education training in advanced training topics each year. This requirement applies beginning July 1, 2012.

(2) Completion of continuing education as required in this section is a prerequisite to maintaining home care aide certification under chapter 18.88B RCW.

(3) Unless voluntarily certified as a home care aide under chapter 18.88B RCW, subsection (1) of this section does not apply to:

- (a) An individual provider caring only for his or her biological, step, or adoptive child;
- (b) Registered nurses and licensed practical nurses licensed under chapter 18.79 RCW;
- (c) Before January 1, 2016, a long-term care worker employed by a community residential service business;
- (d) ~~((Until July 1, 2016,))~~ A person working as an individual provider who provides twenty hours or less of care for one person in any calendar month; or
- (e) ~~((Until July 1, 2016,))~~ A person working as an individual provider who only provides respite services and works less than three hundred hours in any calendar year.

(4) Only training curriculum approved by the department may be used to fulfill the training requirements specified in this section. The department shall only approve training curriculum that:

(a) Has been developed with input from consumer and worker representatives; and

(b) Requires comprehensive instruction by qualified instructors.

(5) Individual providers under RCW 74.39A.270 shall be compensated for training time required by this section.

(6) The department of health shall adopt rules to implement subsection (1) of this section.

(7) The department shall adopt rules to implement subsection (2) of this section.

Sec. 4. RCW 18.88B.035 and 2013 c 259 s 2 are each amended to read as follows:

(1) The department may issue a provisional certification to a longterm care worker who is limited English proficient to allow the person additional time to comply with the requirement that a longterm care worker become certified as a home care aide within two hundred calendar days after the date of hire as provided in RCW 18.88B.021, if the longterm care worker:

(a) Is limited English proficient; and

(b) Complies with other requirements established by the department in rule.

(2) The department shall issue a provisional certification to a longterm care worker who has met the requirements of subsection (1) of this section. The provisional certification may only be issued once and is valid for no more than sixty days after the expiration of the two hundred calendar day requirement for becoming certified.

(3) The department shall adopt rules to implement this section.

(4) For the purposes of this section, "limited English proficient" means that an individual is limited in his or her ability to read, write, or speak English.

~~((5) The department may not issue any provisional certifications after March 1, 2016.~~

~~(6) This section expires July 1, 2016.)~~

Passed by the House March 9, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 153

[Substitute House Bill 1564]

LIQUOR--PROHIBITION ON SALE--ANNEXATION

AN ACT Relating to the local option prohibition on the sale of liquor; and amending RCW 66.40.010 and 66.40.030.

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

Sec. 1. RCW 66.40.010 and 1957 c 263 s 3 are each amended to read as follows:

(1) For ~~((the purpose of))~~ an election upon the question of whether the sale of liquor ~~((s shall be))~~ is permitted, the election unit ~~((shall))~~ must be any

~~((incorporated))~~ city or town, or ~~((all))~~ that portion of any county not ~~((included))~~ within ~~((the limits of incorporated))~~ cities and towns.

(2) This section is subject to the exception specified in RCW 66.40.030(2).

Sec. 2. RCW 66.40.030 and 2009 c 271 s 9 are each amended to read as follows:

(1) Within any ~~((unit referred to in RCW 66.40.010, there may be held a separate election))~~ election unit referred to in RCW 66.40.010, subject to the exception specified in subsection (2) of this section, a separate election may be held upon the question of whether the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses, ~~((shall))~~ **must** be permitted within ~~((such))~~ the election unit. The conditions and procedure for holding ~~((such))~~ the election ~~((shall be those))~~ are prescribed by RCW 66.40.020, 66.40.040, 66.40.100, 66.40.110, and 66.40.120. Whenever a majority of qualified voters voting upon ~~((said))~~ the question in ~~((any such))~~ the election unit ~~((shall have voted))~~ vote "against the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses," the county auditor ~~((shall))~~ **must** file with the liquor control board a certificate showing the result of the canvass at ~~((such))~~ the election ~~((; and after))~~. Ninety days ~~((from and))~~ after the date of ~~((the))~~ that canvass, it ~~((shall not be lawful))~~ is unlawful for licensees to maintain and operate premises within the election unit licensed under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses.

(2) The addition after an election under subsection (1) of this section of new territory to ~~((a city, town, or county,))~~ the election unit by annexation, disincorporation, or otherwise ~~((, shall))~~ **does** not extend the prohibition against the sale of liquor under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses to the new territory. Furthermore, the new territory is not: (a) Within the election unit in any subsequent election under subsection (1) of this section; or (b) subject to any prohibition adopted pursuant to any subsequent election under subsection (1) of this section.

(3) Elections held under RCW 66.40.010, 66.40.020, 66.40.040, 66.40.100, 66.40.110, 66.40.120, and 66.40.140 ~~((, shall be))~~ **are** limited to the question of whether the sale of liquor by means other than under spirits, beer, and wine restaurant; spirits, beer, and wine private club; spirits, beer, and wine nightclub; and sports entertainment facility licenses ~~((shall be))~~ is permitted within ~~((such))~~ the election unit.

Passed by the House March 10, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 154

[House Bill 1627]

CRIMES--HUNTING ON THE PROPERTY OF ANOTHER--COLLECTING WILDLIFE PARTS

AN ACT Relating to expanding the existing prohibition on unlawfully entering the land of another to hunt or to retrieve hunted wildlife under Title 77 RCW to include entering the land of another to collect wildlife parts; amending RCW 77.15.435; and prescribing penalties.

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

Sec. 1. RCW 77.15.435 and 2012 c 176 s 11 are each amended to read as follows:

(1) A person is guilty of unlawfully hunting on, ~~((or))~~ retrieving hunted wildlife from, or collecting wildlife parts from the property of another if the person knowingly enters or remains unlawfully in or on the premises of another for the purpose of:

- (a) Hunting for wildlife ~~((or))~~;
- (b) Retrieving hunted wildlife; or
- (c) Collecting wildlife parts.

(2) In any prosecution under this section, it is a defense that:

(a) The premises were at the time open to members of the public for the purpose of hunting, and the actor complied with all lawful conditions imposed on access to or remaining on the premises;

(b) The actor reasonably believed that the owner of the premises, or other person empowered to license access ~~((thereto))~~ to the premises, would have licensed him or her to enter or remain on the premises for the purpose of hunting ~~((or))~~, retrieving hunted wildlife, or collecting wildlife parts;

(c) The actor reasonably believed that the premises were not privately owned; or

(d) The actor, after making all reasonable attempts to contact the owner of the premises, ~~((retrieved))~~ entered the premises to retrieve the hunted wildlife for the sole purpose of avoiding a violation of the prohibition on the waste of fish and wildlife as provided in RCW 77.15.170. The defense in this subsection only applies to the retrieval of hunted wildlife and not to the actual act of hunting itself or the collecting of wildlife parts.

(3) Unlawfully hunting on ~~((or))~~, retrieving hunted wildlife from, or collecting wildlife parts from the property of another is a misdemeanor.

(4) If a person unlawfully hunts and kills wildlife, or retrieves hunted wildlife that he or she has killed, on the property of another, then, upon conviction ~~((of unlawfully hunting on, or retrieving hunted wildlife from, the property of another))~~ under this section, the department shall revoke all hunting licenses and tags and order a suspension of the person's hunting privileges for two years. This subsection does not apply to a person convicted under this section for unlawfully collecting wildlife parts from the property of another.

(5) Any wildlife or wildlife parts that ~~((is))~~ are unlawfully hunted on ~~((or))~~, retrieved, or collected from the property of another must be seized by fish and wildlife officers. Forfeiture and disposition of the wildlife or wildlife parts is pursuant to RCW 77.15.100.

Passed by the House March 9, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 155

[Engrossed House Bill 1633]

HOUSING TRUST FUND PROJECTS

AN ACT Relating to giving preferences to housing trust fund projects that involve collaboration between local school districts and housing authorities or nonprofit housing providers to help children of low-income families succeed in school; amending RCW 43.185.070 and 43.185.070; providing an effective date; and providing an expiration date.

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

Sec. 1. RCW 43.185.070 and 2013 c 145 s 3 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050.

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW 43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection (5) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities must be evaluated by some or all of the criteria under subsection (5) of this section, and similar projects and activities shall be evaluated under the same criteria.

(5) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; (~~and~~)

(m) Project location and access to available public transportation services; and

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department.

(6) The department may only approve applications for projects for persons with mental illness that are consistent with a regional support network six-year capital and operating plan.

Sec. 2. RCW 43.185.070 and 2014 c 225 s 62 are each amended to read as follows:

(1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department must announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement must be made as often as the director deems appropriate for proper utilization of resources. The department must then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department as provided in RCW 43.185.050.

(2) In awarding funds under this chapter, the department must:

(a) Provide for a geographic distribution on a statewide basis; and

(b) Until June 30, 2013, consider the total cost and per-unit cost of each project for which an application is submitted for funding under RCW

43.185.050(2) (a) and (j), as compared to similar housing projects constructed or renovated within the same geographic area.

(3) The department, with advice and input from the affordable housing advisory board established in RCW 43.185B.020, or a subcommittee of the affordable housing advisory board, must report recommendations for awarding funds in a cost-effective manner. The report must include an implementation plan, timeline, and any other items the department identifies as important to consider to the legislature by December 1, 2012.

(4) The department must give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities must be evaluated under subsection (5) of this section. Second priority must be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities must be evaluated by some or all of the criteria under subsection (5) of this section, and similar projects and activities shall be evaluated under the same criteria.

(5) The department must give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities must be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; ~~((and))~~

(m) Project location and access to available public transportation services; and

(n) Projects involving collaborative partnerships between local school districts and either public housing authorities or nonprofit housing providers, that help children of low-income families succeed in school. To receive this preference, the local school district must provide an opportunity for community members to offer input on the proposed project at the first scheduled school board meeting following submission of the grant application to the department.

(6) The department may only approve applications for projects for persons with mental illness that are consistent with a behavioral health organization six-year capital and operating plan.

NEW SECTION. Sec. 3. Section 1 of this act expires April 1, 2016.

NEW SECTION. Sec. 4. Section 2 of this act takes effect April 1, 2016.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 156

[House Bill 1674]

YOUTHFUL OFFENDERS--CUSTODY AUTHORITY

AN ACT Relating to allowing youthful offenders who complete their confinement terms prior to age twenty-one equal access to a full continuum of rehabilitative and reentry services; and amending RCW 9.94A.728 and 72.01.410.

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

Sec. 1. RCW 9.94A.728 and 2010 c 224 s 6 are each amended to read as follows:

~~(1)~~ (1) No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

~~((1+))~~ (a) An offender may earn early release time as authorized by RCW 9.94A.729;

~~((2+))~~ (b) An offender may leave a correctional facility pursuant to an authorized furlough or leave of absence. In addition, offenders may leave a correctional facility when in the custody of a corrections officer or officers;

~~((3+))~~ (a) ~~(c)~~(i) The secretary may authorize an extraordinary medical placement for an offender when all of the following conditions exist:

~~((+))~~ (A) The offender has a medical condition that is serious and is expected to require costly care or treatment;

~~((ii))~~ (B) The offender poses a low risk to the community because he or she is currently physically incapacitated due to age or the medical condition or is expected to be so at the time of release; and

~~((iii))~~ (C) It is expected that granting the extraordinary medical placement will result in a cost savings to the state.

~~((b))~~ (ii) An offender sentenced to death or to life imprisonment without the possibility of release or parole is not eligible for an extraordinary medical placement.

~~((e))~~ (iii) The secretary shall require electronic monitoring for all offenders in extraordinary medical placement unless the electronic monitoring equipment interferes with the function of the offender's medical equipment or results in the loss of funding for the offender's medical care, in which case, an alternative type of monitoring shall be utilized. The secretary shall specify who shall provide the monitoring services and the terms under which the monitoring shall be performed.

~~((d))~~ (iv) The secretary may revoke an extraordinary medical placement under this subsection (1)(c) at any time.

~~((e))~~ (v) Persistent offenders are not eligible for extraordinary medical placement;

~~((4))~~ (d) The governor, upon recommendation from the clemency and pardons board, may grant an extraordinary release for reasons of serious health problems, senility, advanced age, extraordinary meritorious acts, or other extraordinary circumstances;

~~((5))~~ (e) No more than the final six months of the offender's term of confinement may be served in partial confinement designed to aid the offender in finding work and reestablishing himself or herself in the community or no more than the final twelve months of the offender's term of confinement may be served in partial confinement as part of the parenting program in RCW 9.94A.6551. This is in addition to that period of earned early release time that may be exchanged for partial confinement pursuant to RCW 9.94A.729(5)(d);

~~((6))~~ (f) The governor may pardon any offender;

~~((7))~~ (g) The department may release an offender from confinement any time within ten days before a release date calculated under this section;

~~((8))~~ (h) An offender may leave a correctional facility prior to completion of his or her sentence if the sentence has been reduced as provided in RCW 9.94A.870; and

~~((9))~~ (i) Notwithstanding any other provisions of this section, an offender sentenced for a felony crime listed in RCW 9.94A.540 as subject to a mandatory minimum sentence of total confinement shall not be released from total confinement before the completion of the listed mandatory minimum sentence for that felony crime of conviction unless allowed under RCW 9.94A.540.

(2) Offenders residing in a juvenile correctional facility placement pursuant to RCW 72.01.410(1)(a) are not subject to the limitations in this section.

Sec. 2. RCW 72.01.410 and 2002 c 171 s 1 are each amended to read as follows:

(1) Whenever any child under the age of eighteen is convicted as an adult in the courts of this state of a crime amounting to a felony, and is committed for a term of confinement (~~(in a correctional institution wherein adults are confined, the secretary of corrections, after making an independent assessment and evaluation of the child and determining that the needs and correctional goals for the child could better be met by the programs and housing environment provided by the juvenile correctional institution, with the consent of the secretary of social and health services, may transfer such child to a juvenile correctional institution)~~), that child shall be initially placed in a facility operated by the department of corrections to determine the child's earned release date.

(a) If the earned release date is prior to the child's twenty-first birthday, the department of corrections shall transfer the child to the custody of the

department of social and health services, or to such other institution as is now, or may hereafter be authorized by law to receive such child, until such time as the child completes the ordered term of confinement or arrives at the age of twenty-one years(, whereupon the child shall be returned to the institution of original commitment. Retention within a juvenile detention facility or return to an adult correctional facility shall regularly be reviewed by the secretary of corrections and the secretary of social and health services with a determination made based on the level of maturity and sophistication of the individual, the behavior and progress while within the juvenile detention facility, security needs, and the program/treatment alternatives which would best prepare the individual for a successful return to the community. Notice of such transfers shall be given to the clerk of the committing court and the parents, guardian, or next of kin of such child, if known)).

(i) While in the custody of the department of social and health services, the child must have the same treatment, housing options, transfer, and access to program resources as any other child committed directly to that juvenile correctional facility or institution pursuant to chapter 13.40 RCW. Treatment, placement, and program decisions shall be at the sole discretion of the department of social and health services. The youth shall only be transferred back to the custody of the department of corrections with the approval of the department of social and health services or when the child reaches the age of twenty-one.

(ii) If the child's sentence includes a term of community custody, the department of social and health services shall not release the child to community custody until the department of corrections has approved the child's release plan pursuant to RCW 9.94A.729(5)(b). If a child is held past his or her earned release date pending release plan approval, the department of social and health services shall retain custody until a plan is approved or the child completes the ordered term of confinement prior to age twenty-one.

(iii) If the department of social and health services determines that retaining custody of the child presents a safety risk, the child may be returned to the custody of the department of corrections.

(b) If the child's earned release date is on or after the child's twenty-first birthday, the department of corrections shall, with the consent of the secretary of social and health services, transfer the child to a facility or institution operated by the department of social and health services. Despite the transfer, the department of corrections retains authority over custody decisions and must approve any leave from the facility. When the child turns age twenty-one, he or she must be transferred back to the department of corrections. The department of social and health services has all routine and day-to-day operations authority for the child while in its custody.

(2)(a) Except as provided in (b) and (c) of this subsection, an offender under the age of eighteen who is convicted in adult criminal court and who is committed to a term of confinement at the department of corrections must be placed in a housing unit, or a portion of a housing unit, that is separated from offenders eighteen years of age or older, until the offender reaches the age of eighteen.

(b) An offender who reaches eighteen years of age may remain in a housing unit for offenders under the age of eighteen if the secretary of corrections

determines that: (i) The offender's needs and the correctional goals for the offender could continue to be better met by the programs and housing environment that is separate from offenders eighteen years of age and older; and (ii) the programs or housing environment for offenders under the age of eighteen will not be substantially affected by the continued placement of the offender in that environment. The offender may remain placed in a housing unit for offenders under the age of eighteen until such time as the secretary of corrections determines that the offender's needs and correctional goals are no longer better met in that environment but in no case past the offender's twenty-first birthday.

(c) An offender under the age of eighteen may be housed in an intensive management unit or administrative segregation unit containing offenders eighteen years of age or older if it is necessary for the safety or security of the offender or staff. In these cases, the offender (~~shall~~) must be kept physically separate from other offenders at all times.

Passed by the House March 2, 2015.

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CHAPTER 157

[Substitute House Bill 1721]

AMBULANCE SERVICES--PATIENT TRANSPORTATION--MENTAL HEALTH FACILITIES OR CHEMICAL DEPENDENCY TREATMENT PROGRAMS

AN ACT Relating to the transport of patients by ambulance to facilities other than hospitals; amending RCW 70.168.100 and 18.71.210; reenacting and amending RCW 70.168.015; adding a new section to chapter 70.168 RCW; adding a new section to chapter 18.73 RCW; and adding a new section to chapter 74.09 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.168 RCW to read as follows:

(1) The department, in consultation with the department of social and health services, shall convene a work group comprised of members of the steering committee and representatives of ambulance services, firefighters, mental health providers, and chemical dependency treatment programs. The work group shall establish alternative facility guidelines for the development of protocols, procedures, and applicable training appropriate to the level of emergency medical service provider for the appropriate transport of patients in need of immediate mental health or chemical dependency services.

(2) The alternative facility guidelines shall consider when transport to a mental health facility or chemical dependency treatment program is necessary as determined by:

(a) The presence of a medical emergency that requires immediate medical care;

(b) The severity of the mental health or substance use disorder needs of the patient;

(c) The training of emergency medical service personnel to respond to a patient experiencing emergency mental health or substance use disorders; and

(d) The risk the patient presents to the patient's self, the public, and the emergency medical service personnel.

(3) By July 1, 2016, the department shall make the guidelines available to all regional emergency medical services and trauma care councils for incorporation into regional emergency medical services and trauma care plans under RCW 70.168.100.

Sec. 2. RCW 70.168.015 and 2010 c 52 s 2 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Cardiac" means acute coronary syndrome, an umbrella term used to cover any group of clinical symptoms compatible with acute myocardial ischemia, which is chest discomfort or other symptoms due to insufficient blood supply to the heart muscle resulting from coronary artery disease. "Cardiac" also includes out-of-hospital cardiac arrest, which is the cessation of mechanical heart activity as assessed by emergency medical services personnel, or other acute heart conditions.

(2) "Communications system" means a radio and landline network which provides rapid public access, coordinated central dispatching of services, and coordination of personnel, equipment, and facilities in an emergency medical services and trauma care system.

(3) "Department" means the department of health.

(4) "Designated trauma care service" means a level I, II, III, IV, or V trauma care service or level I, II, or III pediatric trauma care service or level I, I-pediatric, II, or III trauma-related rehabilitative service.

(5) "Designation" means a formal determination by the department that hospitals or health care facilities are capable of providing designated trauma care services as authorized in RCW 70.168.070.

(6) "Emergency medical service" means medical treatment and care that may be rendered at the scene of any medical emergency or while transporting any patient in an ambulance to an appropriate medical facility, including ambulance transportation between medical facilities.

(7) "Emergency medical services and trauma care planning and service regions" means geographic areas established by the department under this chapter.

(8) "Emergency medical services and trauma care system plan" means a statewide plan that identifies statewide emergency medical services and trauma care objectives and priorities and identifies equipment, facility, personnel, training, and other needs required to create and maintain a statewide emergency medical services and trauma care system. The plan also includes a plan of implementation that identifies the state, regional, and local activities that will create, operate, maintain, and enhance the system. The plan is formulated by incorporating the regional emergency medical services and trauma care plans required under this chapter. The plan shall be updated every two years and shall be made available to the state board of health in sufficient time to be considered in preparation of the biennial state health report required in RCW 43.20.050.

(9) "Emergency medical services medical program director" means a person who is an approved program director as defined by RCW 18.71.205(4).

(10) "Facility patient care protocols" means the written procedures adopted by the medical staff that direct the care of the patient. These procedures shall be based upon the assessment of the patients' medical needs. The procedures shall follow minimum statewide standards for trauma care services.

(11) "Hospital" means a facility licensed under chapter 70.41 RCW, or comparable health care facility operated by the federal government or located and licensed in another state.

(12) "Level I-pediatric rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level I-pediatric rehabilitative services provide the same services as facilities authorized to provide level I rehabilitative services except these services are exclusively for children under the age of fifteen years.

(13) "Level I pediatric trauma care services" means pediatric trauma care services as established in RCW 70.168.060. Hospitals providing level I services shall provide definitive, comprehensive, specialized care for pediatric trauma patients and shall also provide ongoing research and health care professional education in pediatric trauma care.

(14) "Level I rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level I rehabilitative services provide rehabilitative treatment to patients with traumatic brain injuries, spinal cord injuries, complicated amputations, and other diagnoses resulting in functional impairment, with moderate to severe impairment or complexity. These facilities serve as referral facilities for facilities authorized to provide level II and III rehabilitative services.

(15) "Level I trauma care services" means trauma care services as established in RCW 70.168.060. Hospitals providing level I services shall have specialized trauma care teams and provide ongoing research and health care professional education in trauma care.

(16) "Level II pediatric trauma care services" means pediatric trauma care services as established in RCW 70.168.060. Hospitals providing level II services shall provide initial stabilization and evaluation of pediatric trauma patients and provide comprehensive general medicine and surgical care to pediatric patients who can be maintained in a stable or improving condition without the specialized care available in the level I hospital. Complex surgeries and research and health care professional education in pediatric trauma care activities are not required.

(17) "Level II rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level II rehabilitative services treat individuals with musculoskeletal trauma, peripheral nerve lesions, lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area, with moderate to severe impairment or complexity.

(18) "Level II trauma care services" means trauma care services as established in RCW 70.168.060. Hospitals providing level II services shall be similar to those provided by level I hospitals, although complex surgeries and research and health care professional education activities are not required to be provided.

(19) "Level III pediatric trauma care services" means pediatric trauma care services as established in RCW 70.168.060. Hospitals providing level III

services shall provide initial evaluation and stabilization of patients. The range of pediatric trauma care services provided in level III hospitals are not as comprehensive as level I and II hospitals.

(20) "Level III rehabilitative services" means rehabilitative services as established in RCW 70.168.060. Facilities providing level III rehabilitative services provide treatment to individuals with musculoskeletal injuries, peripheral nerve injuries, uncomplicated lower extremity amputations, and other diagnoses resulting in functional impairment in more than one functional area but with minimal to moderate impairment or complexity.

(21) "Level III trauma care services" means trauma care services as established in RCW 70.168.060. The range of trauma care services provided by level III hospitals are not as comprehensive as level I and II hospitals.

(22) "Level IV trauma care services" means trauma care services as established in RCW 70.168.060.

(23) "Level V trauma care services" means trauma care services as established in RCW 70.168.060. Facilities providing level V services shall provide stabilization and transfer of all patients with potentially life-threatening injuries.

(24) "Patient care procedures" means written operating guidelines adopted by the regional emergency medical services and trauma care council, in consultation with local emergency medical services and trauma care councils, emergency communication centers, and the emergency medical services medical program director, in accordance with minimum statewide standards. The patient care procedures shall identify the level of medical care personnel to be dispatched to an emergency scene, procedures for triage of patients, the level of trauma care facility, mental health facility, or chemical dependency program to first receive the patient, and the name and location of other trauma care facilities, mental health facilities, or chemical dependency programs to receive the patient should an interfacility transfer be necessary. Procedures on interfacility transfer of patients shall be consistent with the transfer procedures required in chapter 70.170 RCW.

(25) "Pediatric trauma patient" means trauma patients known or estimated to be less than fifteen years of age.

(26) "Prehospital" means emergency medical care or transportation rendered to patients prior to hospital admission or during interfacility transfer by licensed ambulance or aid service under chapter 18.73 RCW, by personnel certified to provide emergency medical care under chapters 18.71 and 18.73 RCW, or by facilities providing level V trauma care services as provided for in this chapter.

(27) "Prehospital patient care protocols" means the written procedures adopted by the emergency medical services medical program director that direct the out-of-hospital emergency care of the emergency patient which includes the trauma patient. These procedures shall be based upon the assessment of the patients' medical needs and the treatment to be provided for serious conditions. The procedures shall meet or exceed statewide minimum standards for trauma and other prehospital care services.

(28) "Rehabilitative services" means a formal program of multidisciplinary, coordinated, and integrated services for evaluation, treatment, education, and training to help individuals with disabling impairments achieve and maintain

optimal functional independence in physical, psychosocial, social, vocational, and avocational realms. Rehabilitation is indicated for the trauma patient who has sustained neurologic or musculoskeletal injury and who needs physical or cognitive intervention to return to home, work, or society.

(29) "Secretary" means the secretary of the department of health.

(30) "Trauma" means a major single or multisystem injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability.

(31) "Trauma care system" means an organized approach to providing care to trauma patients that provides personnel, facilities, and equipment for effective and coordinated trauma care. The trauma care system shall: Identify facilities with specific capabilities to provide care, triage trauma victims at the scene, and require that all trauma victims be sent to an appropriate trauma facility. The trauma care system includes prevention, prehospital care, hospital care, and rehabilitation.

(32) "Triage" means the sorting of patients in terms of disposition, destination, or priority. Triage of prehospital trauma victims requires identifying injury severity so that the appropriate care level can be readily assessed according to patient care guidelines.

(33) "Verification" means the identification of prehospital providers who are capable of providing verified trauma care services and shall be a part of the licensure process required in chapter 18.73 RCW.

(34) "Verified trauma care service" means prehospital service as provided for in RCW 70.168.080, and identified in the regional emergency medical services and trauma care plan as required by RCW 70.168.100.

Sec. 3. RCW 70.168.100 and 1990 c 269 s 13 are each amended to read as follows:

Regional emergency medical services and trauma care councils are established. The councils (~~shall~~):

(1) By June 1990, shall begin the development of regional emergency medical services and trauma care plans to:

(a) Assess and analyze regional emergency medical services and trauma care needs;

(b) Identify personnel, agencies, facilities, equipment, training, and education to meet regional and local needs;

(c) Identify specific activities necessary to meet statewide standards and patient care outcomes and develop a plan of implementation for regional compliance;

(d) Establish and review agreements with regional providers necessary to meet state standards;

(e) Establish agreements with providers outside the region to facilitate patient transfer;

(f) Include a regional budget;

(g) Establish the number and level of facilities to be designated which are consistent with state standards and based upon availability of resources and the distribution of trauma within the region;

(h) Identify the need for and recommend distribution and level of care of prehospital services to assure adequate availability and avoid inefficient

duplication and lack of coordination of prehospital services within the region;
 ((and))

(i) Identify procedures to allow for the appropriate transport of patients to mental health facilities or chemical dependency programs, as informed by the alternative facility guidelines adopted under section 1 of this act; and

(j) Include other specific elements defined by the department;

(2) By June 1991, shall begin the submission of the regional emergency medical services and trauma care plan to the department;

(3) Shall advise the department on matters relating to the delivery of emergency medical services and trauma care within the region;

(4) Shall provide data required by the department to assess the effectiveness of the emergency medical services and trauma care system;

(5) May apply for, receive, and accept gifts and other payments, including property and service, from any governmental or other public or private entity or person, and may make arrangements as to the use of these receipts, including any activities related to the design, maintenance, or enhancements of the emergency medical services and trauma care system in the region. The councils shall report in the regional budget the amount, source, and purpose of all gifts and payments.

NEW SECTION. Sec. 4. A new section is added to chapter 18.73 RCW to read as follows:

An ambulance service may transport patients to a nonmedical facility, such as a mental health facility or chemical dependency program as authorized in regional emergency medical services and trauma care plans under RCW 70.168.100.

Sec. 5. RCW 18.71.210 and 1997 c 275 s 1 are each amended to read as follows:

(1) No act or omission of any physician's trained emergency medical service intermediate life support technician and paramedic, as defined in RCW 18.71.200, or any emergency medical technician or first responder, as defined in RCW 18.73.030, done or omitted in good faith while rendering emergency medical service under the responsible supervision and control of a licensed physician or an approved medical program director or delegate(s) to a person who has suffered illness or bodily injury shall impose any liability upon:

~~((1))~~ (a) The physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder;

~~((2))~~ (b) The medical program director;

~~((3))~~ (c) The supervising physician(s);

~~((4))~~ (d) Any hospital, the officers, members of the staff, nurses, or other employees of a hospital;

~~((5))~~ (e) Any training agency or training physician(s);

~~((6))~~ (f) Any licensed ambulance service; or

~~((7))~~ (g) Any federal, state, county, city or other local governmental unit or employees of such a governmental unit.

(2) This section shall apply to an act or omission committed or omitted in the performance of the actual emergency medical procedures and not in the commission or omission of an act which is not within the field of medical

expertise of the physician's trained emergency medical service intermediate life support technician and paramedic, emergency medical technician, or first responder, as the case may be.

(3) This section shall apply also, as to the entities and personnel described in subsection((s)) (1) (~~through (7)~~) of this section, to any act or omission committed or omitted in good faith by such entities or personnel in rendering services at the request of an approved medical program director in the training of emergency medical service personnel for certification or recertification pursuant to this chapter.

(4) This section shall apply also, as to the entities and personnel described in subsection (1) of this section, to any act or omission committed or omitted in good faith by such entities or personnel involved in the transport of patients to mental health facilities or chemical dependency programs, in accordance with applicable alternative facility procedures adopted under RCW 70.168.100.

(5) This section shall not apply to any act or omission which constitutes either gross negligence or willful or wanton misconduct.

NEW SECTION. Sec. 6. A new section is added to chapter 74.09 RCW to read as follows:

The authority shall develop a reimbursement methodology for ambulance services when transporting a medical assistance enrollee to a mental health facility or chemical dependency program in accordance with the applicable alternative facility procedures adopted under RCW 70.168.100.

Passed by the House March 2, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 158

[Substitute House Bill 1727]

NURSING ASSISTANTS--SCOPE OF PRACTICE

AN ACT Relating to permitting nursing assistants to perform simple care tasks under indirect supervision; and amending RCW 18.88A.020.

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

Sec. 1. RCW 18.88A.020 and 2012 c 208 s 2 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Alternative training" means a nursing assistant-certified program meeting criteria adopted by the commission under RCW 18.88A.087 to meet the requirements of a state-approved nurse aide competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act.

(2) "Approved training program" means a nursing assistant-certified training program approved by the commission to meet the requirements of a state-approved nurse aide training and competency evaluation program consistent with 42 U.S.C. Sec. 1395i-3(e) and (f) of the federal social security act. For community college, vocational-technical institutes, skill centers, and

secondary school as defined in chapter 28B.50 RCW, nursing assistant-certified training programs shall be approved by the commission in cooperation with the board for community and technical colleges or the superintendent of public instruction.

(3) "Commission" means the Washington nursing care quality assurance commission.

(4) "Competency evaluation" means the measurement of an individual's knowledge and skills as related to safe, competent performance as a nursing assistant.

(5) "Department" means the department of health.

(6) "Health care facility" means a nursing home, hospital, hospice care facility, home health care agency, hospice agency, licensed service provider under chapter 71.24 RCW other than an individual health care provider, or other entity for delivery of health care services as defined by the commission.

(7) "Medication assistant" means a nursing assistant-certified with a medication assistant endorsement issued under RCW 18.88A.082 who is authorized, in addition to his or her duties as a nursing assistant-certified, to administer certain medications and perform certain treatments in a nursing home under the supervision of a registered nurse under RCW 18.88A.082.

(8) "Nursing assistant" means an individual, regardless of title, who, under the direction and supervision of a registered nurse or licensed practical nurse, assists in the delivery of nursing and nursing-related activities to patients in a health care facility. The two levels of nursing assistants are:

(a) "Nursing assistant-certified," an individual certified under this chapter; and

(b) "Nursing assistant-registered," an individual registered under this chapter.

(9) "Nursing home" means a nursing home licensed under chapter 18.51 RCW.

(10) "Secretary" means the secretary of health.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 159

[House Bill 1779]

HEALTH PROFESSIONS DISCIPLINARY PROCESS--VICTIMS OF SEXUAL MISCONDUCT-- TRAINING FOR INTERVIEWERS

AN ACT Relating to requiring specialized training for persons conducting victim interviews as part of the disciplinary process for a health professional alleged to have committed sexual misconduct; and amending RCW 18.130.062.

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

Sec. 1. RCW 18.130.062 and 2008 c 134 s 5 are each amended to read as follows:

(1) With regard to complaints that only allege that a license holder has committed an act or acts of unprofessional conduct involving sexual misconduct,

the secretary shall serve as the sole disciplining authority in every aspect of the disciplinary process, including initiating investigations, investigating, determining the disposition of the complaint, holding hearings, preparing findings of fact, issuing orders or dismissals of charges as provided in RCW 18.130.110, entering into stipulations permitted by RCW 18.130.172, or issuing summary suspensions under RCW 18.130.135. The board or commission shall review all cases and only refer to the secretary sexual misconduct cases that do not involve clinical expertise or standard of care issues.

(2) Beginning July 1, 2016, for all complaints alleging an act or acts of unprofessional conduct involving sexual misconduct, regardless of whether the secretary or a board or commission is the disciplining authority, all victim interviews conducted as part of an investigation must be conducted by a person who has successfully completed a training program on interviewing victims of sexual misconduct in a manner that minimizes the negative impacts on the victims. The training program may be provided by the disciplining authority, the department, or an outside entity. When determining the type of training that is appropriate to comply with this subsection, the disciplining authority shall consult with at least one statewide organization that provides information, training, and expertise to persons and entities who support victims, family and friends, the general public, and other persons whose lives have been affected by sexual assault.

Passed by the House March 2, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 160

[House Bill 1817]

WHEELED ALL-TERRAIN VEHICLES--RELEASE OF LIABILITY

AN ACT Relating to liability immunity for local jurisdictions when wheeled all-terrain vehicles are operated on public roadways; and amending RCW 46.09.457.

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

Sec. 1. RCW 46.09.457 and 2013 2nd sp.s. c 23 s 7 are each amended to read as follows:

(1) A person may operate a wheeled all-terrain vehicle upon any public roadway of this state, not including nonhighway roads and trails, subject to RCW 46.09.455 and the following equipment and declaration requirements:

(a) A person who operates a wheeled all-terrain vehicle must comply with the following equipment requirements:

(i) Headlights meeting the requirements of RCW 46.37.030 and 46.37.040 and used at all times when the vehicle is in motion upon a highway;

(ii) One tail lamp meeting the requirements of RCW 46.37.525 and used at all times when the vehicle is in motion upon a highway; however, a utility-type vehicle, as described under RCW 46.09.310, must have two tail lamps meeting the requirements of RCW 46.37.070(1) and to be used at all times when the vehicle is in motion upon a highway;

(iii) A stop lamp meeting the requirements of RCW 46.37.200;

(iv) Reflectors meeting the requirements of RCW 46.37.060;

(v) During hours of darkness, as defined in RCW 46.04.200, turn signals meeting the requirements of RCW 46.37.200. Outside of hours of darkness, the operator must comply with RCW 46.37.200 or 46.61.310;

(vi) A mirror attached to either the right or left handlebar, which must be located to give the operator a complete view of the highway for a distance of at least two hundred feet to the rear of the vehicle; however, a utility-type vehicle, as described under RCW 46.09.310(19), must have two mirrors meeting the requirements of RCW 46.37.400;

(vii) A windshield meeting the requirements of RCW 46.37.430, unless the operator wears glasses, goggles, or a face shield while operating the vehicle, of a type conforming to rules adopted by the Washington state patrol;

(viii) A horn or warning device meeting the requirements of RCW 46.37.380;

(ix) Brakes in working order;

(x) A spark arrester and muffling device meeting the requirements of RCW 46.09.470; and

(xi) For utility-type vehicles, as described under RCW 46.09.310(19), seat belts meeting the requirements of RCW 46.37.510.

(b) A person who operates a wheeled all-terrain vehicle upon a public roadway must provide a declaration that includes the following:

(i) Documentation of a safety inspection to be completed by a licensed wheeled all-terrain vehicle dealer or repair shop in the state of Washington that must outline the vehicle information and certify under oath that all wheeled all-terrain vehicle equipment as required under this section meets the requirements outlined in state and federal law. A person who makes a false statement regarding the inspection of equipment required under this section is guilty of false swearing, a gross misdemeanor, under RCW 9A.72.040;

(ii) Documentation that the licensed wheeled all-terrain vehicle dealer or repair shop did not charge more than fifty dollars per safety inspection and that the entire safety inspection fee is paid directly and only to the licensed wheeled all-terrain vehicle dealer or repair shop;

(iii) A statement that the licensed wheeled all-terrain vehicle dealer or repair shop is entitled to the full amount charged for the safety inspection;

(iv) A vehicle identification number verification that must be completed by a licensed wheeled all-terrain vehicle dealer or repair shop in the state of Washington; ~~(and)~~

(v) A release, on a form to be supplied by the department, signed by the owner of the wheeled all-terrain vehicle and verified by the department, county auditor or other agent, or subagent appointed by the director that releases the state, counties, cities, and towns from any liability; and

(vi) A statement that outlines that the owner understands that the original wheeled all-terrain vehicle was not manufactured for on-road use and that it has been modified for use on public roadways.

(2) This section does not apply to emergency services vehicles, vehicles used for emergency management purposes, or vehicles used in the production of agricultural and timber products on and across lands owned, leased, or managed by the owner or operator of the wheeled all-terrain vehicle or the operator's employer.

Passed by the House March 10, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 161

[Substitute House Bill 2021]

PRESCRIPTION DRUG ASSISTANCE FOUNDATION

AN ACT Relating to the prescription drug assistance foundation; and amending RCW 41.05.550.

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

Sec. 1. RCW 41.05.550 and 2008 c 87 s 1 are each amended to read as follows:

(1) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Federal poverty level" means the official poverty level based on family size established and adjusted under section 673(2) of the omnibus budget reconciliation act of 1981 (P.L. 97-35; 42 U.S.C. Sec. 9902(2), as amended).

(b) "Foundation" means the prescription drug assistance foundation established in this section, a nonprofit corporation organized under the laws of this state to provide assistance in accessing prescription drugs to qualified uninsured individuals.

(c) "Health insurance coverage including prescription drugs" means prescription drug coverage under a private insurance plan, including a plan offered through the health benefit exchange under chapter 43.71 RCW, the medicaid program, the state children's health insurance program ("SCHIP"), the medicare program, the basic health plan, or any employer-sponsored health plan that includes a prescription drug benefit.

(d) "Qualified uninsured individual" means an uninsured person or an underinsured person who is a resident of this state and (~~has an income below three hundred percent of the federal poverty level~~) whose income meets financial criteria established by the foundation.

(e) "Underinsured" means an individual who has health insurance coverage including prescription drugs, but for whom the prescription drug coverage is inadequate for their needs.

(f) "Uninsured" means an individual who lacks health insurance coverage including prescription drugs.

(2)(a) The administrator shall establish the foundation as a nonprofit corporation, organized under the laws of this state. The foundation shall assist qualified uninsured individuals in obtaining prescription drugs at little or no cost.

(b) The foundation shall be administered in a manner that:

(i) Begins providing assistance to qualified uninsured individuals by January 1, 2006;

(ii) Defines the population that may receive assistance in accordance with this section; and

(iii) Complies with the eligibility requirements necessary to obtain and maintain tax-exempt status under federal law.

(c) The board of directors of the foundation consists of up to eleven with a minimum of five members appointed by the governor to staggered terms of three years. The governor shall select as members of the board individuals who (i) will represent the interests of persons who lack prescription drug coverage; and (ii) have demonstrated expertise in business management and in the administration of a not-for-profit organization.

(d) The foundation shall apply for and comply with all federal requirements necessary to obtain and maintain tax-exempt status with respect to the federal tax obligations of the foundation's donors.

(e) The foundation is authorized, subject to the direction and ratification of the board, to receive, solicit, contract for, collect, and hold in trust for the purposes of this section, donations, gifts, grants, and bequests in the form of money paid or promised, services, materials, equipment, or other things tangible or intangible that may be useful for helping the foundation to achieve its purpose. The foundation may use all sources of public and private financing to support foundation activities. No general fund-state funds shall be used for the ongoing operation of the foundation.

(f) No liability on the part of, and no cause of action of any nature, shall arise against any member of the board of directors of the foundation or against an employee or agent of the foundation for any lawful action taken by them in the performance of their administrative powers and duties under this section.

Passed by the House March 4, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 162

[Second Substitute House Bill 2063]

INDIVIDUALS WITH DISABILITIES--INVESTMENT PROGRAM--WORK GROUP

AN ACT Relating to the creation of the Washington achieving a better life experience program; and creating new sections.

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

NEW SECTION. Sec. 1. (1) The legislature finds that the federal achieving a better life experience act of 2014 (P.L. 113-295) encourages and assists individuals and families in saving private moneys for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life. The federal achieving a better life experience act of 2014 allows qualified individuals to make contributions to a savings account pursuant to section 529A of the federal internal revenue code of 1986, as amended, and up to one hundred thousand dollars of these accounts would not be counted as assets for purposes of supplemental security income, medicaid, and other federal means-tested public benefits.

(2) Building on the passage of the federal achieving a better life experience act of 2014, the legislature intends to establish a qualified achieving a better life experience program in this state. The federal treasury department is expected to

establish regulations to implement the federal achieving a better life experience act of 2014 in the summer or fall of 2015. For this reason, the legislature finds that the most practical manner for this state to design an effective program is to charge the state treasurer's office with convening the affected agencies and stakeholders to design the program and provide a detailed implementation plan by November 1, 2015.

NEW SECTION. Sec. 2. (1) Within existing resources, the state treasurer's office shall convene a work group to design a qualified achieving a better life experience program pursuant to P.L. 113-295 and any federal regulations promulgated pursuant to that law. This work group shall convene by July 1, 2015. The achieving a better life experience program design work group shall include representatives from:

- (a) The department of commerce;
- (b) The state investment board;
- (c) The Washington advanced college tuition payment program;
- (d) The department of social and health services;
- (e) The developmental disability endowment governing board; and
- (f) The disability community.

(2) The achieving a better life experience design work group shall provide a report to the governor and the appropriate committees of the legislature by November 1, 2015, that includes the following:

(a) A recommendation of the appropriate lead agency for the achieving a better life experience program;

(b) An analysis of the appropriate instrumentality to invest the achieving a better life experience program account moneys including the relative cost-benefit of using:

(i) An agency or instrumentality allowed by federal law and regulation other than the state investment board;

(ii) The state investment board; or

(iii) Contracting with another state.

(c) A proposed implementation plan for the state achieving a better life experience program, including an implementation date for the program, and communication with the public about investing in achieving a better life experience program accounts;

(d) A recommendation regarding the composition, purpose, role, and responsibilities of an achieving a better life experience advisory board; and

(e) An estimate of the number of eligible achieving a better life experience program participants in Washington.

Passed by the House March 10, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 163

[Substitute Senate Bill 5721]

K-12 EDUCATION--EXPANDED LEARNING OPPORTUNITIES COUNCIL--MEMBERSHIP

AN ACT Relating to the membership of the expanded learning opportunities council; amending RCW 28A.630.123; and providing an expiration date.

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

Sec. 1. RCW 28A.630.123 and 2014 c 219 s 3 are each amended to read as follows:

(1) The expanded learning opportunities council is established to advise the governor, the legislature, and the superintendent of public instruction regarding a comprehensive expanded learning opportunities system, with particular attention paid to solutions to summer learning loss.

(2) The council shall provide a vision, guidance, assistance, and advice related to potential improvement and expansion of summer learning opportunities, school year calendar modifications that will help reduce summer learning loss, increasing partnerships between schools and community-based organizations to deliver expanded learning opportunities, and other current or proposed programs and initiatives across the spectrum of early elementary through secondary education that could contribute to a statewide system of expanded learning opportunities.

(3) The council shall identify fiscal, resource, and partnership opportunities; coordinate policy development; set quality standards; promote evidence-based strategies; and develop a comprehensive action plan designed to implement expanded learning opportunities, address summer learning loss, provide academic supports, build strong partnerships between schools and community-based organizations, and track performance of expanded learning opportunities in closing the opportunity gap.

(4) When making recommendations regarding evidence-based strategies, the council shall consider the best practices on the state menus developed in accordance with RCW 28A.165.035 and 28A.655.235.

(5) The superintendent of public instruction shall convene the expanded learning opportunities council. The members of the council must have experience with expanded learning opportunities and include groups and agencies representing diverse student interests and geographical locations across the state. ~~((Up to fifteen))~~ Other participants, agencies, organizations, or individuals may be invited to participate in the council, ~~((and))~~ but the membership shall include the following:

- (a) Three representatives from nonprofit community-based organizations;
- (b) One representative from regional workforce development councils;
- (c) One representative from each of the following organizations or agencies:
 - (i) The Washington state school directors' association;
 - (ii) The state-level association of school administrators;
 - (iii) The state-level association of school principals;
 - (iv) The state board of education;
 - (v) The statewide association representing certificated classroom teachers and educational staff associates;
 - (vi) The office of the superintendent of public instruction;
 - (vii) The state-level parent-teacher association;
 - (viii) Higher education; ~~((and))~~
 - (ix) The statewide association of public libraries;
 - (x) A person selected by the office of the superintendent of public instruction to represent low-income communities or communities of color;
 - (xi) A person selected by the educational opportunity gap oversight and accountability committee; and

(xii) A nonprofit organization with statewide experience in expanded learning opportunities frameworks.

(6) Staff support for the expanded learning opportunity council shall be provided by the office of the superintendent of public instruction and other state agencies as necessary. Appointees of the council shall be selected by May 30, 2014. The council shall hold its first meeting before August 1, 2014. At the first meeting, the council shall determine regularly scheduled meeting times and locations.

NEW SECTION. Sec. 2. Section 1 of this act expires August 31, 2019.

Passed by the Senate April 22, 2015.

Passed by the House April 21, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 164

[Engrossed Senate Bill 5863]

HIGHWAY CONSTRUCTION WORKFORCE DEVELOPMENT

AN ACT Relating to highway construction workforce development; and amending RCW 47.01.435.

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

Sec. 1. RCW 47.01.435 and 2012 c 66 s 1 are each amended to read as follows:

(1) The department shall expend federal funds received by the department, and funds that may be available to the department, under 23 U.S.C. Sec. 140(b) to increase diversity in the highway construction workforce and prepare individuals interested in entering the highway construction workforce by conducting activities in subsections (4) and (5) of this section.

(2) The requirements contained in subsection (1) of this section do not apply to or reduce the federal funds that would be otherwise allocated to local government agencies.

(3) The department shall, ~~((to the greatest extent practicable,))~~ in coordination with the ~~((apprenticeship and training council described in chapter 49.04 RCW))~~ department of labor and industries, expend moneys for apprenticeship preparation and support services, including providing grants to local Indian tribes, churches, nonprofits, and other organizations. The department shall, to the greatest extent practicable, expend moneys from ~~((other))~~ sources other than those specified in subsection (1) of this section for the activities in this subsection and subsections (4) and (5) of this section.

(4) The department shall coordinate with the ~~((apprenticeship and training council))~~ department of labor and industries to provide any portion of the following services:

(a) Preapprenticeship programs approved by the apprenticeship and training council;

(b) Preemployment counseling;

(c) Orientations on the highway construction industry, including outreach to women, minorities, and other disadvantaged individuals;

(d) Basic skills improvement classes;

- (e) Career counseling;
- (f) Remedial training;
- (g) Entry requirements for training programs;
- (h) Supportive services and assistance with transportation;
- (i) Child care and special needs;
- (j) Job site mentoring and retention services; ~~((and))~~
- (k) Assistance with tools, protective clothing, and other related support for employment costs; ~~and~~

(1) The recruitment of women and persons of color to participate in the apprenticeship program at the department.

(5) The department must actively engage with communities with populations that are underrepresented in current transportation apprenticeship programs.

(6) The department, in coordination with the ~~((apprenticeship and training council))~~ department of labor and industries, shall submit a report to the transportation committees of the legislature by December 1st of each year beginning in 2012. The report must contain:

(a) An analysis of the results of the activities in subsections (4) and (5) of this section;

(b) The amount available to the department from federal funds for the activities in subsections (4) and (5) of this section and the amount expended for those activities; and

(c) The performance outcomes achieved from each activity, including the number of persons receiving services, training, and employment.

(7) By December 31, 2020, the department must report to the legislature on the results of how the department's efforts to actively engage with communities with populations that are underrepresented in current transportation apprenticeship programs have resulted in an increased participation of underrepresented groups in the department's apprenticeship program over a five-year period.

Passed by the Senate April 16, 2015.

Passed by the House April 9, 2015.

Approved by the Governor May 1, 2015.

Filed in Office of Secretary of State May 1, 2015.

CHAPTER 165

[Substitute House Bill 1088]

FLOOD CONTROL ZONES--DISTRICT SUPERVISORS--PER DIEM COMPENSATION

AN ACT Relating to per diem compensation for flood control zone district supervisors; and amending RCW 86.15.055.

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

Sec. 1. RCW 86.15.055 and 2005 c 127 s 2 are each amended to read as follows:

(1) In a zone with supervisors elected pursuant to RCW 86.15.050, the supervisors may, as adjusted in accordance with subsection (4) of this section, each receive up to ~~((seventy dollars for attendance at official meetings of the supervisors and for each day or major part thereof for all necessary services~~

~~actually performed in connection with their duties as a supervisor))~~ one hundred fourteen dollars per day or portion of a day spent in actual attendance at official meetings of the governing body or in performance of other official services or duties on behalf of the zone. The compensation for supervisors in office on January 1, 2015, is fixed at one hundred fourteen dollars per day. The board of county commissioners shall fix any such compensation to be paid to the initial supervisors during their initial terms of office. The supervisors shall fix the compensation to be paid to the supervisors thereafter. Compensation for the supervisors shall not exceed ~~((six thousand seven hundred twenty))~~ ten thousand nine hundred forty-four dollars in one calendar year.

(2) A supervisor is entitled to reimbursement for reasonable expenses actually incurred in connection with performance of the duties of a supervisor, including subsistence and lodging, while away from the supervisor's place of residence, and mileage for use of a privately owned vehicle in accordance with chapter 42.24 RCW.

(3) Any supervisor may waive all or any portion of his or her compensation payable under this section as to any month or months during his or her term of office, by a written waiver filed with the supervisors as provided in this section. The waiver, to be effective, must be filed any time after the member's election and prior to the date on which the compensation would otherwise be paid. The waiver shall specify the month or period of months for which it is made.

(4) The dollar thresholds established in this section must be adjusted for inflation by the office of financial management every five years, beginning July 1, 2018, based upon changes in the consumer price index during that time period. "Consumer price index" means, for any calendar year, that year's annual average consumer price index, for Washington state, for wage earners and clerical workers, all items, compiled by the bureau of labor and statistics, United States department of labor. If the bureau of labor and statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state and including all items, must be used for the adjustments of inflation in this section. The office of financial management must calculate the new dollar threshold and transmit it to the office of the code reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

Passed by the House February 11, 2015.

Passed by the Senate April 21, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 166

[Substitute House Bill 1183]

RADIOLOGY BENEFIT MANAGERS

AN ACT Relating to radiology benefit managers; and adding a new chapter to Title 19 RCW.

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

NEW SECTION. Sec. 1. (1) Any radiology benefit manager that is owned by a carrier as defined in RCW 48.43.005 or acts as a subcontractor for a carrier

must be registered with the department of revenue's business licensing service and annually renew the registration.

(2)(a) For purposes of this section, a "radiology benefit manager" means a person that contracts with, or is owned by, a carrier or a third-party payor to:

(i) Process claims for services and procedures performed by a licensed radiologist or advanced diagnostic imaging service provider; or

(ii) Pay or authorize payment to radiology clinics, radiologists, or advanced diagnostic imaging service providers for services or procedures;

(b) "Radiology benefit manager" does not include a health care service contractor as defined in RCW 48.44.010, a health maintenance organization as defined in RCW 48.46.020, or an issuer as defined in RCW 48.01.053.

(3) To register under this section, a radiology benefit manager must:

(a) Submit an application requiring the following information:

(i) The identity of the radiology benefit manager;

(ii) The name, business address, phone number, and medical director for the radiology benefit manager; and

(iii) Where applicable, the federal tax employer identification number for the entity; and

(b) Pay a registration fee of two hundred dollars.

(4) To renew a registration under this section, a radiology benefit manager must pay a renewal fee of two hundred dollars.

(5) All receipts from registrations and renewals collected by the department of revenue must be deposited into the business license account created in RCW 19.02.210.

NEW SECTION. Sec. 2. Section 1 of this act constitutes a new chapter in Title 19 RCW.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 167

[Substitute House Bill 1283]

DEBT ADJUSTING--NONPROFIT ORGANIZATIONS

AN ACT Relating to nonprofit organizations engaged in debt adjusting; amending RCW 18.28.080 and 18.28.120; reenacting and amending RCW 18.28.010; and adding a new section to chapter 18.28 RCW.

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

Sec. 1. RCW 18.28.010 and 2012 c 56 s 1 are each reenacted and amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Debt adjuster," which includes any person known as a debt pooler, debt manager, debt consolidator, debt prorater, or credit counselor, is any person engaging in or holding himself or herself out as engaging in the business of debt adjusting for compensation. The term shall not include:

(a) Attorneys-at-law, escrow agents, accountants, broker-dealers in securities, or investment advisors in securities, while performing services solely incidental to the practice of their professions;

(b) Any person, partnership, association, or corporation doing business under and as permitted by any law of this state or of the United States relating to banks, consumer finance businesses, consumer loan companies, trust companies, mutual savings banks, savings and loan associations, building and loan associations, credit unions, crop credit associations, development credit corporations, industrial development corporations, title insurance companies, incorporation companies, or third-party account administrators;

(c) Persons who, as employees on a regular salary or wage of an employer not engaged in the business of debt adjusting, perform credit services for their employer;

(d) Public officers while acting in their official capacities and persons acting under court order;

(e) Any person while performing services incidental to the dissolution, winding up or liquidation of a partnership, corporation, or other business enterprise;

(f) Nonprofit organizations dealing exclusively with debts owing from commercial enterprises to business creditors;

(g) Nonprofit organizations engaged in debt adjusting and which do not assess against the debtor a service charge in excess of fifteen dollars per month.

(2) "Debt adjusting" means the managing, counseling, settling, adjusting, prorating, or liquidating of the indebtedness of a debtor, or receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor.

(3) "Debt adjusting agency" is any partnership, corporation, or association engaging in or holding itself out as engaging in the business of debt adjusting.

(4) "Fair share" means the creditor contributions paid to nonprofit debt adjusters by the creditors whose consumers receive debt adjusting services from the nonprofit debt adjusters and pay down their debt accordingly. "Fair share" does not include grants received by nonprofit debt adjusters for services unrelated to debt adjusting.

(5) "Financial institution" means any person doing business under the laws of any state or the United States relating to commercial banks, bank holding companies, savings banks, savings and loan associations, trust companies, or credit unions.

~~((5))~~ (6) "Thirdparty account administrator" means an independent entity that holds or administers a dedicated bank account for fees and payments to creditors, debt collectors, debt adjusters, or debt adjusting agencies in connection with the renegotiation, settlement, reduction, or other alteration of the terms of payment or other terms of a debt.

Sec. 2. RCW 18.28.080 and 2012 c 56 s 2 are each amended to read as follows:

(1) By contract a debt adjuster may charge a reasonable fee for debt adjusting services. The total fee for debt adjusting services, including, but not limited to, any fee charged by a financial institution or a third-party account administrator, may not exceed fifteen percent of the total debt listed by the debtor on the contract. The fee retained by the debt adjuster from any one

payment made by or on behalf of the debtor may not exceed fifteen percent of the payment not including fair share contributions to a nonprofit debt adjuster. The debt adjuster may make an initial charge of up to twenty-five dollars which shall be considered part of the total fee. If an initial charge is made, no additional fee may be retained which will bring the total fee retained to date to more than fifteen percent of the total payments made to date. No fee whatsoever shall be applied against rent and utility payments for housing.

In the event of cancellation or default on performance of the contract by the debtor prior to its successful completion, the debt adjuster may collect in addition to fees previously received, six percent of that portion of the remaining indebtedness listed on said contract which was due when the contract was entered into, but not to exceed twenty-five dollars.

(2) A debt adjuster shall not be entitled to retain any fee until notifying all creditors listed by the debtor that the debtor has engaged the debt adjuster in a program of debt adjusting.

(3) The department of financial institutions has authority to enforce compliance with this section.

Sec. 3. RCW 18.28.120 and 1999 c 151 s 106 are each amended to read as follows:

A debt adjuster shall not:

(1) Take any contract, or other instrument which has any blank spaces when signed by the debtor;

(2) Receive or charge any fee in the form of a promissory note or other promise to pay or receive or accept any mortgage or other security for any fee, whether as to real or personal property;

(3) Lend money or credit;

(4) Take any confession of judgment or power of attorney to confess judgment against the debtor or appear as the debtor in any judicial proceedings;

(5) Take, concurrent with the signing of the contract or as a part of the contract or as part of the application for the contract, a release of any obligation to be performed on the part of the debt adjuster;

(6) Advertise services, display, distribute, broadcast or televise, or permit services to be displayed, advertised, distributed, broadcasted or televised in any manner whatsoever wherein any false, misleading or deceptive statement or representation with regard to the services to be performed by the debt adjuster, or the charges to be made therefor, is made;

(7) Offer, pay, or give any cash, fee, gift, bonus, premiums, reward, or other compensation to any person for referring any prospective customer to the debt adjuster;

(8) Receive any cash, fee, gift, bonus, premium, reward, or other compensation, other than fair share contributions to a nonprofit debt adjuster, from any person other than the debtor or a person in the debtor's behalf in connection with his or her activities as a debt adjuster; or

(9) Disclose to anyone the debtors who have contracted with the debt adjuster; nor shall the debt adjuster disclose the creditors of a debtor to anyone other than: (a) The debtor; or (b) another creditor of the debtor and then only to the extent necessary to secure the cooperation of such a creditor in a debt adjusting plan.

NEW SECTION. **Sec. 4.** A new section is added to chapter 18.28 RCW to read as follows:

(1) Any nonprofit organization engaged in debt adjusting in this state or exempt from this chapter pursuant to RCW 18.28.010(1)(g) shall provide the following information to the department of financial institutions in a form prescribed by the department by June 30, 2016, and again on June 30, 2017:

(a) The number and percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous year who became inactive in, canceled, or terminated those services without settlement of all of the debtor's debts, by year of enrollment;

(b) The total fees collected from Washington debtors during the previous year;

(c) The total fair share contributions collected from creditors of Washington debtors during the previous year;

(d) For each debtor for whom the debt adjuster provides debt adjusting services:

(i) The date of contracting;

(ii) The number of debts included in the contract between the debt adjuster and the debtor;

(iii) The principal amount of each debt at the time the contract was signed;

(iv) The source of each debtor's obligation, categorized as credit card, student loans, auto, medical, small loans under chapter 31.45 RCW, other secured debt, and other unsecured debt;

(v) Whether each debt is active, terminated, or settled;

(vi) If a debt has been settled, the settlement amount of the debt and the savings amount, calculated by subtracting the amount paid to settle the debt from the principal amount of the debt at the time the contract was signed; and

(vii) The total fees charged to the debtor and how the fees were calculated;

(e) For Washington debtors who became inactive in, canceled, or terminated debt adjuster services during the previous year, the number and percentage of debtors who, as measured by the aggregate amount of each debtor's enrolled debts:

(i) Settled zero percent of their enrolled debt;

(ii) Settled up to twenty-five percent of their enrolled debt;

(iii) Settled twenty-five percent to fifty percent of their enrolled debt;

(iv) Settled fifty-one percent to seventy-five percent of their enrolled debt;

(v) Settled seventy-six percent to ninety-nine percent of their enrolled debt;

(f) The number and percentage of Washington debtors for whom the debt adjuster provides or provided debt adjusting services in the previous three years who fully settled one hundred percent of their enrolled debt through those debt adjusting services, by year of enrollment; and

(g)(i) The nonprofit organization's form 990 submitted to the internal revenue service in the preceding year; or

(ii) A statement of previous year's base salary and other compensation of the nonprofit organization's officers, directors, trustees, and other employees and independent contractors receiving greater than one hundred fifty thousand dollars in total compensation, if the form 990 does not contain such information or if the organization did not submit a form 990 in the preceding year.

(2) The department of financial institutions shall make public and submit to the appropriate committees of the legislature a report summarizing the information received under subsection (1) of this section by December 1, 2016, and again on December 1, 2017.

Passed by the House March 10, 2015.

Passed by the Senate April 21, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 168

[Engrossed House Bill 1422]

FLORAL PRODUCTS BUSINESSES--MISREPRESENTATION OF GEOGRAPHIC LOCATION

AN ACT Relating to misrepresentation of the geographic location of floral product businesses; amending RCW 19.160.010 and 19.160.030; and prescribing penalties.

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

Sec. 1. RCW 19.160.010 and 1999 c 156 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Local telephone directory" means a publication listing telephone numbers for various businesses in a certain geographic area and distributed free of charge to some or all telephone subscribers in that area.

(2) "Local telephone number" means a ~~((telephone number that can be dialed without incurring long distance charges from telephones located within the area covered by the local telephone directory in which the number is listed. The term does not include long distance numbers, toll free numbers, or 900 exchange numbers listed in a local telephone directory))~~ specific telephone number, area code and prefix, assigned for the purpose of completing local calls between a calling party or station and any other party or station within a designated exchange or all of its designated local calling areas. The term "local telephone number" does not include long distance telephone numbers or any toll-free telephone numbers listed in a local telephone directory.

(3) "Person" means an individual, partnership, limited liability partnership, corporation, or limited liability corporation.

Sec. 2. RCW 19.160.030 and 1999 c 156 s 2 are each amended to read as follows:

~~((No person engaged in the selling, delivery, or solicitation of cut flowers, flower arrangements, or floral products may misrepresent his, her, or its geographic location by:~~

~~(1) Listing a local telephone number in a local telephone directory if:~~

~~(a) Calls to the telephone number are routinely forwarded or otherwise transferred to a business location that is outside the calling area covered by the local telephone directory; and~~

~~(b) The listing fails to conspicuously disclose the locality and state in which the business is located; or~~

~~(2) Listing a business name in a local telephone directory if:~~

~~(a) The name misrepresents the business's geographic location; and~~

~~(b) The listing fails to disclose the locality and state in which the business is located.)~~ (1) For purposes of this section, "floral or ornamental products or services" means floral arrangements, cut flowers, floral bouquets, potted plants, balloons, floral designs, and related products and services.

(2) It is a violation for a provider or vendor of floral or ornamental products or services to misrepresent the geographic location of its business by doing either of the following:

(a) Listing a local telephone number in any advertisement or listing, unless the advertisement or listing identifies the true physical address, including the city, of the provider's or vendor's business; or

(b) Listing a fictitious business name or an assumed business name in any advertisement or listing if both of the following criteria are met:

(i) The name of the business misrepresents the provider's or vendor's geographic location; and

(ii) The advertisement or listing does not identify the true physical address, including the city and state, of the provider's or vendor's business.

(3) A violation of this section is punishable, exclusively, by a fine not to exceed two hundred fifty dollars.

(4) This section does not create or impose any duty or obligation on a person other than a vendor or provider of floral or ornamental products or services.

(5) This section does not apply to any of the following:

(a) A publisher of a telephone directory or other publication or a provider of a directory assistance service publishing or providing information about another business.

(b) An internet web site that aggregates and provides information about other businesses.

(c) An owner or publisher of a print advertising medium providing information about other businesses.

(d) An internet service provider.

(e) An internet service that displays or distributes advertisements for other businesses.

Passed by the House April 16, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 6, 2015.

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CHAPTER 169

[House Bill 1550]

TAXES--AMUSEMENT, RECREATION, AND PHYSICAL FITNESS SERVICES

AN ACT Relating to simplifying the taxation of amusement, recreation, and physical fitness services; amending RCW 82.04.050, 82.04.060, 82.04.190, 82.08.0291, 82.12.020, 82.12.02595, 82.12.035, 82.12.040, 82.12.860, and 82.32.087; reenacting and amending RCW 82.12.010; creating a new section; repealing RCW 82.12.02917; and providing an effective date.

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

Sec. 1. RCW 82.04.050 and 2013 2nd sp.s. c 13 s 802 are each amended to read as follows:

(1)(a) "Sale at retail" or "retail sale" means every sale of tangible personal property (including articles produced, fabricated, or imprinted) to all persons

irrespective of the nature of their business and including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than a sale to a person who:

(i) Purchases for the purpose of resale as tangible personal property in the regular course of business without intervening use by such person, but a purchase for the purpose of resale by a regional transit authority under RCW 81.112.300 is not a sale for resale; or

(ii) Installs, repairs, cleans, alters, imprints, improves, constructs, or decorates real or personal property of or for consumers, if such tangible personal property becomes an ingredient or component of such real or personal property without intervening use by such person; or

(iii) Purchases for the purpose of consuming the property purchased in producing for sale as a new article of tangible personal property or substance, of which such property becomes an ingredient or component or is a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale; or

(iv) Purchases for the purpose of consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(v) Purchases for the purpose of providing the property to consumers as part of competitive telephone service, as defined in RCW 82.04.065; or

(vi) Purchases for the purpose of satisfying the person's obligations under an extended warranty as defined in subsection (7) of this section, if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person.

(b) The term includes every sale of tangible personal property that is used or consumed or to be used or consumed in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property is resold or used as provided in (a)(i) through (vi) of this subsection following such use.

(c) The term also means every sale of tangible personal property to persons engaged in any business that is taxable under RCW 82.04.280(1) (a), (b), and (g), 82.04.290, and 82.04.2908.

(2) The term "sale at retail" or "retail sale" includes the sale of or charge made for tangible personal property consumed and/or for labor and services rendered in respect to the following:

(a) The installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property of or for consumers, including charges made for the mere use of facilities in respect thereto, but excluding charges made for the use of self-service laundry facilities, and also excluding sales of laundry service to nonprofit health care facilities, and excluding services rendered in respect to live animals, birds and insects;

(b) The constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for consumers, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, and also includes the sale of

services or charges made for the clearing of land and the moving of earth excepting the mere leveling of land used in commercial farming or agriculture;

(c) The constructing, repairing, or improving of any structure upon, above, or under any real property owned by an owner who conveys the property by title, possession, or any other means to the person performing such construction, repair, or improvement for the purpose of performing such construction, repair, or improvement and the property is then reconveyed by title, possession, or any other means to the original owner;

(d) The cleaning, fumigating, razing, or moving of existing buildings or structures, but does not include the charge made for janitorial services; and for purposes of this section the term "janitorial services" means those cleaning and caretaking services ordinarily performed by commercial janitor service businesses including, but not limited to, wall and window washing, floor cleaning and waxing, and the cleaning in place of rugs, drapes and upholstery. The term "janitorial services" does not include painting, papering, repairing, furnace or septic tank cleaning, snow removal or sandblasting;

(e) Automobile towing and similar automotive transportation services, but not in respect to those required to report and pay taxes under chapter 82.16 RCW;

(f) The furnishing of lodging and all other services by a hotel, rooming house, tourist court, motel, trailer camp, and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property, and it is presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same. For the purposes of this subsection, it is presumed that the sale of and charge made for the furnishing of lodging for a continuous period of one month or more to a person is a rental or lease of real property and not a mere license to enjoy the same;

(g) The installing, repairing, altering, or improving of digital goods for consumers;

(h) Persons taxable under (a), (b), (c), (d), (e), (f), and (g) of this subsection when such sales or charges are for property, labor and services which are used or consumed in whole or in part by such persons in the performance of any activity defined as a "sale at retail" or "retail sale" even though such property, labor and services may be resold after such use or consumption. Nothing contained in this subsection may be construed to modify subsection (1) of this section and nothing contained in subsection (1) of this section may be construed to modify this subsection.

(3) The term "sale at retail" or "retail sale" includes the sale of or charge made for personal, business, or professional services including amounts designated as interest, rents, fees, admission, and other service emoluments however designated, received by persons engaging in the following business activities:

~~(a)((i) Amusement and recreation services including but not limited to golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers.~~

~~(ii) Until July 1, 2017, amusement and recreation services do not include the opportunity to dance provided by an establishment in exchange for a cover charge.~~

(iii) For purposes of this subsection (3)(a)-

(A) "~~Cover charge~~" means a charge, regardless of its label, to enter an establishment or added to the purchaser's bill by an establishment or otherwise collected after entrance to the establishment, and the purchaser is provided the opportunity to dance in exchange for payment of the charge.

(B) "~~Opportunity to dance~~" means that an establishment provides a designated physical space, on either a temporary or permanent basis, where customers are allowed to dance and the establishment either advertises or otherwise makes customers aware that it has an area for dancing;

~~(b))~~ Abstract, title insurance, and escrow services;

~~((e))~~ (b) Credit bureau services;

~~((d))~~ (c) Automobile parking and storage garage services;

~~((e))~~ (d) Landscape maintenance and horticultural services but excluding (i) horticultural services provided to farmers and (ii) pruning, trimming, repairing, removing, and clearing of trees and brush near electric transmission or distribution lines or equipment, if performed by or at the direction of an electric utility;

~~((f))~~ (e) Service charges associated with tickets to professional sporting events; ~~(and~~

~~(g))~~ (f) The following personal services: ~~((Physical fitness services,))~~ Tanning salon services, tattoo parlor services, steam bath services, turkish bath services, escort services, and dating services; and

(g)(i) Operating an athletic or fitness facility, including all charges for the use of such a facility or for any associated services and amenities, except as provided in (g)(ii) of this subsection.

(ii) Notwithstanding anything to the contrary in (g)(i) of this subsection (3), the term "sale at retail" and "retail sale" under this subsection does not include:

(A) Separately stated charges for the use of an athletic or fitness facility where such use is primarily for a purpose other than engaging in or receiving instruction in a physical fitness activity;

(B) Separately stated charges for the use of a discrete portion of an athletic or fitness facility, other than a pool, where such discrete portion of the facility does not by itself meet the definition of "athletic or fitness facility" in this subsection;

(C) Separately stated charges for services, such as advertising, massage, nutritional consulting, and body composition testing, that do not require the customer to engage in physical fitness activities to receive the service. The exclusion in this subsection (3)(g)(ii)(C) does not apply to personal training services and instruction in a physical fitness activity;

(D) Separately stated charges for physical therapy provided by a physical therapist, as those terms are defined in RCW 18.74.010, or occupational therapy provided by an occupational therapy practitioner, as those terms are defined in RCW 18.59.020, when performed pursuant to a referral from an authorized health care practitioner or in consultation with an authorized health care practitioner. For the purposes of this subsection (3)(g)(ii)(D), an authorized health care practitioner means a health care practitioner licensed under chapter 18.83, 18.25, 18.36A, 18.57, 18.57A, 18.71, or 18.71A RCW;

(E) Rent or association fees charged by a landlord or residential association to a tenant or residential owner with access to an athletic or fitness facility

maintained by the landlord or residential association, unless the rent or fee varies depending on whether the tenant or owner has access to the facility;

(F) Services provided in the regular course of employment by an employee with access to an athletic or fitness facility maintained by the employer for use without charge by its employees or their family members;

(G) The provision of access to an athletic or fitness facility by an educational institution to its students and staff. However, charges made by an educational institution to its alumni or other members of the public for the use of any of the educational institution's athletic or fitness facilities are a retail sale under this subsection (3)(g). For purposes of this subsection (3)(g)(ii)(G), "educational institution" has the same meaning as in RCW 82.04.170; and

(H) Yoga, tai chi, or chi gong classes held at a community center, park, gymnasium, college or university, hospital or other medical facility, private residence, or any facility that is not primarily used for physical fitness activities other than yoga, tai chi, or chi gong classes.

(iii) Nothing in (g)(ii) of this subsection (3) may be construed to affect the taxation of sales made by the operator of an athletic or fitness facility, where such sales are defined as a retail sale under any provision of this section other than this subsection (3).

(iv) For the purposes of this subsection (3)(g), the following definitions apply:

(A) "Athletic or fitness facility" means an indoor or outdoor facility or portion of a facility that is primarily used for: Exercise classes; strength and conditioning programs; personal training services; tennis, racquetball, handball, squash, or pickleball; yoga; boxing, kickboxing, wrestling, martial arts, or mixed martial arts training; or other activities requiring the use of exercise or strength training equipment, such as treadmills, elliptical machines, stair climbers, stationary cycles, rowing machines, pilates equipment, balls, climbing ropes, jump ropes, and weightlifting equipment.

(B) "Physical fitness activities" means activities that involve physical exertion for the purpose of improving or maintaining the general fitness, strength, flexibility, conditioning, or health of the participant.

(4)(a) The term also includes the renting or leasing of tangible personal property to consumers.

(b) The term does not include the renting or leasing of tangible personal property where the lease or rental is for the purpose of sublease or subrent.

(5) The term also includes the providing of "competitive telephone service," "telecommunications service," or "ancillary services," as those terms are defined in RCW 82.04.065, to consumers.

(6)(a) The term also includes the sale of prewritten computer software to a consumer, regardless of the method of delivery to the end user. For purposes of this subsection (6)(a), the sale of prewritten computer software includes the sale of or charge made for a key or an enabling or activation code, where the key or code is required to activate prewritten computer software and put the software into use. There is no separate sale of the key or code from the prewritten computer software, regardless of how the sale may be characterized by the vendor or by the purchaser.

The term "retail sale" does not include the sale of or charge made for:

(i) Custom software; or

(ii) The customization of prewritten computer software.

(b)(i) The term also includes the charge made to consumers for the right to access and use prewritten computer software, where possession of the software is maintained by the seller or a third party, regardless of whether the charge for the service is on a per use, per user, per license, subscription, or some other basis.

(ii)(A) The service described in (b)(i) of this subsection (6) includes the right to access and use prewritten computer software to perform data processing.

(B) For purposes of this subsection (6)(b)(ii), "data processing" means the systematic performance of operations on data to extract the required information in an appropriate form or to convert the data to usable information. Data processing includes check processing, image processing, form processing, survey processing, payroll processing, claim processing, and similar activities.

(7) The term also includes the sale of or charge made for an extended warranty to a consumer. For purposes of this subsection, "extended warranty" means an agreement for a specified duration to perform the replacement or repair of tangible personal property at no additional charge or a reduced charge for tangible personal property, labor, or both, or to provide indemnification for the replacement or repair of tangible personal property, based on the occurrence of specified events. The term "extended warranty" does not include an agreement, otherwise meeting the definition of extended warranty in this subsection, if no separate charge is made for the agreement and the value of the agreement is included in the sales price of the tangible personal property covered by the agreement. For purposes of this subsection, "sales price" has the same meaning as in RCW 82.08.010.

(8)(a) The term also includes the following sales to consumers of digital goods, digital codes, and digital automated services:

(i) Sales in which the seller has granted the purchaser the right of permanent use;

(ii) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(iii) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(iv) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(b) A retail sale of digital goods, digital codes, or digital automated services under this subsection (8) includes any services provided by the seller exclusively in connection with the digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(c) For purposes of this subsection, "permanent" means perpetual or for an indefinite or unspecified length of time. A right of permanent use is presumed to have been granted unless the agreement between the seller and the purchaser specifies or the circumstances surrounding the transaction suggest or indicate that the right to use terminates on the occurrence of a condition subsequent.

(9) The term also includes the charge made for providing tangible personal property along with an operator for a fixed or indeterminate period of time. A consideration of this is that the operator is necessary for the tangible personal property to perform as designed. For the purpose of this subsection (9), an

operator must do more than maintain, inspect, or set up the tangible personal property.

(10) The term does not include the sale of or charge made for labor and services rendered in respect to the building, repairing, or improving of any street, place, road, highway, easement, right-of-way, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind.

(11) The term also does not include sales of chemical sprays or washes to persons for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, nor does it include sales of feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials to: (a) Persons who participate in the federal conservation reserve program, the environmental quality incentives program, the wetlands reserve program, and the wildlife habitat incentives program, or their successors administered by the United States department of agriculture; (b) farmers for the purpose of producing for sale any agricultural product; and (c) farmers acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife to produce or improve wildlife habitat on land that the farmer owns or leases.

(12) The term does not include the sale of or charge made for labor and services rendered in respect to the constructing, repairing, decorating, or improving of new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing, or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation. Nor does the term include the sale of services or charges made for the clearing of land and the moving of earth of or for the United States, any instrumentality thereof, or a county or city housing authority. Nor does the term include the sale of services or charges made for cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development.

(13) The term does not include the sale of or charge made for labor, services, or tangible personal property pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the labor, services, or tangible personal property, and a transit agency, as defined in RCW 81.104.015, performs the labor or services.

(14) The term does not include the sale for resale of any service described in this section if the sale would otherwise constitute a "sale at retail" and "retail sale" under this section.

(15)(a) The term "sale at retail" or "retail sale" includes amounts charged, however labeled, to consumers to engage in any of the activities listed in this subsection (15)(a), including the furnishing of any associated equipment or, except as otherwise provided in this subsection, providing instruction in such

activities, where such charges are not otherwise defined as a "sale at retail" or "retail sale" in this section:

(i)(A) Golf, including any variant in which either golf balls or golf clubs are used, such as miniature golf, hitting golf balls at a driving range, and golf simulators, and including fees charged by a golf course to a player for using his or her own cart. However, charges for golf instruction are not a retail sale, provided that if the instruction involves the use of a golfing facility that would otherwise require the payment of a fee, such as green fees or driving range fees, such fees, including the applicable retail sales tax, must be separately identified and charged by the golfing facility operator to the instructor or the person receiving the instruction.

(B) Notwithstanding (a)(i)(A) of this subsection (15) and except as otherwise provided in this subsection (15)(a)(i)(B), the term "sale at retail" or "retail sale" does not include amounts charged to participate in, or conduct, a golf tournament or other competitive event. However, amounts paid by event participants to the golf facility operator are retail sales under this subsection (15)(a)(i). Likewise, amounts paid by the event organizer to the golf facility are retail sales under this subsection (15)(a)(i), if such amounts vary based on the number of event participants:

(ii) Ballooning, hang gliding, indoor or outdoor sky diving, paragliding, parasailing, and similar activities;

(iii) Air hockey, billiards, pool, foosball, darts, shuffleboard, ping pong, and similar games;

(iv) Access to amusement park, theme park, and water park facilities, including but not limited to charges for admission and locker or cabana rentals. Discrete charges for rides or other attractions or entertainment that are in addition to the charge for admission are not a retail sale under this subsection (15)(a)(iv). For the purposes of this subsection, an amusement park or theme park is a location that provides permanently affixed amusement rides, games, and other entertainment, but does not include parks or zoos for which the primary purpose is the exhibition of wildlife, or fairs, carnivals, and festivals as defined in (b)(i) of this subsection;

(v) Batting cage activities;

(vi) Bowling, but not including competitive events, except that amounts paid by the event participants to the bowling alley operator are retail sales under this subsection (15)(a)(vi). Likewise, amounts paid by the event organizer to the operator of the bowling alley are retail sales under this subsection (15)(a)(vi), if such amounts vary based on the number of event participants;

(vii) Climbing on artificial climbing structures, whether indoors or outdoors;

(viii) Day trips for sightseeing purposes;

(ix) Bungee jumping, zip lining, and riding inside a ball, whether inflatable or otherwise;

(x) Horseback riding offered to the public, where the seller furnishes the horse to the buyer and providing instruction is not the primary focus of the activity, including guided rides, but not including therapeutic horseback riding provided by an instructor certified by a nonprofit organization that offers national or international certification for therapeutic riding instructors;

(xi) Fishing, including providing access to private fishing areas and charter or guided fishing, except that fishing contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xii) Guided hunting and hunting at game farms and shooting preserves, except that hunting contests and license fees imposed by a government entity are not a retail sale under this subsection;

(xiii) Swimming, but only in respect to (A) recreational or fitness swimming that is open to the public, such as open swim, lap swimming, and special events like kids night out and pool parties during open swim time, and (B) pool parties for private events, such as birthdays, family gatherings, and employee outings. Fees for swimming lessons, to participate in swim meets and other competitions, or to join a swim team, club, or aquatic facility are not retail sales under this subsection (15)(a)(xiii);

(xiv) Go-karting, bumper cars, and other motorized activities where the seller provides the vehicle and the premises where the buyer will operate the vehicle;

(xv) Indoor or outdoor playground activities, such as inflatable bounce structures and other inflatables; mazes; trampolines; slides; ball pits; games of tag, including laser tag and soft-dart tag; and human gyroscope rides, regardless of whether such activities occur at the seller's place of business, but not including playground activities provided for children by a licensed child day care center or licensed family day care provider as those terms are defined in RCW 43.215.010;

(xvi) Shooting sports and activities, such as target shooting, skeet, trap, sporting clays, "5" stand, and archery, but only in respect to discrete charges to members of the public to engage in these activities, but not including fees to enter a competitive event, instruction that is entirely or predominately classroom based, or to join or renew a membership at a club, range, or other facility;

(xvii) Paintball and airsoft activities;

(xviii) Skating, including ice skating, roller skating, and inline skating, but only in respect to discrete charges to members of the public to engage in skating activities, but not including skating lessons, competitive events, team activities, or fees to join or renew a membership at a skating facility, club, or other organization;

(xix) Nonmotorized snow sports and activities, such as downhill and cross-country skiing, snowboarding, ski jumping, sledding, snow tubing, snowshoeing, and similar snow sports and activities, whether engaged in outdoors or in an indoor facility with or without snow, but only in respect to discrete charges to the public for the use of land or facilities to engage in nonmotorized snow sports and activities, such as fees, however labeled, for the use of ski lifts and tows and daily or season passes for access to trails or other areas where nonmotorized snow sports and activities are conducted. However, fees for the following are not retail sales under this subsection (15)(a)(xix): (A) Instructional lessons; (B) permits issued by a governmental entity to park a vehicle on or access public lands; and (C) permits or leases granted by an owner of private timberland for recreational access to areas used primarily for growing and harvesting timber; and

(xx) Scuba diving; snorkeling; river rafting; surfing; kiteboarding; flyboarding; water slides; inflatables, such as water pillows, water trampolines, and water rollers; and similar water sports and activities.

(b) Notwithstanding anything to the contrary in this subsection (15), the term "sale at retail" or "retail sale" does not include charges:

(i) Made for admission to, and rides or attractions at, fairs, carnivals, and festivals. For the purposes of this subsection, fairs, carnivals, and festivals are events that do not exceed twenty-one days and a majority of the amusement rides, if any, are not affixed to real property;

(ii) Made by an educational institution to its students and staff for activities defined as retail sales by (a)(i) through (xx) of this subsection. However, charges made by an educational institution to its alumni or other members of the general public for these activities are a retail sale under this subsection (15). For purposes of this subsection (15)(b)(ii), "educational institution" has the same meaning as in RCW 82.04.170;

(iii) Made by a vocational school for commercial diver training that is licensed by the workforce training and education coordinating board under chapter 28C.10 RCW; or

(iv) Made for day camps offered by a nonprofit organization or state or local governmental entity that provide youth not older than age eighteen, or that are focused on providing individuals with disabilities or mental illness, the opportunity to participate in a variety of supervised activities.

Sec. 2. RCW 82.04.060 and 2010 c 106 s 203 are each amended to read as follows:

"Sale at wholesale" or "wholesale sale" means:

(1) Any sale, which is not a sale at retail, of:

(a) Tangible personal property;

(b) Services defined as a retail sale in RCW 82.04.050(2) (a) or (g);

(c) (~~Amusement or recreation services as defined~~) Activities defined as a retail sale in RCW 82.04.050(~~(3)(a))~~ (15);

(d) Prewritten computer software;

(e) Services described in RCW 82.04.050(6)(b);

(f) Extended warranties as defined in RCW 82.04.050(7);

(g) Competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065; or

(h) Digital goods, digital codes, or digital automated services;

(2) Any charge made for labor and services rendered for persons who are not consumers, in respect to real or personal property, if such charge is expressly defined as a retail sale by RCW 82.04.050 when rendered to or for consumers. For the purposes of this subsection (2), "real or personal property" does not include any natural products named in RCW 82.04.100; and

(3) The sale of any service for resale, if the sale is excluded from the definition of "sale at retail" and "retail sale" in RCW 82.04.050(14).

Sec. 3. RCW 82.04.190 and 2014 c 97 s 302 are each amended to read as follows:

"Consumer" means the following:

(1) Any person who purchases, acquires, owns, holds, or uses any article of tangible personal property irrespective of the nature of the person's business and

including, among others, without limiting the scope hereof, persons who install, repair, clean, alter, improve, construct, or decorate real or personal property of or for consumers other than for the purpose of:

(a) Resale as tangible personal property in the regular course of business;

(b) Incorporating such property as an ingredient or component of real or personal property when installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating such real or personal property of or for consumers;

(c) Consuming such property in producing for sale as a new article of tangible personal property or a new substance, of which such property becomes an ingredient or component or as a chemical used in processing, when the primary purpose of such chemical is to create a chemical reaction directly through contact with an ingredient of a new article being produced for sale;

(d) Consuming the property purchased in producing ferrosilicon which is subsequently used in producing magnesium for sale, if the primary purpose of such property is to create a chemical reaction directly through contact with an ingredient of ferrosilicon; or

(e) Satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7), if such tangible personal property replaces or becomes an ingredient or component of property covered by the extended warranty without intervening use by such person;

(2)(a) Any person engaged in any business activity taxable under RCW 82.04.290 or 82.04.2908; (b) any person who purchases, acquires, or uses any competitive telephone service, ancillary services, or telecommunications service as those terms are defined in RCW 82.04.065, other than for resale in the regular course of business; (c) any person who purchases, acquires, or uses any service defined in RCW 82.04.050(2) (a) or (g), other than for resale in the regular course of business or for the purpose of satisfying the person's obligations under an extended warranty as defined in RCW 82.04.050(7); (d) any person who ~~((purchases, acquires, or uses any amusement and recreation service defined in RCW 82.04.050(3)(a)))~~ makes a purchase meeting the definition of "sale at retail" and "retail sale" under RCW 82.04.050(15), other than for resale in the regular course of business; (e) any person who purchases or acquires an extended warranty as defined in RCW 82.04.050(7) other than for resale in the regular course of business; and (f) any person who is an end user of software. For purposes of this subsection (2)(f) and RCW 82.04.050(6), a person who purchases or otherwise acquires prewritten computer software, who provides services described in RCW 82.04.050(6)(b) and who will charge consumers for the right to access and use the prewritten computer software, is not an end user of the prewritten computer software;

(3) Any person engaged in the business of contracting for the building, repairing or improving of any street, place, road, highway, easement, rightofway, mass public transportation terminal or parking facility, bridge, tunnel, or trestle which is owned by a municipal corporation or political subdivision of the state of Washington or by the United States and which is used or to be used primarily for foot or vehicular traffic including mass transportation vehicles of any kind as defined in RCW 82.04.280, in respect to tangible personal property when such person incorporates such property as an ingredient or component of such publicly owned street, place, road, highway, easement, rightofway, mass public

transportation terminal or parking facility, bridge, tunnel, or trestle by installing, placing or spreading the property in or upon the rightofway of such street, place, road, highway, easement, bridge, tunnel, or trestle or in or upon the site of such mass public transportation terminal or parking facility;

(4) Any person who is an owner, lessee or has the right of possession to or an easement in real property which is being constructed, repaired, decorated, improved, or otherwise altered by a person engaged in business, excluding only (a) municipal corporations or political subdivisions of the state in respect to labor and services rendered to their real property which is used or held for public road purposes, and (b) the United States, instrumentalities thereof, and county and city housing authorities created pursuant to chapter 35.82 RCW in respect to labor and services rendered to their real property. Nothing contained in this or any other subsection of this definition (~~(shall)~~) may be construed to modify any other definition of "consumer";

(5) Any person who is an owner, lessee, or has the right of possession to personal property which is being constructed, repaired, improved, cleaned, imprinted, or otherwise altered by a person engaged in business;

(6) Any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any article of tangible personal property therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation; also, any person engaged in the business of clearing land and moving earth of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW. Any such person is a consumer within the meaning of this subsection in respect to tangible personal property incorporated into, installed in, or attached to such building or other structure by such person, except that consumer does not include any person engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United States, or any instrumentality thereof, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity;

(7) Any person who is a lessor of machinery and equipment, the rental of which is exempt from the tax imposed by RCW 82.08.020 under RCW 82.08.02565, with respect to the sale of or charge made for tangible personal property consumed in respect to repairing the machinery and equipment, if the tangible personal property has a useful life of less than one year. Nothing contained in this or any other subsection of this section may be construed to modify any other definition of "consumer";

(8) Any person engaged in the business of cleaning up for the United States, or its instrumentalities, radioactive waste and other by-products of weapons production and nuclear research and development;

(9) Any person who is an owner, lessee, or has the right of possession of tangible personal property that, under the terms of an extended warranty as defined in RCW 82.04.050(7), has been repaired or is replacement property, but only with respect to the sale of or charge made for the repairing of the tangible personal property or the replacement property;

(10) Any person who purchases, acquires, or uses services described in RCW 82.04.050(6)(b) other than:

(a) For resale in the regular course of business; or

(b) For purposes of consuming the service described in RCW 82.04.050(6)(b) in producing for sale a new product, but only if such service becomes a component of the new product. For purposes of this subsection (10), "product" means a digital product, an article of tangible personal property, or the service described in RCW 82.04.050(6)(b);

(11)(a) Any end user of a digital product or digital code. "Consumer" does not include any person who is not an end user of a digital product or a digital code and purchases, acquires, owns, holds, or uses any digital product or digital code for purposes of consuming the digital product or digital code in producing for sale a new product, but only if the digital product or digital code becomes a component of the new product. A digital code becomes a component of a new product if the digital good or digital automated service acquired through the use of the digital code becomes incorporated into a new product. For purposes of this subsection, "product" has the same meaning as in subsection (10) of this section.

(b)(i) For purposes of this subsection, "end user" means any taxpayer as defined in RCW 82.12.010 other than a taxpayer who receives by contract a digital product for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution or exhibition of the product, in whole or in part, to others. A person that purchases digital products or digital codes for the purpose of giving away such products or codes will not be considered to have engaged in the distribution or redistribution of such products or codes and will be treated as an end user;

(ii) If a purchaser of a digital code does not receive the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is an end user. If the purchaser of the digital code receives the contractual right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates, then the purchaser of the digital code is not an end user. A purchaser of a digital code who has the contractual right to further redistribute the digital code is an end user if that purchaser does not have the right to further redistribute, after the digital code is redeemed, the underlying digital product to which the digital code relates;

(12) Any person who provides services described in RCW 82.04.050(9). Any such person is a consumer with respect to the purchase, acquisition, or use of the tangible personal property that the person provides along with an operator in rendering services defined as a retail sale in RCW 82.04.050(9). Any such person may also be a consumer under other provisions of this section;

(13) Any person who purchases, acquires, owns, holds, or uses chemical sprays or washes for the purpose of postharvest treatment of fruit for the prevention of scald, fungus, mold, or decay, or who purchases feed, seed, seedlings, fertilizer, agents for enhanced pollination including insects such as bees, and spray materials, is not a consumer of such items, but only to the extent that the items:

(a) Are used in relation to the person's participation in the federal conservation reserve program, the environmental quality incentives program, the

wetlands reserve program, the wildlife habitat incentives program, or their successors administered by the United States department of agriculture;

(b) Are for use by a farmer for the purpose of producing for sale any agricultural product; or

(c) Are for use by a farmer to produce or improve wildlife habitat on land the farmer owns or leases while acting under cooperative habitat development or access contracts with an organization exempt from federal income tax under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code or the Washington state department of fish and wildlife; and

(14) A regional transit authority is not a consumer with respect to labor, services, or tangible personal property purchased pursuant to agreements providing maintenance services for bus, rail, or rail fixed guideway equipment when a transit agency, as defined in RCW 81.104.015, performs the labor or services.

Sec. 4. RCW 82.08.0291 and 2000 c 103 s 8 are each amended to read as follows:

The tax imposed by RCW 82.08.020 (~~shall~~) does not apply to (~~the sale of amusement and recreation services, or personal services specified in RCW 82.04.050(3)(g))~~ sales defined as a sale at retail and retail sale under RCW 82.04.050 (3)(g) or (15), by a nonprofit youth organization, as defined in RCW 82.04.4271, to members of the organization; (~~nor shall~~) and the tax does not apply to physical fitness classes provided by a local government.

Sec. 5. RCW 82.12.010 and 2010 c 127 s 4 are each reenacted and amended to read as follows:

For the purposes of this chapter:

(1) The meaning ascribed to words and phrases in chapters 82.04 and 82.08 RCW, insofar as applicable, has full force and effect with respect to taxes imposed under the provisions of this chapter. "Consumer," in addition to the meaning ascribed to it in chapters 82.04 and 82.08 RCW insofar as applicable, also means any person who distributes or displays, or causes to be distributed or displayed, any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services. With respect to property distributed to persons within this state by a consumer as defined in this subsection (1), the use of the property is deemed to be by such consumer.

(2) "Extended warranty" has the same meaning as in RCW 82.04.050(7).

(3) "Purchase price" means the same as sales price as defined in RCW 82.08.010.

(4)(a)(i) Except as provided in (a)(ii) of this subsection (4), "retailer" means every seller as defined in RCW 82.08.010 and every person engaged in the business of selling tangible personal property at retail and every person required to collect from purchasers the tax imposed under this chapter.

(ii) "Retailer" does not include a professional employer organization when a covered employee coemployed with the client under the terms of a professional employer agreement engages in activities that constitute a sale of tangible personal property, extended warranty, digital good, digital code, or a sale of any digital automated service or service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)(~~(-3)(a);~~) or (6)(b) that is subject to the tax imposed by this

chapter. In such cases, the client, and not the professional employer organization, is deemed to be the retailer and is responsible for collecting and remitting the tax imposed by this chapter.

(b) For the purposes of (a) of this subsection, the terms "client," "covered employee," "professional employer agreement," and "professional employer organization" have the same meanings as in RCW 82.04.540.

(5) "Taxpayer" and "purchaser" include all persons included within the meaning of the word "buyer" and the word "consumer" as defined in chapters 82.04 and 82.08 RCW.

(6) "Use," "used," "using," or "put to use" have their ordinary meaning, and mean:

(a) With respect to tangible personal property, except for natural gas and manufactured gas, the first act within this state by which the taxpayer takes or assumes dominion or control over the article of tangible personal property (as a consumer), and include installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption within this state;

(b) With respect to a service defined in RCW 82.04.050(2)(a), the first act within this state after the service has been performed by which the taxpayer takes or assumes dominion or control over the article of tangible personal property upon which the service was performed (as a consumer), and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(c) With respect to an extended warranty, the first act within this state after the extended warranty has been acquired by which the taxpayer takes or assumes dominion or control over the article of tangible personal property to which the extended warranty applies, and includes installation, storage, withdrawal from storage, distribution, or any other act preparatory to subsequent actual use or consumption of the article within this state;

(d) With respect to a digital good or digital code, the first act within this state by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good or digital code;

(e) With respect to a digital automated service, the first act within this state by which the taxpayer, as a consumer, uses, enjoys, or otherwise receives the benefit of the service;

(f) With respect to a service defined as a retail sale in RCW 82.04.050(6)(b), the first act within this state by which the taxpayer, as a consumer, accesses the prewritten computer software;

(g) With respect to a service defined as a retail sale in RCW 82.04.050(2)(g), the first act within this state after the service has been performed by which the taxpayer, as a consumer, views, accesses, downloads, possesses, stores, opens, manipulates, or otherwise uses or enjoys the digital good upon which the service was performed; and

(h) With respect to natural gas or manufactured gas, the use of which is taxable under RCW 82.12.022, including gas that is also taxable under the authority of RCW 82.14.230, the first act within this state by which the taxpayer

consumes the gas by burning the gas or storing the gas in the taxpayer's own facilities for later consumption by the taxpayer.

(7)(a) "Value of the article used" is the purchase price for the article of tangible personal property, the use of which is taxable under this chapter. The term also includes, in addition to the purchase price, the amount of any tariff or duty paid with respect to the importation of the article used. In case the article used is acquired by lease or by gift or is extracted, produced, or manufactured by the person using the same or is sold under conditions wherein the purchase price does not represent the true value thereof, the value of the article used is determined as nearly as possible according to the retail selling price at place of use of similar products of like quality and character under such rules as the department may prescribe.

(b) In case the articles used are acquired by bailment, the value of the use of the articles so used must be in an amount representing a reasonable rental for the use of the articles so bailed, determined as nearly as possible according to the value of such use at the places of use of similar products of like quality and character under such rules as the department of revenue may prescribe. In case any such articles of tangible personal property are used in respect to the construction, repairing, decorating, or improving of, and which become or are to become an ingredient or component of, new or existing buildings or other structures under, upon, or above real property of or for the United States, any instrumentality thereof, or a county or city housing authority created pursuant to chapter 35.82 RCW, including the installing or attaching of any such articles therein or thereto, whether or not such personal property becomes a part of the realty by virtue of installation, then the value of the use of such articles so used is determined according to the retail selling price of such articles, or in the absence of such a selling price, as nearly as possible according to the retail selling price at place of use of similar products of like quality and character or, in the absence of either of these selling price measures, such value may be determined upon a cost basis, in any event under such rules as the department of revenue may prescribe.

(c) In the case of articles owned by a user engaged in business outside the state which are brought into the state for no more than one hundred eighty days in any period of three hundred sixty-five consecutive days and which are temporarily used for business purposes by the person in this state, the value of the article used must be an amount representing a reasonable rental for the use of the articles, unless the person has paid tax under this chapter or chapter 82.08 RCW upon the full value of the article used, as defined in (a) of this subsection.

(d) In the case of articles manufactured or produced by the user and used in the manufacture or production of products sold or to be sold to the department of defense of the United States, the value of the articles used is determined according to the value of the ingredients of such articles.

(e) In the case of an article manufactured or produced for purposes of serving as a prototype for the development of a new or improved product, the value of the article used is determined by: (i) The retail selling price of such new or improved product when first offered for sale; or (ii) the value of materials incorporated into the prototype in cases in which the new or improved product is not offered for sale.

(f) In the case of an article purchased with a direct pay permit under RCW 82.32.087, the value of the article used is determined by the purchase price of such article if, but for the use of the direct pay permit, the transaction would have been subject to sales tax.

(8) "Value of the digital good or digital code used" means the purchase price for the digital good or digital code, the use of which is taxable under this chapter. If the digital good or digital code is acquired other than by purchase, the value of the digital good or digital code must be determined as nearly as possible according to the retail selling price at place of use of similar digital goods or digital codes of like quality and character under rules the department may prescribe.

(9) "Value of the extended warranty used" means the purchase price for the extended warranty, the use of which is taxable under this chapter. If the extended warranty is received by gift or under conditions wherein the purchase price does not represent the true value of the extended warranty, the value of the extended warranty used is determined as nearly as possible according to the retail selling price at place of use of similar extended warranties of like quality and character under rules the department may prescribe.

(10) "Value of the service used" means the purchase price for the digital automated service or other service, the use of which is taxable under this chapter. If the service is received by gift or under conditions wherein the purchase price does not represent the true value thereof, the value of the service used is determined as nearly as possible according to the retail selling price at place of use of similar services of like quality and character under rules the department may prescribe.

Sec. 6. RCW 82.12.020 and 2010 1st sp.s. c 23 s 206 are each amended to read as follows:

(1) There is levied and collected from every person in this state a tax or excise for the privilege of using within this state as a consumer any:

(a) Article of tangible personal property acquired by the user in any manner, including tangible personal property acquired at a casual or isolated sale, and including by-products used by the manufacturer thereof, except as otherwise provided in this chapter, irrespective of whether the article or similar articles are manufactured or are available for purchase within this state;

(b) Prewritten computer software, regardless of the method of delivery, but excluding prewritten computer software that is either provided free of charge or is provided for temporary use in viewing information, or both;

(c) Services defined as a retail sale in RCW 82.04.050 (2) (a) or (g)(~~(c)~~), or (6)(b), excluding services defined as a retail sale in RCW 82.04.050(6)(b) that are provided free of charge;

(d) Extended warranty; or

(e)(i) Digital good, digital code, or digital automated service, including the use of any services provided by a seller exclusively in connection with digital goods, digital codes, or digital automated services, whether or not a separate charge is made for such services.

(ii) With respect to the use of digital goods, digital automated services, and digital codes acquired by purchase, the tax imposed in this subsection (1)(e) applies in respect to:

(A) Sales in which the seller has granted the purchaser the right of permanent use;

(B) Sales in which the seller has granted the purchaser a right of use that is less than permanent;

(C) Sales in which the purchaser is not obligated to make continued payment as a condition of the sale; and

(D) Sales in which the purchaser is obligated to make continued payment as a condition of the sale.

(iii) With respect to digital goods, digital automated services, and digital codes acquired other than by purchase, the tax imposed in this subsection (1)(e) applies regardless of whether or not the consumer has a right of permanent use or is obligated to make continued payment as a condition of use.

(2) The provisions of this chapter do not apply in respect to the use of any article of tangible personal property, extended warranty, digital good, digital code, digital automated service, or service taxable under RCW 82.04.050 (2) (a) or (g)(~~(-)(3)(a);~~) or (6)(b), if the sale to, or the use by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(3)(a) Except as provided in this section, payment of the tax imposed by this chapter or chapter 82.08 RCW by one purchaser or user of tangible personal property, extended warranty, digital good, digital code, digital automated service, or other service does not have the effect of exempting any other purchaser or user of the same property, extended warranty, digital good, digital code, digital automated service, or other service from the taxes imposed by such chapters.

(b) The tax imposed by this chapter does not apply:

(i) If the sale to, or the use by, the present user or his or her bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by his or her bailor or donor;

(ii) In respect to the use of any article of tangible personal property acquired by bailment and the tax has once been paid based on reasonable rental as determined by RCW 82.12.060 measured by the value of the article at time of first use multiplied by the tax rate imposed by chapter 82.08 RCW or this chapter as of the time of first use;

(iii) In respect to the use of any article of tangible personal property acquired by bailment, if the property was acquired by a previous bailee from the same bailor for use in the same general activity and the original bailment was prior to June 9, 1961; or

(iv) To the use of digital goods or digital automated services, which were obtained through the use of a digital code, if the sale of the digital code to, or the use of the digital code by, the present user or the present user's bailor or donor has already been subjected to the tax under chapter 82.08 RCW or this chapter and the tax has been paid by the present user or by the present user's bailor or donor.

(4)(a) Except as provided in (b) of this subsection (4), the tax is levied and must be collected in an amount equal to the value of the article used, value of the digital good or digital code used, value of the extended warranty used, or value

of the service used by the taxpayer, multiplied by the applicable rates in effect for the retail sales tax under RCW 82.08.020.

(b) In the case of a seller required to collect use tax from the purchaser, the tax must be collected in an amount equal to the purchase price multiplied by the applicable rate in effect for the retail sales tax under RCW 82.08.020.

(5) For purposes of the tax imposed in this section, "person" includes anyone within the definition of "buyer," "purchaser," and "consumer" in RCW 82.08.010.

Sec. 7. RCW 82.12.02595 and 2009 c 535 s 615 are each amended to read as follows:

(1) This chapter does not apply to the use by a nonprofit charitable organization or state or local governmental entity of personal property that has been donated to the nonprofit charitable organization or state or local governmental entity, or to the subsequent use of the property by a person to whom the property is donated or bailed in furtherance of the purpose for which the property was originally donated.

(2) This chapter does not apply to the donation of personal property without intervening use to a nonprofit charitable organization, or to the incorporation of tangible personal property without intervening use into real or personal property of or for a nonprofit charitable organization in the course of installing, repairing, cleaning, altering, imprinting, improving, constructing, or decorating the real or personal property for no charge.

(3) This chapter does not apply to the use by a nonprofit charitable organization of labor and services rendered in respect to installing, repairing, cleaning, altering, imprinting, or improving personal property provided to the charitable organization at no charge, or to the donation of such services.

~~((4) This chapter does not apply to the donation of amusement and recreation services without intervening use to a nonprofit organization or state or local governmental entity, to the use by a nonprofit organization or state or local governmental entity of amusement and recreation services, or to the subsequent use of the services by a person to whom the services are donated or bailed in furtherance of the purpose for which the services were originally donated. As used in this subsection, "amusement and recreation services" has the meaning in RCW 82.04.050(3)(a).))~~

Sec. 8. RCW 82.12.035 and 2009 c 535 s 1107 are each amended to read as follows:

A credit is allowed against the taxes imposed by this chapter upon the use in this state of tangible personal property, extended warranty, digital good, digital code, digital automated service, or services defined as a retail sale in RCW 82.04.050 (2) (a) or (g)~~((3)(a),))~~ or (6)(b), in the amount that the present user thereof or his or her bailor or donor has paid a legally imposed retail sales or use tax with respect to such property, extended warranty, digital good, digital code, digital automated service, or service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)~~((3)(a),))~~ or (6)(b) to any other state, possession, territory, or commonwealth of the United States, any political subdivision thereof, the District of Columbia, and any foreign country or political subdivision thereof.

Sec. 9. RCW 82.12.040 and 2015 c 1 s 11 (Initiative Measure No. 594) are each amended to read as follows:

(1) Every person who maintains in this state a place of business or a stock of goods, or engages in business activities within this state, (~~(shall)~~) must obtain from the department a certificate of registration, and (~~(shall)~~) must, at the time of making sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)(~~(-3)(a)~~), or (6)(b), or making transfers of either possession or title, or both, of tangible personal property for use in this state, collect from the purchasers or transferees the tax imposed under this chapter. The tax to be collected under this section must be in an amount equal to the purchase price multiplied by the rate in effect for the retail sales tax under RCW 82.08.020. For the purposes of this chapter, the phrase "maintains in this state a place of business" (~~(shall)~~) includes the solicitation of sales and/or taking of orders by sales agents or traveling representatives. For the purposes of this chapter, "engages in business activity within this state" includes every activity which is sufficient under the Constitution of the United States for this state to require collection of tax under this chapter. The department must in rules specify activities which constitute engaging in business activity within this state, and must keep the rules current with future court interpretations of the Constitution of the United States.

(2) Every person who engages in this state in the business of acting as an independent selling agent for persons who do not hold a valid certificate of registration, and who receives compensation by reason of sales of tangible personal property, digital goods, digital codes, digital automated services, extended warranties, or sales of any service defined as a retail sale in RCW 82.04.050 (2) (a) or (g)(~~(-3)(a)~~), or (6)(b), of his or her principals for use in this state, must, at the time such sales are made, collect from the purchasers the tax imposed on the purchase price under this chapter, and for that purpose is deemed a retailer as defined in this chapter.

(3) The tax required to be collected by this chapter is deemed to be held in trust by the retailer until paid to the department, and any retailer who appropriates or converts the tax collected to the retailer's own use or to any use other than the payment of the tax provided herein to the extent that the money required to be collected is not available for payment on the due date as prescribed is guilty of a misdemeanor. In case any seller fails to collect the tax herein imposed or having collected the tax, fails to pay the same to the department in the manner prescribed, whether such failure is the result of the seller's own acts or the result of acts or conditions beyond the seller's control, the seller is nevertheless personally liable to the state for the amount of such tax, unless the seller has taken from the buyer a copy of a direct pay permit issued under RCW 82.32.087.

(4) Any retailer who refunds, remits, or rebates to a purchaser, or transferee, either directly or indirectly, and by whatever means, all or any part of the tax levied by this chapter is guilty of a misdemeanor.

(5) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if:

- (a) The person's activities in this state, whether conducted directly or through another person, are limited to:
- (i) The storage, dissemination, or display of advertising;
 - (ii) The taking of orders; or

(iii) The processing of payments; and

(b) The activities are conducted electronically via a web site on a server or other computer equipment located in Washington that is not owned or operated by the person making sales into this state nor owned or operated by an affiliated person. "Affiliated persons" has the same meaning as provided in RCW 82.04.424.

(6) Subsection (5) of this section expires when: (a) The United States congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (b) it is determined by a court of competent jurisdiction, in a judgment not subject to review, that a state can impose sales and use tax collection duties on remote sellers.

(7) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the person would have been obligated to collect retail sales tax on the sale absent a specific exemption provided in chapter 82.08 RCW, and there is no corresponding use tax exemption in this chapter. Nothing in this subsection (7) may be construed as relieving purchasers from liability for reporting and remitting the tax due under this chapter directly to the department.

(8) Notwithstanding subsections (1) through (4) of this section, any person making sales is not obligated to collect the tax imposed by this chapter if the state is prohibited under the Constitution or laws of the United States from requiring the person to collect the tax imposed by this chapter.

(9) Notwithstanding subsections (1) through (4) of this section, any licensed dealer facilitating a firearm sale or transfer between two unlicensed persons by conducting background checks under chapter 9.41 RCW is not obligated to collect the tax imposed by this chapter.

Sec. 10. RCW 82.12.860 and 2009 c 535 s 621 are each amended to read as follows:

(1) This chapter does not apply to state credit unions with respect to the use of any article of tangible personal property, digital good, digital code, digital automated service, service defined as a retail sale in RCW 82.04.050 (2) (a) or (g) ~~((-)(3)(a))~~ or (6)(b), or extended warranty, acquired from a federal credit union, foreign credit union, or out-of-state credit union as a result of a merger or conversion.

(2) For purposes of this section, the following definitions apply:

(a) "Federal credit union" means a credit union organized and operating under the laws of the United States.

(b) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction.

(c) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or United States territory or possession.

(d) "State credit union" means a credit union organized and operating under the laws of this state.

Sec. 11. RCW 82.32.087 and 2010 c 112 s 10 are each amended to read as follows:

(1) The director may grant a direct pay permit to a taxpayer who demonstrates, to the satisfaction of the director, that the taxpayer meets the requirements of this section. The direct pay permit allows the taxpayer to accrue

and remit directly to the department use tax on the acquisition of tangible personal property or sales tax on the sale of or charges made for labor and/or services, in accordance with all of the applicable provisions of this title. Any taxpayer that uses a direct pay permit (~~(shall)~~) must remit state and local sales or use tax directly to the department. The agreement by the purchaser to remit tax directly to the department, rather than pay sales or use tax to the seller, relieves the seller of the obligation to collect sales or use tax and requires the buyer to pay use tax on the tangible personal property and sales tax on the sale of or charges made for labor and/or services.

(2)(a) A taxpayer may apply for a permit under this section if: (i) The taxpayer's cumulative tax liability is reasonably expected to be two hundred forty thousand dollars or more in the current calendar year; or (ii) the taxpayer makes purchases subject to the taxes imposed under chapter 82.08 or 82.12 RCW in excess of ten million dollars per calendar year. For the purposes of this section, "tax liability" means the amount required to be remitted to the department for taxes administered under this chapter, except for the taxes imposed or authorized by chapters 82.14A, 82.14B, 82.24, 82.27, 82.29A, and 84.33 RCW.

(b) Application for a permit must be made in writing to the director in a form and manner prescribed by the department. A taxpayer who transacts business in two or more locations may submit one application to cover the multiple locations.

(c) The director must review a direct pay permit application in a timely manner and (~~(shall)~~) must notify the applicant, in writing, of the approval or denial of the application. The department must approve or deny an application based on the applicant's ability to comply with local government use tax coding capabilities and responsibilities; requirements for vendor notification; recordkeeping obligations; electronic data capabilities; and tax reporting procedures. Additionally, an application may be denied if the director determines that denial would be in the best interest of collecting taxes due under this title. The department must provide a direct pay permit to an approved applicant with the notice of approval. The direct pay permit (~~(shall)~~) must clearly state that the holder is solely responsible for the accrual and payment of the tax imposed under chapters 82.08 and 82.12 RCW and that the seller is relieved of liability to collect tax imposed under chapters 82.08 and 82.12 RCW on all sales to the direct pay permit holder. The taxpayer may petition the director for reconsideration of a denial.

(d) A taxpayer who uses a direct pay permit must continue to maintain records that are necessary to a determination of the tax liability in accordance with this title. A direct pay permit is not transferable and the use of a direct pay permit may not be assigned to a third party.

(3) Taxes for which the direct pay permit is used are due and payable on the tax return for the reporting period in which the taxpayer (a) receives the tangible personal property purchased or in which the labor and/or services are performed or (b) receives an invoice for such property or such labor and/or services, whichever period is earlier.

(4) The holder of a direct pay permit must furnish a copy of the direct pay permit to each vendor with whom the taxpayer has opted to use a direct pay permit. Sellers who make sales upon which the sales or use tax is not collected

by reason of the provisions of this section, in addition to existing requirements under this title, must maintain a copy of the direct pay permit and any such records or information as the department may specify.

(5) A direct pay permit is subject to revocation by the director at any time the department determines that the taxpayer has violated any provision of this section or that revocation would be in the best interests of collecting the taxes due under this title. The notice of revocation must be in writing and is effective either as of the end of the taxpayer's next normal reporting period or a date deemed appropriate by the director and identified in the revocation notice. The taxpayer may petition the director for reconsideration of a revocation and reinstatement of the permit.

(6) Any taxpayer who chooses to no longer use a direct pay permit or whose permit is revoked by the department, must return the permit to the department and immediately make a good faith effort to notify all vendors to whom the permit was given, advising them that the permit is no longer valid.

(7) Except as provided in this subsection, the direct pay permit may be used for any purchase of tangible personal property and any retail sale under RCW 82.04.050. The direct pay permit may not be used for:

- (a) Purchases of meals or beverages;
- (b) Purchases of motor vehicles, trailers, boats, airplanes, and other property subject to requirements for title transactions by the department of licensing;
- (c) Purchases for which a reseller permit or other documentation authorized under RCW 82.04.470 may be used;
- (d) Purchases that meet the definitions of RCW 82.04.050 (2) (e) and (f), (3) (a) through ~~((d))~~ (c), (e), (f), and (g), ~~((and))~~ (5), and (15); or
- (e) Other activities subject to tax under chapter 82.08 or 82.12 RCW that the department by rule designates, consistent with the purposes of this section, as activities for which a direct pay permit is not appropriate and may not be used.

NEW SECTION. **Sec. 12.** RCW 82.12.02917 (Exemptions--Use of amusement and recreation services by nonprofit youth organization) and 1999 c 358 s 7 are each repealed.

NEW SECTION. **Sec. 13.** The repeal in section 12 of this act does not affect any existing right acquired or liability or obligation incurred under the statute repealed or under any rule or order adopted under that statute nor does it affect any proceedings instituted under the statute repealed.

NEW SECTION. **Sec. 14.** This act takes effect January 1, 2016.

Passed by the House March 3, 2015.

Passed by the Senate April 22, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 170

[House Bill 1940]

PROPERTY TAXES--FLOOD CONTROL ZONE DISTRICTS--LEVY EXEMPTIONS

AN ACT Relating to exempting levies imposed by qualifying flood control zone districts from certain limitations upon regular property tax levies; amending RCW 84.52.010 and 84.52.043;

adding a new section to chapter 84.52 RCW; creating new sections; providing an effective date; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that flooding is a critical problem in Washington. The legislature further finds that flooding can result in loss of human life, damage to property, destruction of infrastructure, and bring economic activity to a standstill. The legislature further finds that flood control zone districts offer critical services that protect our state by mitigating the devastating impacts of flooding. It is the legislature's public policy objective to maximize available financing tools to flood control zone districts to continue their important work. Therefore, it is the legislature's intent to exempt levies imposed by a qualifying flood control zone district from certain limitations upon regular property tax levies.

Sec. 2. RCW 84.52.010 and 2009 c 551 s 7 are each amended to read as follows:

(1) Except as is permitted under RCW 84.55.050, all taxes (~~shall~~) must be levied or voted in specific amounts.

(2) The rate percent of all taxes for state and county purposes, and purposes of taxing districts coextensive with the county, (~~shall~~) must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the county, as shown by the completed tax rolls of the county, and the rate percent of all taxes levied for purposes of taxing districts within any county (~~shall~~) must be determined, calculated and fixed by the county assessors of the respective counties, within the limitations provided by law, upon the assessed valuation of the property of the taxing districts respectively.

(3) When a county assessor finds that the aggregate rate of tax levy on any property, that is subject to the limitations set forth in RCW 84.52.043 or 84.52.050, exceeds the limitations provided in either of these sections, the assessor (~~shall~~) must recompute and establish a consolidated levy in the following manner:

~~((+))~~ (a) The full certified rates of tax levy for state, county, county road district, and city or town purposes (~~shall~~) must be extended on the tax rolls in amounts not exceeding the limitations established by law; however any state levy (~~shall~~) takes precedence over all other levies and (~~shall~~) may not be reduced for any purpose other than that required by RCW 84.55.010. If, as a result of the levies imposed under RCW 36.54.130, 84.34.230, 84.52.069, 84.52.105, the portion of the levy by a metropolitan park district that was protected under RCW 84.52.120, 84.52.125, 84.52.135, and 84.52.140, and the portion of the levy by a flood control zone district that was protected under section 3 of this act, the combined rate of regular property tax levies that are subject to the one percent limitation exceeds one percent of the true and fair value of any property, then these levies (~~shall~~) must be reduced as follows:

~~((+))~~ (i) The portion of the levy by a flood control zone district that was protected under section 3 of this act must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

(ii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.140 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated;

~~((b))~~ (iii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a fire protection district that is protected under RCW 84.52.125 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated;

~~((e))~~ (iv) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a county under RCW 84.52.135 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((d))~~ (v) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the levy imposed by a ferry district under RCW 36.54.130 must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or must be eliminated;

~~((e))~~ (vi) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, the portion of the levy by a metropolitan park district that is protected under RCW 84.52.120 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated;

~~((f))~~ (vii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the levies imposed under RCW 84.34.230, 84.52.105, and any portion of the levy imposed under RCW 84.52.069 that is in excess of thirty cents per thousand dollars of assessed value, ~~((shall))~~ must be reduced on a pro rata basis until the combined rate no longer exceeds one percent of the true and fair value of any property or ~~((shall))~~ must be eliminated; and

~~((g))~~ (viii) If the combined rate of regular property tax levies that are subject to the one percent limitation still exceeds one percent of the true and fair value of any property, then the thirty cents per thousand dollars of assessed value of tax levy imposed under RCW 84.52.069 ~~((shall))~~ must be reduced until the combined rate no longer exceeds one percent of the true and fair value of any property or eliminated.

~~((2))~~ (b) The certified rates of tax levy subject to these limitations by all junior taxing districts imposing taxes on such property ~~((shall))~~ must be reduced or eliminated as follows to bring the consolidated levy of taxes on such property within the provisions of these limitations:

~~((a))~~ (i) First, the certified property tax levy rates of those junior taxing districts authorized under RCW 36.68.525, 36.69.145, 35.95A.100, and 67.38.130 ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((b))~~ (ii) Second, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of flood control zone districts ~~((shall))~~ other than the portion of a levy protected under section 3 of this act must be reduced on a pro rata basis or eliminated;

~~((e))~~ (iii) Third, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates of all other junior taxing districts, other than fire protection districts, regional fire protection service authorities, library districts, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts, and the first fifty cent per thousand dollars of assessed valuation levies for public hospital districts, ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((d))~~ (iv) Fourth, if the consolidated tax levy rate still exceeds these limitations, the first fifty cent per thousand dollars of assessed valuation levies for metropolitan park districts created on or after January 1, 2002, ~~((shall))~~ must be reduced on a pro rata basis or eliminated;

~~((e))~~ (v) Fifth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized to fire protection districts under RCW 52.16.140 and 52.16.160 and regional fire protection service authorities under RCW 52.26.140(1) (b) and (c) ~~((shall))~~ must be reduced on a pro rata basis or eliminated; and

~~((f))~~ (vi) Sixth, if the consolidated tax levy rate still exceeds these limitations, the certified property tax levy rates authorized for fire protection districts under RCW 52.16.130, regional fire protection service authorities under RCW 52.26.140(1)(a), library districts, metropolitan park districts created before January 1, 2002, under their first fifty cent per thousand dollars of assessed valuation levy, and public hospital districts under their first fifty cent per thousand dollars of assessed valuation levy, ~~((shall))~~ must be reduced on a pro rata basis or eliminated.

NEW SECTION. Sec. 3. A new section is added to chapter 84.52 RCW to read as follows:

A flood control zone district in a county with a population of seven hundred seventy-five thousand or more, or a county within the Chehalis river basin, that is coextensive with a county may protect the levy under RCW 86.15.160 from prorationing under RCW 84.52.010(3)(b)(ii) by imposing up to a total of twenty-five cents per thousand dollars of assessed value of the tax levy authorized under RCW 86.15.160 outside of the five dollars and ninety cents per thousand dollars of assessed value limitation under RCW 84.52.043(2), if those taxes otherwise would be prorated under RCW 84.52.010(3)(b)(ii).

Sec. 4. RCW 84.52.043 and 2009 c 551 s 6 are each amended to read as follows:

Within and subject to the limitations imposed by RCW 84.52.050 as amended, the regular ad valorem tax levies upon real and personal property by the taxing districts hereafter named ~~((shall be))~~ are as follows:

(1) Levies of the senior taxing districts ~~((shall be))~~ are as follows: (a) The levy by the state ~~((shall))~~ may not exceed three dollars and sixty cents per thousand dollars of assessed value adjusted to the state equalized value in accordance with the indicated ratio fixed by the state department of revenue to be used exclusively for the support of the common schools; (b) the levy by any

county ((~~shall~~) may) not exceed one dollar and eighty cents per thousand dollars of assessed value; (c) the levy by any road district ((~~shall~~) may) not exceed two dollars and twenty-five cents per thousand dollars of assessed value; and (d) the levy by any city or town ((~~shall~~) may) not exceed three dollars and thirty-seven and one-half cents per thousand dollars of assessed value. However any county is hereby authorized to increase its levy from one dollar and eighty cents to a rate not to exceed two dollars and forty-seven and one-half cents per thousand dollars of assessed value for general county purposes if the total levies for both the county and any road district within the county do not exceed four dollars and five cents per thousand dollars of assessed value, and no other taxing district has its levy reduced as a result of the increased county levy.

(2) The aggregate levies of junior taxing districts and senior taxing districts, other than the state, ((~~shall~~) may) not exceed five dollars and ninety cents per thousand dollars of assessed valuation. The term "junior taxing districts" includes all taxing districts other than the state, counties, road districts, cities, towns, port districts, and public utility districts. The limitations provided in this subsection ((~~shall~~) do) not apply to: (a) Levies at the rates provided by existing law by or for any port or public utility district; (b) excess property tax levies authorized in Article VII, section 2 of the state Constitution; (c) levies for acquiring conservation futures as authorized under RCW 84.34.230; (d) levies for emergency medical care or emergency medical services imposed under RCW 84.52.069; (e) levies to finance affordable housing for very low-income housing imposed under RCW 84.52.105; (f) the portions of levies by metropolitan park districts that are protected under RCW 84.52.120; (g) levies imposed by ferry districts under RCW 36.54.130; (h) levies for criminal justice purposes under RCW 84.52.135; (i) the portions of levies by fire protection districts that are protected under RCW 84.52.125; ((~~and~~) (j) levies by counties for transit-related purposes under RCW 84.52.140; and (k) the portion of the levy by flood control zone districts that are protected under section 3 of this act.

NEW SECTION. **Sec. 5.** This act applies to taxes levied for collection in 2018 and thereafter.

NEW SECTION. **Sec. 6.** This act takes effect January 1, 2018.

**NEW SECTION. Sec. 7. This act expires January 1, 2023.*

Sec. 7 was vetoed. See message at end of chapter.

Passed by the House April 20, 2015.

Passed by the Senate April 14, 2015.

Approved by the Governor May 6, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 6, 2015.

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

"I am returning herewith, without my approval as to Section 7, House Bill No. 1940 entitled:

"AN ACT Relating to exempting levies imposed by qualifying flood control zone districts from certain limitations upon regular property tax levies."

Section 7 of House Bill No. 1940 expires the protection of flood control zone district levies from prorationing on January 1, 2023. This expiration date is problematic and restricts the flexibility of flood control zone districts to select and appropriately finance flood control projects. With the expiration date, any bonds will very likely be more expensive for flood control zone districts. There is also greater risk of insufficient revenues for flood control projects regardless of financing method in the event the levy is prorated. To allow for maximum flexibility in financing flood control projects to protect the citizens of Washington state from flooding, I am vetoing section 7 of this bill.

For these reasons I have vetoed Section 7 of House Bill No. 1940.

With the exception of Section 7, House Bill No. 1940 is approved.

CHAPTER 171

[House Bill 2055]

VOTERS' PAMPHLETS--BALLOT MEASURE STATEMENTS

AN ACT Relating to statements on ballot measures in voters' pamphlets; and amending RCW 29A.32.040, 29A.32.060, and 29A.72.025.

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

Sec. 1. RCW 29A.32.040 and 2009 c 415 s 3 are each amended to read as follows:

(1) Explanatory statements prepared by the attorney general under RCW 29A.32.070 (3) and (4) must be written in clear and concise language, avoiding legal and technical terms when possible. Statements are initiated by written request from the secretary of state, and must be filed with the secretary of state (no later than the tenth day of August) by the date provided in the request.

(2) When the explanatory statements for a measure initiated by petition ~~((is))~~ are filed with the secretary of state, the secretary of state shall immediately provide the text of the ~~((explanatory))~~ statements to the person proposing the measure and any others who have made written request for notification of the exact language of the ~~((explanatory))~~ statements. When the ~~((explanatory))~~ statements for a measure referred to the ballot by the legislature ~~((is))~~ are filed with the secretary of state, the secretary of state shall immediately provide the text of the ~~((explanatory))~~ statements to the presiding officer of the senate ~~((and))~~, the presiding officer of the house of representatives, the prime sponsor, and any others who have made written request for notification of the exact language of the ~~((explanatory))~~ statements.

(3) A person dissatisfied with the ~~((explanatory))~~ statements may appeal to the superior court of Thurston County within five days of the filing date. A copy of the petition and a notice of the appeal must be served on the secretary of state and the attorney general. The court shall examine the measure, the ~~((explanatory))~~ statements, and objections, and may hear arguments. The court shall render its decision and certify to and file with the secretary of state ~~((an explanatory))~~ a statement it determines will meet the requirements of this chapter, and within the timelines identified by the secretary of state.

The decision of the superior court is final, and its ((explanatory)) statement is the established explanatory statement. The appeal must be heard without costs to either party.

Sec. 2. RCW 29A.32.060 and 2003 c 111 s 806 are each amended to read as follows:

Committees shall write and submit arguments advocating the approval or rejection of each statewide ballot issue and rebuttals of those arguments. The secretary of state, the presiding officer of the senate, and the presiding officer of the house of representatives shall appoint the initial two members of each committee. In making these committee appointments the secretary of state and presiding officers of the senate and house of representatives shall consider legislators, sponsors of initiatives and referendums, and other interested groups known to advocate or oppose the ballot measure. Committees must have the explanatory and fiscal impact statements available before preparing their arguments.

The initial two members may select up to four additional members, and the committee shall elect a chairperson. The remaining committee member or members may fill vacancies through appointment.

After the committee submits its initial argument statements to the secretary of state, the secretary of state shall transmit the statements to the opposite committee. The opposite committee may then prepare rebuttal arguments. Rebuttals may not interject new points.

The voters' pamphlet may contain only argument statements prepared according to this section. Arguments may contain graphs and charts supported by factual statistical data and pictures or other illustrations. Cartoons or caricatures are not permitted.

***Sec. 3.** RCW 29A.72.025 and 2009 c 415 s 7 are each amended to read as follows:

(1) The office of financial management, in consultation with the secretary of state, the attorney general, and any other appropriate state or local agency, shall prepare a fiscal impact statement for each of the following state ballot measures: (((1))) (a) An initiative to the people that is certified to the ballot; (((2))) (b) an initiative to the legislature that will appear on the ballot; (((3))) (c) an alternative measure appearing on the ballot that the legislature proposes to an initiative to the legislature; (((4))) (d) a referendum bill referred to voters by the legislature; and (((5))) (e) a referendum measure appearing on the ballot. Fiscal impact statements must be written in clear and concise language, and avoid legal and technical terms when possible. The statement must be prepared upon written request from the secretary of state, and must be filed ((with the secretary of state no later than the tenth day of August)) by the deadline in the request. Fiscal impact statements may include easily understood graphics.

(2) A fiscal impact statement must describe any projected increase or decrease in revenues, costs, expenditures, or indebtedness that the state or local governments will experience if the ballot measure were approved by state voters. Where appropriate, a fiscal impact statement may include both estimated dollar amounts and a description placing the estimated dollar amounts into context. A fiscal impact statement must include both a summary

of not to exceed one hundred words and a more detailed statement that includes the assumptions that were made to develop the fiscal impacts.

(3) When the fiscal impact statement for a measure initiated by petition is filed with the secretary of state, the secretary of state shall immediately provide the text of the statement to the person proposing the measure and any others who have made written request for notification of the exact language of the statement. When the statement for a measure referred to the ballot by the legislature is filed with the secretary of state, the secretary of state shall immediately provide the text of the statement to the presiding officer of the senate, the presiding officer of the house of representatives, the prime sponsor, and any others who have made written request for notification of the exact language of the statement.

(4) Fiscal impact statements must be available online from the secretary of state's web site and included in the state voters' pamphlet. Additional information may be posted on the web site of the office of financial management.

(5)(a) A person dissatisfied with the fiscal impact statement may appeal to the superior court of Thurston county within five days of the filing date. A copy of the petition and a notice of the appeal must be served on the secretary of state and the attorney general. The court shall examine the measure, the statement, and objections, and may hear arguments including arguments from persons advocating and opposing the measure. The court shall render its decision and certify to and file with the secretary of state a statement it determines will meet the requirements of this chapter, and within the timelines identified by the secretary of state.

(b) The decision of the superior court is final, and its statement is the established fiscal impact statement. The appeal must be heard without costs to either party.

Sec. 3 was vetoed. See message at end of chapter.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 6, 2015, with the exception of certain items that were vetoed.

Filed in Office of Secretary of State May 6, 2015.

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

"I am returning herewith, without my approval as to Section 3, House Bill No. 2055 entitled:

"AN ACT Relating to statements on ballot measures in voters' pamphlets."

The intent of this bill is to provide voters with more information about the potential fiscal impact of a ballot initiative. The bill moves forward the deadline for the Attorney General to prepare the explanatory statement and the Office of Financial Management to prepare the fiscal impact statement so that the information is available to the pro and con committees when drafting their statements for the voters pamphlet.

In addition to moving forward the deadline for the Office of Financial Management to prepare the fiscal impact statement, Section 3 also creates a new cause of action for any person dissatisfied with the fiscal impact statement to challenge the statement in superior court. This new cause of action would frustrate the intent of this bill and cause unnecessary delay. It would also place the court in the untenable position of having to make advisory rulings on the initiative at issue in the fiscal impact statement. The Office of Financial Management identifies the assumptions made in preparation of the fiscal impact statement. Under this new cause of action, the court would have to make a legal ruling on these assumptions, which would constitute an advisory opinion on the initiative. There are current legal options available to those who wish to challenge a fiscal impact statement without creating a new cause of action. For these reasons, I am vetoing section 3 of House Bill 2055.

While I am vetoing Section 3, I am instructing the Office of Financial Management to work cooperatively with the Secretary of State to ensure any fiscal impact statement is completed in time to share with the pro and con committees before they complete their statements for the voters' pamphlet. This will ensure the intent of the legislation is fulfilled.

For these reasons I have vetoed Section 3 of House Bill No. 2055.

With the exception of Section 3, House Bill No. 2055 is approved."

CHAPTER 172

[Engrossed Substitute Senate Bill 5048]

WATER-SEWER DISTRICTS--REFERENDUM--ASSUMPTION RESOLUTION OR ORDINANCE

AN ACT Relating to the referendum of assumptions of water-sewer districts by cities and towns; amending RCW 29A.36.071; and adding new sections to chapter 35.13A RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.13A RCW to read as follows:

(1) Except as provided otherwise by subsection (4) of this section, a resolution or ordinance adopted by the legislative body of a city to assume jurisdiction of all or part of a water-sewer district under this chapter is subject to a referendum. Any referendum petition to repeal the assumption resolution or ordinance must be filed with the county auditor within ten days of passage of the resolution or ordinance. Within ten days of the filing of a petition, the county auditor must confer with the petitioner concerning the form and style of the petition and issue a petition identification number. The ballot title must be prepared by the applicable city attorney in accordance with this section and RCW 29A.36.071, and the question posed to the voters must be written so that an affirmative answer to the question and a majority affirmative vote on the measure results in approval of the proposed assumption, and a negative answer to the question and a majority negative vote on the measure results in the assumption being barred. The petitioner must be notified of the identification number and ballot title within this ten-day period. After this notification, the petitioner has forty-five days in which to secure on petition forms the signatures

of at least ten percent of the number of voters residing in the part of the water-sewer district subject to the assumption resolution or ordinance who voted in the most recent general election, and file the signed petitions with the county auditor. Each petition form must contain the ballot title and full text of the measure to be referred. The county auditor must verify the sufficiency of the signatures on the petitions.

(2) If sufficient valid signatures on the petitions are properly submitted, the county auditor must submit the referendum measure to the registered voters residing in the part of the water-sewer district subject to the assumption resolution or ordinance in a general or special election no later than one hundred twenty days after the signed petition has been filed with the county auditor. Elections must be conducted in accordance with general election law, and the cost of the election must be borne by the city seeking approval to assume jurisdiction of all or part of the water-sewer district.

(3) When a referendum petition is filed with the county auditor, the assumption resolution or ordinance sought to be referred to the voters, and any proceedings before a boundary review board under chapter 36.93 RCW, are suspended from taking effect. Such suspension terminates when: (a) There is a final determination of insufficiency or untimeliness of the referendum petition; or (b) the assumption resolution or ordinance so referred is approved by the voters at a referendum election.

(4) If a city legislative authority assumes jurisdiction of all or part of a water-sewer district through a contract with a water-sewer district, or through an interlocal agreement with a water-sewer district under chapter 39.34 RCW, the provisions of this section do not apply.

NEW SECTION. Sec. 2. A new section is added to chapter 35.13A RCW to read as follows:

A resolution or ordinance adopted by a city in accordance with this chapter to assume jurisdiction of all or part of a district may not take effect until ninety or more days after its adoption.

Sec. 3. RCW 29A.36.071 and 2006 c 311 s 9 are each amended to read as follows:

(1) Except as provided to the contrary in RCW 82.14.036, 82.46.021, or 82.80.090, the ballot title of any referendum filed on an enactment or portion of an enactment of a local government and any other question submitted to the voters of a local government consists of three elements: (a) An identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; and (c) a question. The ballot title must conform with the requirements and be displayed substantially as provided under RCW 29A.72.050, except that the concise description must not exceed seventy-five words; however, a concise description submitted on behalf of a proposed or existing regional transportation investment district may exceed seventy-five words. If the local governmental unit is a city or a town, or if the ballot title is for a referendum under section 1 of this act, the concise statement shall be prepared by the city or town attorney. If the local governmental unit is a county, the concise statement shall be prepared by the prosecuting attorney of the county. If the unit is a unit of local government other than a city, town, or county, the

concise statement shall be prepared by the prosecuting attorney of the county within which the majority area of the unit is located.

(2) A referendum measure on the enactment of a unit of local government shall be advertised in the manner provided for nominees for elective office.

(3) Subsection (1) of this section does not apply if another provision of law specifies the ballot title for a specific type of ballot question or proposition.

Passed by the Senate April 21, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 173

[Senate Bill 5203]

PUBLIC WORKS--ALTERNATIVE CONTRACTING PROCEDURES--JOB ORDER CONTRACTING

AN ACT Relating to job order contracting requirements; and amending RCW 39.10.440.

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

Sec. 1. RCW 39.10.440 and 2013 c 222 s 19 are each amended to read as follows:

(1) The maximum total dollar amount that may be awarded under a job order contract is four million dollars per year for a maximum of three years. The maximum total dollar amount that may be awarded under a job order contract for the department of enterprise services, counties with a population of more than one million, and cities with a population of more than four hundred thousand is six million dollars per year for a maximum of three years.

(2) Job order contracts may be executed for an initial contract term of not to exceed two years, with the option of extending or renewing the job order contract for one year. All extensions or renewals must be priced as provided in the request for proposals. The extension or renewal must be mutually agreed to by the public body and the job order contractor.

(3) A public body may have no more than two job order contracts in effect at any one time, with the exception of the department of enterprise services, which may have (~~four~~) six job order contracts in effect at any one time.

(4) At least ninety percent of work contained in a job order contract must be subcontracted to entities other than the job order contractor. The job order contractor must distribute contracts as equitably as possible among qualified and available subcontractors including minority and woman-owned subcontractors to the extent permitted by law.

(5) The job order contractor shall publish notification of intent to perform public works projects at the beginning of each contract year in a statewide publication and in a legal newspaper of general circulation in every county in which the public works projects are anticipated.

(6) Job order contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the rates in effect at the time the individual work order is issued.

(7) If, in the initial contract term, the public body, at no fault of the job order contractor, fails to issue the minimum amount of work orders stated in the public request for proposals, the public body shall pay the contractor an amount equal to the difference between the minimum work order amount and the actual total of the work orders issued multiplied by an appropriate percentage for overhead and profit contained in the contract award coefficient for services as specified in the request for proposals. This is the contractor's sole remedy.

(8) All job order contracts awarded under this section must be signed before July 1, 2021; however the job order contract may be extended or renewed as provided for in this section.

(9) Public bodies may amend job order contracts awarded prior to July 1, 2007, in accordance with this chapter.

Passed by the Senate April 21, 2015.

Passed by the House April 9, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 174

[Substitute Senate Bill 5276]

PROPERTY TAXES--REFUNDS--ERRORS IN DESCRIPTIONS OF PROPERTY

AN ACT Relating to refunds of property taxes paid as a result of manifest errors in descriptions of property; and amending RCW 84.69.030, 84.48.065, and 84.68.150.

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

Sec. 1. RCW 84.69.030 and 2014 c 16 s 1 are each amended to read as follows:

(1) Except as provided in this section, no orders for a refund under this chapter may be made except on a claim:

(a) Verified by the person who paid the tax, the person's guardian, executor, or administrator; and

(b) Filed with the county treasurer within three years after the due date of the payment sought to be refunded; and

(c) Stating the statutory ground upon which the refund is claimed.

(2) No claim for an order of refund is required for a refund that is based upon:

(a) An order of the board of equalization, state board of tax appeals, or court of competent jurisdiction justifying a refund under RCW 84.69.020 (9) through (12);

(b) A decision by the treasurer or assessor that is rendered within three years after the due date of the payment to be refunded, justifying a refund under RCW 84.69.020; or

(c) A decision by the assessor or department approving an exemption application that is filed under chapter 84.36 RCW within three years after the due date of the payment to be refunded.

(3) A county legislative authority may authorize a refund on a claim filed more than three years after the due date of the payment sought to be refunded if the claim arises from taxes paid as a result of a manifest error in a description of property.

Sec. 2. RCW 84.48.065 and 2001 c 187 s 23 are each amended to read as follows:

(1)(a) The county assessor or treasurer may cancel or correct assessments on the assessment or tax rolls which are erroneous due to manifest errors in description, double assessments, clerical errors in extending the rolls, and such manifest errors in the listing of the property (~~which~~) that do not involve a revaluation of property, except in the case that a taxpayer produces proof that an authorized land use authority has made a definitive change in the property's land use designation. In such a case, correction of the assessment or tax rolls may be made notwithstanding the fact that the action involves a revaluation of property. Manifest errors that do not involve a revaluation of property include the assessment of property exempted by law from taxation or the failure to deduct the exemption allowed by law to the head of a family. When the county assessor cancels or corrects an assessment, the assessor (~~shall~~) must send a notice to the taxpayer in accordance with RCW 84.40.045, advising the taxpayer that the action has been taken and notifying the taxpayer of the right to appeal the cancellation or correction to the county board of equalization, in accordance with RCW 84.40.038. When the county assessor or treasurer cancels or corrects an assessment, a record of (~~such~~) the action (~~shall~~) must be prepared, setting forth therein the facts relating to the error. The record (~~shall~~) must also set forth by legal description all property belonging exclusively to the state, any county, or any municipal corporation whose property is exempt from taxation, upon which there remains, according to the tax roll, any unpaid taxes.

(b) Except as otherwise provided in this subsection (1)(b), no manifest error cancellation or correction, including a cancellation or correction made due to a definitive change of land use designation, (~~shall~~) may be made for any period more than three years preceding the year in which the error is discovered. However, a manifest error cancellation or correction may be made for a period more than three years preceding the year in which the error is discovered if authorized by the county legislative authority and the manifest error cancellation or correction would result in a refund or reduction of taxes for a property owner.

(2)(a) In the case of a definitive change of land use designation, an assessor (~~shall~~) must make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The assessment roll has previously been certified in accordance with RCW 84.40.320.

(b) In all other cases, an assessor (~~shall~~) must make corrections that involve a revaluation of property to the assessment roll when:

(i) The assessor and taxpayer have signed an agreement as to the true and fair value of the taxpayer's property setting forth in the agreement the valuation information upon which the agreement is based; and

(ii) The following conditions are met:

(A) The assessment roll has previously been certified in accordance with RCW 84.40.320;

(B) The taxpayer has timely filed a petition with the county board of equalization pursuant to RCW 84.40.038 for the current assessment year;

(C) The county board of equalization has not yet held a hearing on the merits of the taxpayer's petition.

(3) The assessor ~~((shall))~~ must issue a supplementary roll or rolls including such cancellations and corrections, and the assessment and levy ~~((shall))~~ have the same force and effect as if made in the first instance, and the county treasurer ~~((shall))~~ must proceed to collect the taxes due on the rolls as modified.

Sec. 3. RCW 84.68.150 and 2013 c 23 s 380 are each amended to read as follows:

No petition for cancellation or reduction of assessment or correction of tax rolls and the refund of taxes based thereon under RCW 84.68.110 through 84.68.150 ~~((shall))~~ may be considered unless filed within three years after the year in which the tax became payable or purported to become payable, unless the reduction or correction is the result of a manifest error and the county legislative authority authorizes a longer period for a refund of the claim. The maximum refund under the authority of RCW 84.68.110 through 84.68.150 for each year involved in the taxpayer's petition ~~((shall be))~~ is two hundred dollars. Should the amount of excess tax for any such year be in excess of two hundred dollars, a refund of two hundred dollars ~~((shall))~~ must be allowed under RCW 84.68.110 through 84.68.150, without prejudice to the right of the taxpayer to proceed as may be otherwise provided by law to recover the balance of the excess tax paid by him or her.

Passed by the Senate April 16, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 175

[Senate Bill 5288]

REAL ESTATE BROKERS--MANAGING BROKERS

AN ACT Relating to real estate brokers and managing brokers; amending RCW 18.85.451, 18.85.461, and 18.85.471; and providing expiration dates.

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

Sec. 1. RCW 18.85.451 and 2010 c 156 s 1 are each amended to read as follows:

(1) A fee of ten dollars is created and shall be assessed on each real estate broker and managing broker's ~~((originally licensed after October 1, 1999,))~~ original license and upon each renewal of a license with an expiration date after October 1, 1999, including renewals of inactive licenses.

(2) This section expires September 30, ~~((2015))~~ 2025.

Sec. 2. RCW 18.85.461 and 2010 c 156 s 2 are each amended to read as follows:

(1) The Washington real estate research account is created in the state treasury. All receipts from the fee under RCW 18.85.451 shall be deposited into the account. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 18.85.471.

(2) This section expires September 30, ~~((2015))~~ 2025.

Sec. 3. RCW 18.85.471 and 2010 c 156 s 3 are each amended to read as follows:

(1) The purpose of a real estate research center in Washington state is to provide credible research, value-added information, education services, and project-oriented research to real estate licensees, real estate consumers, real estate service providers, institutional customers, public agencies, and communities in Washington state and the Pacific Northwest region. The center may:

(a) Conduct studies and research on affordable housing and strategies to meet the affordable housing needs of the state;

(b) Conduct studies in all areas directly or indirectly related to real estate and urban or rural economics and economically isolated communities;

(c) Disseminate findings and results of real estate research conducted at or by the center or elsewhere, using a variety of dissemination media;

(d) Supply research results and educational expertise to the Washington state real estate commission to support its regulatory functions, as requested;

(e) Prepare information of interest to real estate consumers and make the information available to the general public, universities, or colleges, and appropriate state agencies;

(f) Encourage economic growth and development within the state of Washington;

(g) Support the professional development and continuing education of real estate licensees in Washington;

(h) Study and recommend changes in state statutes relating to real estate; and

(i) Develop a vacancy rate standard for low-income housing in the state.

(2) The director shall establish a memorandum of understanding with an institution of higher learning that establishes a real estate research center for the purposes under subsection (1) of this section.

(3) This section expires September 30, (~~2015~~) 2025.

Passed by the Senate March 2, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 176

[Senate Bill 5387]

UNIFORM BUSINESS ORGANIZATIONS PROVISIONS

AN ACT Relating to uniformity in common provisions governing business organizations and other entities; amending RCW 23B.01.200, 23B.01.220, 23B.01.230, 23B.01.240, 23B.01.250, 23B.01.280, 23B.01.290, 23B.01.410, 23B.01.520, 23B.01.540, 23B.01.570, 23B.02.020, 23B.02.050, 23B.04.010, 23B.04.020, 23B.04.030, 23B.05.010, 23B.05.020, 23B.05.030, 23B.05.040, 23B.09.040, 23B.09.050, 23B.09.060, 23B.11.070, 23B.11.110, 23B.14.040, 23B.14.200, 23B.14.220, 23B.14.390, 23B.15.010, 23B.15.020, 23B.15.030, 23B.15.040, 23B.15.050, 23B.15.060, 23B.15.070, 23B.15.080, 23B.15.090, 23B.15.100, 23B.15.200, 23B.15.300, 23B.16.010, 23B.16.220, 23B.18.020, 23B.18.030, 23B.18.040, 23B.19.020, 23B.01.400, 24.03.005, 24.03.017, 24.03.045, 24.03.046, 24.03.047, 24.03.048, 24.03.050, 24.03.055, 24.03.060, 24.03.145, 24.03.175, 24.03.180, 24.03.183, 24.03.200, 24.03.205, 24.03.207, 24.03.245, 24.03.300, 24.03.302, 24.03.305, 24.03.310, 24.03.315, 24.03.325, 24.03.335, 24.03.340, 24.03.345, 24.03.350, 24.03.365, 24.03.370, 24.03.380, 24.03.390, 24.03.395, 24.03.405, 24.03.425,

- (d) A limited partnership;
- (e) A limited liability company; or
- (f) A general cooperative association.

(7) "Entity filing" means a record delivered to the secretary of state for filing pursuant to this chapter.

(8) "Execute," "executes," or "executed" means:

- (a) Signed with respect to a written record;
- (b) Electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission; or
- (c) With respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(9) "Filed record" means a record filed by the secretary of state pursuant to this chapter.

(10) "Foreign," with respect to an entity, means governed as to its internal affairs by the law of a jurisdiction other than this state.

(11) "General cooperative association" means a domestic general cooperative association formed under or subject to chapter 23.86 RCW.

(12) "Governor" means:

- (a) A director of a business corporation;
- (b) A director of a nonprofit corporation;
- (c) A partner of a limited liability partnership;
- (d) A general partner of a limited partnership;
- (e) A manager of a manager-managed limited liability company;
- (f) A member of a member-managed limited liability company;
- (g) A director of a general cooperative association; or
- (h) Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the organic law and organic rules of the entity.

(13) "Interest" means:

- (a) A share in a business corporation;
- (b) A membership in a nonprofit corporation;
- (c) A share in a nonprofit corporation formed under chapter 24.06 RCW;
- (d) A partnership interest in a limited liability partnership;
- (e) A partnership interest in a limited partnership;
- (f) A limited liability company interest; or
- (g) A share or membership in a general cooperative association.

(14) "Interest holder" means:

- (a) A shareholder of a business corporation;
- (b) A member of a nonprofit corporation;
- (c) A shareholder of a nonprofit corporation formed under chapter 24.06 RCW;

(d) A partner of a limited liability partnership;

(e) A general partner of a limited partnership;

(f) A limited partner of a limited partnership;

(g) A member of a limited liability company; or

(h) A shareholder or member of a general cooperative association.

(15) "Jurisdiction" when used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(16) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(17) "Limited liability company" means a domestic limited liability company formed under or subject to chapter 25.15 RCW or a foreign limited liability company.

(18) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to chapter 25.10 RCW or a foreign limited liability limited partnership.

(19) "Limited liability partnership" means a domestic limited liability partnership registered under or subject to chapter 25.05 RCW or a foreign limited liability partnership.

(20) "Limited partnership" means a domestic limited partnership formed under or subject to chapter 25.10 RCW or a foreign limited partnership. "Limited partnership" includes a limited liability limited partnership.

(21) "Noncommercial registered agent" means a person that is not a commercial registered agent and is:

(a) An individual or domestic or foreign entity that serves in this state as the registered agent of an entity;

(b) An individual who holds the office or other position in an entity which is designated as the registered agent pursuant to section 1404(1)(b)(ii) of this act; or

(c) A government, governmental subdivision, agency, or instrumentality, or a separate legal entity comprised of two or more of these entities, that serves as the registered agent of an entity.

(22) "Nonprofit corporation" means a domestic nonprofit corporation incorporated under or subject to chapter 24.03 or 24.06 RCW or a foreign nonprofit corporation.

(23) "Nonregistered foreign entity" means a foreign entity that is not registered to do business in this state pursuant to a statement of registration filed by the secretary of state.

(24) "Organic law" means the law of an entity's jurisdiction of formation governing the internal affairs of the entity.

(25) "Organic rules" means the public organic record and private organic rules of an entity.

(26) "Person" means an individual, business corporation, nonprofit corporation, partnership, limited partnership, limited liability company, general cooperative association, limited cooperative association, unincorporated nonprofit association, statutory trust, business trust, common-law business trust, estate, trust, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(27) "Principal office" means the principal executive office of an entity, whether or not the office is located in this state.

(28) "Private organic rules" means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all its interest holders, and are not part of its public organic record, if any. "Private organic rules" includes:

(a) The bylaws of a business corporation and any agreement among shareholders pursuant to RCW 23B.07.320;

(b) The bylaws of a nonprofit corporation;

(c) The partnership agreement of a limited liability partnership;

(d) The partnership agreement of a limited partnership;

(e) The limited liability company agreement; and

(f) The bylaws of a general cooperative association.

(29) "Proceeding" means civil suit and criminal, administrative, and investigatory action.

(30) "Property" means all property, whether real, personal, or mixed or tangible or intangible, or any right or interest therein.

(31) "Public organic record" means the record the filing of which by the secretary of state is required to form an entity and any amendment to or restatement of that record. The term includes:

(a) The articles of incorporation of a business corporation;

(b) The articles of incorporation of a nonprofit corporation;

(c) The certificate of limited partnership of a limited partnership;

(d) The certificate of formation of a limited liability company;

(e) The articles of incorporation of a general cooperative association; and

(f) The document under the laws of another jurisdiction that is equivalent to a document listed in this subsection.

(32) "Receipt," as used in this chapter, means actual receipt. "Receive" has a corresponding meaning.

(33) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

(34) "Registered agent" means an agent of an entity which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term includes a commercial registered agent and a noncommercial registered agent.

(35) "Registered foreign entity" means a foreign entity that is registered to do business in this state pursuant to a certificate of registration filed by the secretary of state.

(36) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(37) "Transfer" includes:

(a) An assignment;

(b) A conveyance;

(c) A sale;

(d) A lease;

(e) An encumbrance, including a mortgage or security interest;

(f) A change of record owner of interest;

(g) A gift; and

(h) A transfer by operation of law.

(38) "Type of entity" means a generic form of entity:

(a) Recognized at common law; or

(b) Formed under an organic law, whether or not some entities formed under that law are subject to provisions of that law that create different categories of the form of entity.

(39) "Writing" does not include an electronic transmission.

(40) "Written" means embodied in a tangible medium.

NEW SECTION. Sec. 1103. DELIVERY OF RECORD.(1) Except as otherwise provided in this chapter, permissible means of delivery of a record include delivery by hand, United States mail, private courier service, and electronic transmission.

(2) Records may be delivered to the secretary of state by electronic transmission as authorized by the secretary of state pursuant to section 1104(2) of this act. The secretary of state may deliver a record to an entity by electronic transmission if the entity has designated an address, location, or system to which the record may be electronically transmitted.

NEW SECTION. Sec. 1104. RULES AND PROCEDURES.(1) The secretary of state has the power reasonably necessary to perform the duties required by this chapter, including adoption, amendment, or repeal of rules under chapter 34.05 RCW for the efficient administration of this chapter.

(2) The secretary of state may adopt rules to facilitate electronic filing. The rules will detail the circumstances under which the electronic filing of documents will be permitted, how the documents will be filed, and how the secretary of state will return filed documents. The rules may also impose additional requirements related to implementation of electronic filing processes, including but not limited to file formats, signature technologies, delivery, and the types of entities, records, or documents permitted.

ARTICLE 2 FILING

NEW SECTION. Sec. 1201. ENTITY FILING REQUIREMENTS.(1) To be filed by the secretary of state pursuant to this chapter, an entity filing must be received by the secretary of state, comply with this chapter, and satisfy the following:

(a) The entity filing must be required or permitted by Title 23, 23B, 24, or 25 RCW.

(b) The entity filing must be delivered in written form unless and to the extent the secretary of state permits electronic delivery of entity filings pursuant to section 1104(2) of this act.

(c) The words in the entity filing must be in English, and numbers must be in Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

(d) The entity filing must be executed by or on behalf of a person authorized or required under this chapter or the entity's organic law to execute the filing.

(e) The entity filing must state the name and capacity, if any, of each individual who executed it, on behalf of either the individual or the person authorized or required to execute the filing, but need not contain a seal, attestation, acknowledgment, or verification.

(2) When an entity filing is delivered to the secretary of state for filing, any fee required under this chapter and any fee, interest, or penalty required to be paid under this chapter or law other than this chapter must be paid in a manner permitted by the secretary of state or by that law.

(3) The secretary of state may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

(4) A record filed under this chapter may be executed by an individual acting in a valid representative capacity.

NEW SECTION. Sec. 1202. FORMS.(1) The secretary of state may provide forms for entity filings required or permitted to be made by Title 23, 23B, 24, or 25 RCW, but, except as otherwise provided in subsection (2) of this section, their use is not required.

(2) The secretary of state may require that a cover sheet for an entity filing and an annual report be on forms prescribed by the secretary of state.

NEW SECTION. Sec. 1203. EFFECTIVE DATE AND TIME.Except as otherwise provided in this chapter and subject to section 1205(4) of this act, an entity filing is effective:

(1) On the date of filing and at the time specified in the entity filing as its effective time;

(2) Unless prohibited by the entity's organic law, at a specified delayed effective date and time, which may not be more than ninety days after the date of filing;

(3) If a delayed effective date is specified, but no time is specified, at 12:01 a.m. on the date specified; or

(4) If subsection (1), (2), or (3) of this section does not apply, on the date and at the time of its filing by the secretary of state as provided in section 1206 of this act.

NEW SECTION. Sec. 1204. WITHDRAWAL OF FILED RECORD BEFORE EFFECTIVENESS.(1) Except as otherwise provided in this chapter, a filed record may be withdrawn before it takes effect by delivering to the secretary of state for filing a statement of withdrawal.

(2) A statement of withdrawal must:

(a) Be executed by an individual acting in a valid representative capacity; and

(b) Identify the filed record to be withdrawn.

(3) On filing by the secretary of state of a statement of withdrawal, the action or transaction evidenced by the original filed record shall not take effect.

NEW SECTION. Sec. 1205. CORRECTING FILED RECORD.(1) An entity may correct a filed record if:

(a) The filed record at the time of filing contained an inaccurate statement;

(b) The filed record was defectively executed; or

(c) The electronic transmission of the filed record to the secretary of state was defective.

(2) To correct a filed record, the entity must deliver to the secretary of state for filing a statement of correction.

(3) A statement of correction:

(a) May not state a delayed effective date;

(b) Must be executed by the individual correcting the filed record;

(c) Must identify the filed record to be corrected;

(d) Must specify the inaccuracy or defect to be corrected; and

(e) Must correct the inaccuracy or defect.

(4) A statement of correction is effective as of the effective date of the filed record that it corrects except as to persons relying on the uncorrected filed record

and adversely affected by the correction. As to those persons, the statement of correction is effective when filed.

NEW SECTION. Sec. 1206. DUTY OF SECRETARY OF STATE TO FILE; REVIEW OF REFUSAL TO FILE.(1) The secretary of state shall file an entity filing that satisfies this chapter. The duty of the secretary of state under this section is ministerial.

(2) The secretary of state shall record an entity filing on the date and at the time of its receipt. After filing an entity filing, the secretary of state shall deliver to the person that submitted the filing a copy of the filed record with an acknowledgment of the date and time of filing.

(3) If the secretary of state refuses to file an entity filing, the secretary of state not later than fifteen business days after the filing is received, shall:

(a) Return the entity filing or notify the person that submitted the filing of the refusal; and

(b) Provide a brief explanation in a record of the reason for the refusal.

(4) If the secretary of state refuses to file an entity filing, the person that submitted the entity filing may petition the superior court to compel its filing. The entity filing and the explanation of the secretary of state of the refusal to file must be attached to the petition. The court may decide the matter in a summary proceeding.

(5) The filing of or refusal to file an entity filing does not:

(a) Affect the validity or invalidity of the entity filing in whole or in part;

(b) Relate to the correctness or incorrectness of information contained in the entity filing; or

(c) Create a presumption that the information contained in the filing is correct or incorrect.

NEW SECTION. Sec. 1207. EVIDENTIARY EFFECT OF COPY OF FILED RECORD.A certification from the secretary of state accompanying a copy of a filed record is conclusive evidence that the copy is an accurate representation of the original record on file with the secretary of state.

NEW SECTION. Sec. 1208. CERTIFICATE OF EXISTENCE OR REGISTRATION. (1) On request of any person, the secretary of state shall issue a certificate of existence for a domestic entity or a certificate of registration for a registered foreign entity.

(2) A certificate under subsection (1) of this section must state:

(a) The domestic entity's name or the registered foreign entity's name used in this state;

(b) In the case of a domestic entity:

(i) That its public organic record has been filed and has taken effect;

(ii) The date the public organic record became effective;

(iii) The period of the entity's duration if the records of the secretary of state reflect that the entity's period of duration is less than perpetual; and

(iv) That the records of the secretary of state do not reflect that the entity has been dissolved;

(c) In the case of a registered foreign entity, that it is registered to do business in this state;

(d) That all fees, interest, and penalties owed to this state by the domestic or foreign entity and collected through the secretary of state have been paid, if:

- (i) Payment is reflected in the records of the secretary of state; and
- (ii) Nonpayment affects the existence or registration of the domestic or foreign entity;
- (e) That the most recent annual report required by section 1212 of this act has been delivered to the secretary of state for filing;
- (f) That a proceeding is not pending under section 1603 of this act; and
- (g) Other facts reflected in the records of the secretary of state pertaining to the domestic or foreign entity which the person requesting the certificate reasonably requests.

(3) Subject to any qualification stated in the certificate, a certificate issued by the secretary of state under subsection (1) of this section may be relied upon as conclusive evidence of the facts stated in the certificate.

NEW SECTION. Sec. 1209. EXECUTION OF ENTITY FILING.(1) Any person who executes a record the person knows is false in any material respect with the intent the record be an entity filing is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(2) A person that executes an entity filing as an agent or legal representative thereby affirms as a fact that the person is authorized to execute the entity filing.

NEW SECTION. Sec. 1210. EXECUTION AND FILING PURSUANT TO JUDICIAL ORDER.(1) If a person required by the entity's organic law to execute a record that is to be an entity filing or to make an entity filing does not do so, any other person that is aggrieved may petition the superior court to order:

- (a) The person to execute the record;
- (b) The person to make the entity filing; or
- (c) The secretary of state to file the entity filing unexecuted.

(2) If the petitioner under subsection (1) of this section is not the entity to which the entity filing pertains, the petitioner shall make the entity a party to the action.

(3) A filed record created under subsection (1)(c) of this section is effective without being executed.

NEW SECTION. Sec. 1211. DELIVERY BY SECRETARY OF STATE.Except as otherwise provided by section 1411 of this act or by law of this state other than this chapter, the secretary of state may deliver a record to a person by delivering it:

- (1) In person to the person that submitted it for filing;
- (2) To the address of the person's registered agent;
- (3) To the principal office address of the person; or
- (4) To another address the person provides to the secretary of state for delivery.

NEW SECTION. Sec. 1212. ANNUAL REPORT FOR SECRETARY OF STATE.(1) A domestic entity other than a limited liability partnership or nonprofit corporation shall, within one hundred twenty days of the date on which its public organic record became effective, deliver to the secretary of state for filing an initial report that states the information required under subsection (2) of this section.

(2) A domestic entity or registered foreign entity shall deliver to the secretary of state for filing an annual report that states:

- (a) The name of the entity and its jurisdiction of formation;

(b) The name and street and mailing addresses of the entity's registered agent in this state;

(c) The street and mailing addresses of the entity's principal office;

(d) In the case of a registered foreign entity, the street and mailing address of the entity's principal office in the state or country under the laws of which it is incorporated;

(e) The names of the entity's governors;

(f) A brief description of the nature of the entity's business;

(g) In the case of a business corporation, the names and addresses of the chairperson of its board of directors, if any, president, secretary, and treasurer, or individuals, however designated, performing the functions of such officers; and

(h) The entity's unified business identifier number.

(3) Information in an initial or annual report must be current as of the date the report is executed by the entity.

(4) Annual reports must be delivered to the secretary of state on a date determined by the secretary of state and at such additional times as the entity elects.

(5) If an initial or annual report does not contain the information required by this section, the secretary of state promptly shall notify the reporting entity in a record and return the report for correction.

(6) If an initial or annual report contains the name or address of a registered agent that differs from the information shown in the records of the secretary of state immediately before the annual report becomes effective, the differing information in the initial or annual report is considered a statement of change under section 1407 of this act.

(7) The secretary of state shall send to each domestic entity and registered foreign entity, not less than thirty or more than ninety days prior to the expiration date of the entity's annual renewal, a notice that the entity's annual report must be filed as required by this chapter and that any applicable annual renewal fee must be paid, and stating that if the entity fails to file its annual report or pay the annual renewal fee it will be administratively dissolved. The notice may be sent by postal or electronic mail as elected by the entity, addressed to its registered agent within the state, or to an electronic address designated by the entity in a record retained by the secretary of state. Failure of the secretary of state to provide any such notice does not relieve a domestic entity or registered foreign entity from its obligations to file the annual report required by this chapter or to pay any applicable annual renewal fee. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.

NEW SECTION. Sec. 1213. FEES.(1) Except as provided in subsection (2) of this section, the secretary of state shall adopt rules in accordance with chapter 34.05 RCW setting:

(a) Fees for:

(i) Filing entity filings;

(ii) Furnishing copies or certified copies of any filed record under this chapter; and

(iii) Furnishing a certificate of existence or registration of an entity, or any other certificate;

(b) License or renewal fees authorized under Title 23, 23B, 24, or 25 RCW;

- (c) Penalty fees; and
- (d) Other miscellaneous charges.

(2) There is no fee for:

- (a) A registered agent's consent to act as agent or statement of resignation;
- (b) Filing articles of dissolution;
- (c) Filing certificates of judicial dissolution;
- (d) Filing statements of withdrawal; and

(e) Filing annual reports when submitted concurrently with the payment of annual license fees.

(3) The withdrawal under section 1204 of this act of a filed record before it is effective or the correction of a filed record under section 1205 of this act does not entitle the person on whose behalf the record was filed to a refund of the filing fee.

(4) The secretary of state shall establish the fee schedule authorized under this section in a manner that is consistent with the fee schedule applicable to the various entities that is in effect on the effective date of this section. The amounts of fees, charges, and penalties established under this section may be no greater than the amounts applicable to entity filings, penalties, and other charges in effect on the effective date of this section. Fees may be adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This must be determined in a biennial cost study performed by the secretary of state.

(5) All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law or deposited in the secretary of state's revolving fund as provided in RCW 43.07.130.

NEW SECTION. Sec. 1214. WAIVER OF PENALTY FEES. The secretary of state may, where exigent or mitigating circumstances are presented, waive penalty fees due from any entity previously in good standing which would otherwise be penalized or lose its active status. An entity desiring to seek relief under this section must, within fifteen days of discovery of the missed filing or lapse, notify the secretary of state in writing. The notification must include the name and mailing address of the entity, the governor or other entity official to whom correspondence should be sent, and a statement under oath by a governor or other entity official, setting forth the nature of the missed filing or lapse, the circumstances giving rise to the missed filing or lapse, and the relief sought. If the secretary of state is satisfied that sufficient exigent or mitigating circumstances exist, that the entity has demonstrated good faith and a reasonable attempt to comply with the applicable statutes of this state, the secretary of state may issue an order allowing relief from the penalty. If the secretary of state determines the request does not comply with the requirements for relief, the secretary of state shall deny the relief and state the reasons for the denial. Any denial of relief by the secretary of state is not reviewable notwithstanding the provisions of chapter 34.05 RCW.

ARTICLE 3
NAME OF ENTITY

NEW SECTION. Sec. 1301. PERMITTED NAMES.(1) The name of a domestic entity and the name under which a foreign entity may register to do business in this state, must be distinguishable on the records of the secretary of state from any:

(a) Name of an existing domestic entity which at the time is not administratively dissolved;

(b) Name of a foreign entity registered to do business in this state under part I, Article 5 of this act;

(c) Name reserved under section 1303 of this act; or

(d) Name registered under section 1304 of this act.

(2) If an entity consents in a record to the use of its name and submits an undertaking in a form satisfactory to the secretary of state to change its name to a name that is distinguishable on the records of the secretary of state from any name in any category of names in subsection (1) of this section, the name of the consenting entity may be used by the person to which the consent was given.

(3) A name may not be considered distinguishable on the records of the secretary of state from the name of another entity by virtue of:

(a) A variation in the words, phrases, or abbreviations indicating the type of entity, such as "corporation," "corp.," "incorporated," "Inc.," "company," "co.," "social purpose corporation," "SPC," "S.P.C.," "professional corporation," "PC," "P.C.," "professional service," "PS," "P.S.," "Limited," "Ltd.," "limited partnership," "LP," "L.P.," "limited liability partnership," "LLP," "L.L.P.," "registered limited liability partnership," "RLLP," "R.L.L.P.," "limited liability limited partnership," "LLLLP," "L.L.L.P.," "registered limited liability limited partnership," "RLLLLP," "R.L.L.L.P.," "limited liability company," "LLC," "L.L.C.," "professional limited liability company," "PLLC," or "P.L.L.C.;"

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(4) An entity name may not contain language stating or implying that the entity is organized for a purpose other than those permitted by the entity's public organic record.

(5) This chapter does not control the use of assumed business names or "trade names."

(6) An entity may use a name that is not distinguishable from a name described in subsection (1) of this section if the entity delivers to the secretary of state a certified copy of a final judgment of a court of competent jurisdiction establishing the right of the entity to use the name in this state.

(7) An entity may use the name, including the fictitious name, of another entity that is used in this state if the other entity is formed or authorized to transact business in this state and the proposed user entity:

(a) Has merged with the other entity; or

(b) Has been formed by reorganization of the other entity.

NEW SECTION. Sec. 1302. NAME REQUIREMENTS FOR CERTAIN TYPES OF ENTITIES.(1)(a) The name of a business corporation:

(i)(A) Except in the case of a social purpose corporation, must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation

"Corp.," "Inc.," "Co.," or "Ltd.," or words or abbreviations of similar import in another language; or

(B) In the case of a social purpose corporation, must contain the words "social purpose corporation" or the abbreviation "SPC" or "S.P.C."; and

(i) Must not contain any of the following words or phrases: "Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state.

(b) The name of a professional service corporation must contain either the words "professional service" or "professional corporation" or the abbreviation "P.S." or "P.C." The name may also contain either the words "corporation," "incorporated," "company," or "limited," or the abbreviation "Corp.," "Inc.," "Co.," or "Ltd." The name of a professional service corporation organized to render dental services must contain the full names or surnames of all shareholders and no other word than "chartered" or the words "professional services" or the abbreviation "P.S." or "P.C."

(2) The name of a nonprofit corporation:

(a) May include "club," "league," "association," "services," "committee," "fund," "society," "foundation," "guild," " , a nonprofit corporation," " , a nonprofit mutual corporation," or any name of like import;

(b) Except for nonprofit corporations formed prior to January 1, 1969, must not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof; and

(c) May only include the term "public benefit" or names of like import if the nonprofit corporation has been designated as a public benefit nonprofit corporation by the secretary of state in accordance with chapter 24.03 RCW.

(3) The name of a limited partnership may contain the name of any partner. The name of a partnership that is not a limited liability limited partnership must contain the words "limited partnership" or the abbreviation "LP" or "L.P." and may not contain the words "limited liability limited partnership" or the abbreviation "LLLLP" or "L.L.L.P." If the limited partnership is a limited liability limited partnership, the name must contain the words "limited liability limited partnership" or the abbreviation "LLLLP" or "L.L.L.P." and may not contain the abbreviation "LP" or "L.P."

(4) The name of a limited liability partnership must contain the words "limited liability partnership" or the abbreviation "LLP" or "L.L.P." If the name of a foreign limited liability partnership contains the words "registered limited liability partnership" or the abbreviation "R.L.L.P." or "RLLP," it may include those words or abbreviations in its foreign registration statement.

(5)(a) The name of a limited liability company:

(i) Must contain the words "limited liability company," the words "limited liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC"; and

(ii) May not contain any of the following words or phrases: "Cooperative," "partnership," "corporation," "incorporated," or the abbreviations "Corp.," "Ltd.," or "Inc.," or "LP," "L.P.," "LLP," "L.L.P.," "LLLLP," "L.L.L.P.," or any words or phrases prohibited by any statute of this state.

(b) The name of a professional limited liability company must contain either the words "professional limited liability company," or the words "professional

limited liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC," provided that the name of a professional limited liability company organized to render dental services must contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or "PLLC".

(6) The name of a cooperative association organized under chapter 23.86 RCW may contain the words "corporation," "incorporated," "limited," or the abbreviation "Corp.," "Inc.," or "Ltd."

NEW SECTION. Sec. 1303. RESERVATION OF NAME.(1) A person may reserve the exclusive use of an entity name including the alternate name adopted pursuant to section 1506 of this act by delivering an application to the secretary of state for filing. The application must state the name and address of the applicant and the name to be reserved. If the secretary of state finds that the entity name is available, the secretary of state shall reserve the name for the applicant's exclusive use for one hundred eighty days.

(2) The owner of a reserved entity name may transfer the reservation to another person that is not an individual by delivering to the secretary of state an executed notice in a record of the transfer which states the name and address of the transferee.

NEW SECTION. Sec. 1304. REGISTRATION OF NAME.(1) A foreign entity not registered to do business in this state under part I, Article 5 of this act may register its name, or an alternate name adopted pursuant to section 1506 of this act, if the name is distinguishable on the records of the secretary of state from the names that are not available under section 1301 of this act.

(2) To register its name or an alternate name adopted pursuant to section 1506 of this act, a foreign entity must deliver to the secretary of state for filing an application stating the entity's name, the jurisdiction and date of its formation, and any alternate name adopted pursuant to section 1506 of this act. The application must be accompanied by a certificate of existence, or a document of similar import, from the entity's jurisdiction of formation. If the secretary of state finds that the name applied for is available, the secretary of state shall register the name for the applicant's exclusive use.

(3) The registration of a name under this section is effective upon the effective date of the application and until the close of the calendar year in which the application for registration is filed.

(4) A foreign entity whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than three months before the expiration of the registration, to the secretary of state for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for the following calendar year.

(5) A foreign entity whose name registration is effective may register as a foreign entity under the registered name or consent in an executed record to the use of that name by another entity.

ARTICLE 4
REGISTERED AGENT OF ENTITY

NEW SECTION. Sec. 1401. DEFINITIONS. The definitions in this section apply throughout this section and sections 1402 through 1413 of this act unless the context clearly requires otherwise.

- (1) "Registered agent filing" means:
 - (a) The public organic record of a domestic entity;
 - (b) An application of a domestic limited liability partnership; or
 - (c) A registration statement filed pursuant to section 1503 of this act.
- (3) "Represented entity" means:
 - (a) A domestic entity; or
 - (b) A registered foreign entity.

NEW SECTION. Sec. 1402. ENTITIES REQUIRED TO DESIGNATE AND MAINTAIN REGISTERED AGENT. The following shall designate and maintain a registered agent in this state:

- (1) A domestic entity; and
- (2) A registered foreign entity.

NEW SECTION. Sec. 1403. ADDRESSES IN FILING. If a provision of this chapter other than section 1410(1)(d) of this act requires that a record state an address, the record must state:

- (1) A street address in this state; and
- (2) A mailing address in this state, if different from the address described in subsection (1) of this section.

NEW SECTION. Sec. 1404. DESIGNATION OF REGISTERED AGENT. (1) A registered agent filing must be executed by the represented entity and state:

- (a) The name of the entity's commercial registered agent; or
- (b) If the entity does not have a commercial registered agent:
 - (i) The name and address of the entity's noncommercial registered agent; or
 - (ii) The title of an office or other position with the entity, if service of process, notices, and demands are to be sent to whichever individual is holding that office or position, and the address to which process, notices, or demands are to be sent.

(2) A registered agent shall not be appointed without having given prior consent in a record to the appointment. The consent shall be delivered to the secretary of state in such form as the secretary of state may prescribe. The consent shall be filed with or as a part of the record first appointing a registered agent. In the event any individual or entity has been appointed registered agent without consent, that individual or entity may deliver to the secretary of state a notarized statement attesting to that fact, and the name shall immediately be removed from the records of the secretary of state.

NEW SECTION. Sec. 1405. LISTING OF COMMERCIAL REGISTERED AGENT. (1) A person may become listed as a commercial registered agent by delivering to the secretary of state for filing a commercial-registered-agent listing statement executed by the person which states:

- (a) The name of the individual or the name of the entity, type of entity, and jurisdiction of formation of the entity;
- (b) That the person is in the business of serving as a commercial registered agent in this state; and

(c) The address of a place of business of the person in this state to which service of process, notices, and demands being served on or sent to entities represented by the person may be delivered.

(2) A commercial-registered-agent listing statement may include the information regarding acceptance by the agent of service of process, notices, and demands in a form other than a written record as provided in section 1411(5) of this act.

(3) If the name of a person delivering to the secretary of state for filing a commercial-registered-agent listing statement is not distinguishable on the records of the secretary of state from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in this state as a commercial registered agent.

(4) The secretary of state shall note the filing of a commercial-registered-agent listing statement in the records maintained by the secretary of state for each entity represented by the agent at the time of the filing. The statement has the effect of amending the registered agent filing for each of those entities to:

(a) Designate the person becoming listed as a commercial registered agent as the commercial registered agent of each of those entities; and

(b) Delete the name and address of the former agent from the registered agent filing of each of those entities.

NEW SECTION. Sec. 1406. TERMINATION OF LISTING OF COMMERCIAL REGISTERED AGENT.(1) A commercial registered agent may terminate its listing as a commercial registered agent by delivering to the secretary of state for filing a commercial-registered-agent termination statement executed by the agent which states:

(a) The name of the agent as listed under section 1405 of this act; and

(b) That the agent is no longer in the business of serving as a commercial registered agent in this state.

(2) A commercial-registered-agent termination statement takes effect at 12:01 a.m. on the 31st day after the day on which it is delivered to the secretary of state for filing.

(3) The commercial registered agent promptly shall furnish each entity represented by the agent notice in a record of the filing of the commercial-registered-agent termination statement.

(4) When a commercial-registered-agent termination statement takes effect, the commercial registered agent ceases to be the registered agent for each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent designates a new registered agent, service of process may be made on the entity pursuant to section 1411 of this act. Termination of the listing of a commercial registered agent under this section does not affect any contractual rights a represented entity has against the agent or that the agent has against the entity.

NEW SECTION. Sec. 1407. CHANGE OF REGISTERED AGENT BY ENTITY.(1) A represented entity may change its registered agent or other information on file under section 1404(1) of this act by delivering to the secretary of state for filing a statement of change executed by the entity which states:

- (a) The name of the entity; and
 - (b) The information required under section 1404(1) of this act.
- (2) The interest holders or governors of a domestic entity need not approve the filing of:
- (a) A statement of change under this section; or
 - (b) A similar filing changing the registered agent or registered office, if any, of the entity in any other jurisdiction.
- (3) A statement of change under this section designating a new registered agent must be accompanied by the new registered agent's consent in a record, either on the statement or attached to it in a manner and form as the secretary of state may prescribe, to the appointment.

NEW SECTION, Sec. 1408. CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY NONCOMMERCIAL REGISTERED AGENT.(1) If a noncommercial registered agent changes its name or its address in effect with respect to a represented entity under section 1404(1) of this act, the agent shall deliver to the secretary of state for filing, with respect to each entity represented by the agent, a statement of change executed by the agent which states:

- (a) The name of the entity;
 - (b) The name and address of the agent in effect with respect to the entity;
 - (c) If the name of the agent has changed, the new name; and
 - (d) If the address of the agent has changed, the new address.
- (2) A noncommercial registered agent promptly shall furnish the represented entity with notice in a record of the delivery to the secretary of state for filing of a statement of change and the changes made in the statement.

NEW SECTION, Sec. 1409. CHANGE OF NAME, ADDRESS, TYPE OF ENTITY, OR JURISDICTION OF FORMATION BY COMMERCIAL REGISTERED AGENT.(1) If a commercial registered agent changes its name, its address as listed under section 1405(1) of this act, its type of entity, or its jurisdiction of formation, the agent shall deliver to the secretary of state for filing a statement of change executed by the agent which states:

- (a) The name of the agent as listed under section 1405(1) of this act;
 - (b) If the name of the agent has changed, the new name;
 - (c) If the address of the agent has changed, the new address; and
 - (d) If the agent is an entity:
 - (i) If the type of entity of the agent has changed, the new type of entity; and
 - (ii) If the jurisdiction of formation of the agent has changed, the new jurisdiction of formation.
- (2) The filing by the secretary of state of a statement of change under subsection (1) of this section is effective to change the information regarding the agent with respect to each entity represented by the agent.

(3) A commercial registered agent promptly shall furnish to each entity represented by it a notice in a record of the filing by the secretary of state of a statement of change relating to the name or address of the agent and the changes made in the statement.

(4) If a commercial registered agent changes its address without delivering for filing a statement of change as required by this section, the secretary of state may cancel the listing of the agent under section 1405 of this act. A cancellation

under this subsection has the same effect as a termination under section 1406 of this act. Promptly after canceling the listing of an agent, the secretary of state shall serve notice in a record in the manner provided in section 1411 (2) or (3) of this act on:

(a) Each entity represented by the agent, stating that the agent has ceased to be the registered agent for the entity and that, until the entity designates a new registered agent, service of process may be made on the entity as provided in section 1411 of this act; and

(b) The agent, stating that the listing of the agent has been canceled under this section.

NEW SECTION. Sec. 1410. RESIGNATION OF REGISTERED AGENT.(1) A registered agent may resign as agent for a represented entity by delivering to the secretary of state for filing a statement of resignation executed by the agent which states:

(a) The name of the entity;

(b) The name of the agent;

(c) That the agent resigns from serving as registered agent for the entity; and

(d) The address of the entity to which the agent will send the notice required by subsection (3) of this section.

(2) A statement of resignation takes effect on the earlier of:

(a) The 31st day after the day on which it is filed by the secretary of state; or

(b) The designation of a new registered agent for the represented entity.

(3) A registered agent promptly shall furnish to the represented entity notice in a record of the date on which a statement of resignation was filed.

NEW SECTION. Sec. 1411. SERVICE OF PROCESS, NOTICE, OR DEMAND ON ENTITY.(1) A represented entity may be served with any process, notice, or demand required or permitted by law by serving its registered agent.

(2) If a represented entity ceases to have a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the entity at the entity's principal office. The address of the principal office must be as shown in the entity's most recent annual report filed by the secretary of state. Service is effected under this subsection on the earliest of:

(a) The date the entity receives the mail or delivery by the commercial delivery service;

(b) The date shown on the return receipt, if executed by the entity; or

(c) Five days after its deposit with the United States Postal Service or commercial delivery service, if correctly addressed and with sufficient postage or payment.

(3) If process, notice, or demand cannot be served on an entity pursuant to subsection (1) or (2) of this section, service may be made by handing a copy to the individual in charge of any regular place of business or activity of the entity if the individual served is not a plaintiff in the action.

(4) The secretary of state shall be an agent of the entity for service of process if process, notice, or demand cannot be served on an entity pursuant to subsection (1), (2), or (3) of this section.

(5) Service of process, notice, or demand on a registered agent must be in a written record, but service may be made on a commercial registered agent in other forms, and subject to such requirements, as the agent has stated in its listing under section 1405 of this act that it will accept.

(6) Service of process, notice, or demand may be made by other means under law other than this chapter.

NEW SECTION. Sec. 1412. DUTIES OF REGISTERED AGENT. The only duties under this chapter of a registered agent that has complied with this chapter are:

(1) To forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice, or demand pertaining to the entity which is served on or received by the agent;

(2) To provide the notices required by this chapter to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, to keep current the information required by section 1404(1) of this act in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, to keep current the information listed for it under section 1405(1) of this act.

NEW SECTION. Sec. 1413. JURISDICTION AND VENUE. The designation or maintenance in this state of a registered agent does not by itself create the basis for personal jurisdiction over the represented entity in this state. The address of the agent does not determine venue in an action or a proceeding involving the entity.

ARTICLE 5 FOREIGN ENTITIES

NEW SECTION. Sec. 1501. GOVERNING LAW. (1) Part I of this act does not authorize this state to regulate the organization or internal affairs of a foreign entity registered to do business in this state, or govern the liability that a person has as an interest holder or governor for a debt, obligation, or other liability of the foreign entity.

(2) A foreign entity is not precluded from registering to do business in this state because of any difference between the law of the entity's jurisdiction of formation and the law of this state.

(3) Registration of a foreign entity to do business in this state does not authorize the foreign entity to engage in any activity or exercise any power that a domestic entity of the same type may not engage in or exercise in this state. Except as otherwise provided in this chapter or other applicable law of this state, a foreign entity is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on a domestic entity of the same type.

NEW SECTION. Sec. 1502. REGISTRATION TO DO BUSINESS IN THIS STATE. (1) A foreign entity may not do business in this state until it registers with the secretary of state under this chapter.

(2) A foreign entity doing business in this state may not maintain an action or proceeding in this state unless it is registered to do business in this state and has paid to this state all fees and penalties for the years, or parts thereof, during which it did business in this state without having registered.

(3) The successor to a foreign entity that transacted business in this state without a certificate of registration and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign entity, or its successor, obtains a certificate of registration.

(4) A court may stay a proceeding commenced by a foreign entity, its successor, or assignee until it determines whether the foreign entity, or its successor, requires a certificate of registration. If it so determines, the court may further stay the proceeding until the foreign entity, or its successor, obtains the certificate of registration.

(5) A foreign entity that transacts business in this state without a certificate of registration is liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of registration, in an amount equal to all fees which would have been imposed by this chapter upon the entity had it applied for and received a certificate of registration to transact business in this state and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay such fees.

(6) The failure of a foreign entity to register to do business in this state does not: (a) Impair the validity of a contract or act of the foreign entity; (b) impair the right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or (c) preclude the foreign entity from defending an action or proceeding in this state.

(7) A limitation on the liability of an interest holder or governor of a foreign entity is not waived solely because the foreign entity does business in this state without registering.

(8) Section 1501 (1) and (2) of this act applies even if a foreign entity fails to register under this Article 5.

NEW SECTION. Sec. 1503. FOREIGN REGISTRATION STATEMENT.(1) To register to do business in this state, a foreign entity must deliver a foreign registration statement to the secretary of state for filing. The statement must be executed by the entity and state:

(a) The name of the foreign entity and, if the name does not comply with section 1301 of this act, an alternate name adopted pursuant to section 1506 of this act;

(b) The type of entity and, if it is a foreign limited partnership, whether it is a foreign limited liability limited partnership;

(c) The entity's jurisdiction of formation;

(d) The street and mailing addresses of the entity's principal office and, if the law of the entity's jurisdiction of formation requires the entity to maintain an office in that jurisdiction, the street and mailing addresses of the office;

(e) The information required by section 1404(1) of this act;

(f) The names and addresses of the entity's governors, and if the entity is a business corporation or nonprofit corporation, the names and addresses of its officers;

(g) The date of the entity's formation and period of duration;

(h) The nature of the entity's business or purposes to be conducted or promoted in this state; and

(i) The date on which the entity first did, or intends to do, business in this state.

(2) The foreign entity shall deliver with the registration statement a certificate of existence, or a document of similar import, issued no more than sixty days before the date of submission of the registration statement and duly authenticated by the secretary of state or other official having custody of the entity's records in the entity's jurisdiction of formation.

NEW SECTION. Sec. 1504. AMENDMENT OF FOREIGN REGISTRATION STATEMENT. A registered foreign entity shall promptly deliver to the secretary of state for filing an amendment to its foreign registration statement if there is a change in:

- (1) The name of the entity;
- (2) The type of entity, including, if it is a foreign limited partnership, whether the entity became or ceased to be a foreign limited liability limited partnership;
- (3) The entity's jurisdiction of formation;
- (4) An address required by section 1503(1)(d) of this act; or
- (5) The information required by section 1404(1) of this act.

NEW SECTION. Sec. 1505. ACTIVITIES NOT CONSTITUTING DOING BUSINESS. (1) Activities of a foreign entity that do not constitute doing business in this state under this chapter include, but are not limited to:

- (a) Maintaining, defending, mediating, arbitrating, or settling an action or proceeding, or settling claims or disputes;
- (b) Carrying on any activity concerning its internal affairs, including holding meetings of its interest holders or governors;
- (c) Maintaining accounts in financial institutions;
- (d) Maintaining offices or agencies for the transfer, exchange, and registration of securities of the entity or maintaining trustees or depositories with respect to those securities;
- (e) Selling through independent contractors;
- (f) Soliciting or obtaining orders by any means if the orders require acceptance outside this state before they become binding contracts and where the contracts do not involve any local performance other than delivery and installation;
- (g) Creating or acquiring indebtedness, mortgages, or security interests in property;
- (h) Securing or collecting debts or enforcing mortgages or security interests in property securing the debts;
- (i) Conducting an isolated transaction that is completed within thirty days and that is not in the course of repeated transactions of a like nature;
- (j) Owning, without more, property;
- (k) Doing business in interstate commerce; and
- (l) Operating an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW and in accordance with subsection (2) of this section.

(2) In addition to those acts that are specified in subsection (1) of this section, a foreign degree-granting institution that establishes an approved branch campus in the state under chapter 28B.90 RCW shall not be deemed to transact business in the state solely because it:

- (a) Owns and controls an incorporated branch campus in this state;

(b) Pays the expenses of tuition or room and board charged by the incorporated branch campus for its students enrolled at the branch campus or contributes to the capital thereof; or

(c) Provides personnel who furnish assistance and counsel to its students while in the state but who have no authority to enter into any transactions for or on behalf of the foreign degree-granting institution.

(3) A person does not do business in this state solely by being an interest holder or governor of a domestic entity or foreign entity that does business in this state.

(4) This section does not apply in determining the contacts or activities that may subject a foreign entity to service of process, taxation, or regulation under law of this state other than this chapter.

NEW SECTION. Sec. 1506. NONCOMPLYING NAME OF FOREIGN ENTITY.(1) A foreign entity whose name does not comply with section 1301 of this act for an entity of its type may not register to do business in this state until it adopts, for the purpose of doing business in this state, an alternate name that complies with section 1301 of this act. A registered foreign entity that registers under an alternate name under this subsection need not comply with chapter 19.80 RCW. After registering to do business in this state with an alternate name, a registered foreign entity shall do business in this state under:

(a) The alternate name;

(b) Its entity name, with the addition of its jurisdiction of formation clearly identified; or

(c) An assumed or fictitious name the entity is authorized to use under chapter 19.80 RCW.

(2) If a registered foreign entity changes its name to one that does not comply with section 1301 of this act, it may not do business in this state until it complies with subsection (1) of this section by amending its foreign registration statement to adopt an alternate name that complies with section 1301 of this act.

NEW SECTION. Sec. 1507. WITHDRAWAL OF REGISTRATION OF REGISTERED FOREIGN ENTITY.(1) A registered foreign entity may withdraw its registration by delivering a statement of withdrawal to the secretary of state for filing. The statement of withdrawal must be executed by the entity and state:

(a) The name of the entity and its jurisdiction of formation;

(b) That the entity is not doing business in this state and that it withdraws its registration to do business in this state;

(c) That the entity revokes the authority of its registered agent to accept service on its behalf in this state; and

(d) An address to which service of process may be made under subsection (3) of this section.

(2) The statement of withdrawal must be accompanied by a copy of a revenue clearance certificate issued pursuant to RCW 82.32.260.

(3) After the withdrawal of the registration of an entity, service of process in any action or proceeding based on a cause of action arising during the time the entity was registered to do business in this state may be made pursuant to section 1411 of this act.

NEW SECTION. Sec. 1508. WITHDRAWAL DEEMED ON CONVERSION TO DOMESTIC ENTITY. A registered foreign entity that converts to any type of domestic entity is deemed to have withdrawn its registration on the effective date of the conversion.

NEW SECTION. Sec. 1509. WITHDRAWAL ON DISSOLUTION OR CONVERSION. (1) A registered foreign entity that has dissolved and completed winding up or has converted to a domestic or foreign person not subject to this chapter shall deliver a statement of withdrawal to the secretary of state for filing. The statement must be executed by the dissolved or converted entity and state:

(a) In the case of a foreign entity that has completed winding up:

(i) Its name and jurisdiction of formation; and

(ii) That the foreign entity surrenders its registration to do business in this state; and

(b) In the case of a foreign entity that has converted to a domestic or foreign person not subject to this act:

(i) The name of the converting foreign entity and its jurisdiction of formation;

(ii) The type of person to which it has converted and its jurisdiction of formation;

(iii) That it surrenders its registration to do business in this state and revokes the authority of its registered agent to accept service on its behalf; and

(iv) A mailing address to which service of process may be made under subsection (2) of this section.

(2) After a withdrawal is effective under this section, service of process in any action or proceeding based on a cause of action arising during the time the foreign entity was registered to do business in this state may be made pursuant to section 1411 of this act.

NEW SECTION. Sec. 1510. TRANSFER OF REGISTRATION. (1) If a registered foreign entity merges into a nonregistered foreign entity or converts to a foreign entity required to register with the secretary of state to do business in this state, the foreign entity shall deliver to the secretary of state for filing an application for transfer of registration. The application must be executed by the surviving or converted entity and state:

(a) The name of the registered foreign entity before the merger or conversion;

(b) The type of entity it was before the merger or conversion;

(c) The name of the applicant entity and, if the name does not comply with section 1301 of this act, an alternate name adopted pursuant to section 1506(1) of this act;

(d) The type of entity of the applicant entity and its jurisdiction of formation; and

(e) The following information regarding the applicant entity, if different than the information for the foreign entity before the merger or conversion:

(i) The street and mailing addresses of the principal office of the entity and, if the law of the entity's jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing addresses of that office; and

(ii) The information required pursuant to section 1404(1) of this act.

(2) When an application for transfer of registration takes effect, the registration of the registered foreign entity to do business in this state is transferred without interruption to the entity into which it has merged or to which it has been converted.

NEW SECTION. Sec. 1511. TERMINATION OF REGISTRATION.(1) The secretary of state may terminate the registration of a registered foreign entity in the manner provided in subsections (2) and (3) of this section if:

(a) The entity does not pay any fee, interest, or penalty required to be paid to the secretary of state under this chapter or law of this state other than this chapter;

(b) The entity does not deliver to the secretary of state for filing an annual report when it is due;

(c) The entity does not have a registered agent as required by section 1402 of this act;

(d) The entity does not deliver to the secretary of state for filing a statement of change under section 1407 of this act if change occurs in the name or address of the entity's registered agent;

(e) A governor, officer, or agent of the entity executed a document knowing it was false in any material respect with intent that the document be delivered to the secretary of state for filing; or

(f) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of the entity's records in the entity's jurisdiction of formation stating that it has been dissolved or disappeared as the result of a merger.

(2) If the secretary of state determines that one or more grounds for termination exist under subsection (1) of this section, the secretary of state shall deliver a notice of the determination to the registered foreign entity's registered agent or, if the entity does not have a registered agent, to the entity's principal office. The notice must state the grounds for termination under subsection (1) of this section.

(3) If the entity does not cure each ground for termination stated in the notice within sixty days after the notice is effective, the secretary of state shall terminate the registration of the foreign entity by filing a statement of termination that recites the ground or grounds for termination and the effective date of termination and delivering a copy of the statement of termination to the foreign entity.

(4) The authority of a registered foreign entity to do business in this state ceases on the effective date of termination shown on the statement of termination.

(5) The termination of a foreign entity's registration does not terminate the authority of the registered agent of the foreign entity.

NEW SECTION. Sec. 1512. ACTION BY ATTORNEY GENERAL.The attorney general may maintain an action to enjoin a foreign entity from doing business in this state in violation of this chapter.

ARTICLE 6
ADMINISTRATIVE DISSOLUTION

NEW SECTION. Sec. 1601. For the purposes of this Article 6, the term "domestic entity" does not include a domestic limited liability partnership.

NEW SECTION. Sec. 1602. GROUND^S.The secretary of state may commence a proceeding under section 1603 of this act to dissolve a domestic entity administratively if:

(1) The entity does not pay any fee, interest, or penalty required to be paid to the secretary of state when due;

(2) The entity does not deliver an annual report to the secretary of state not later than one hundred twenty days after it is due;

(3) The entity does not have a registered agent in this state for thirty consecutive days; or

(4) The entity's period of duration stated in its public organic record expired.

NEW SECTION. Sec. 1603. PROCEDURE AND EFFECT.(1) If the secretary of state determines that one or more grounds exist under section 1602 of this act for administratively dissolving a domestic entity, the secretary of state shall serve the entity pursuant to section 1211 of this act with notice in a record of the secretary of state's determination.

(2) If a domestic entity, not later than sixty days after service of the notice required by subsection (1) of this section, does not cure or demonstrate to the satisfaction of the secretary of state the nonexistence of each ground determined by the secretary of state, the secretary of state shall administratively dissolve the entity by executing a statement of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The secretary of state shall file the statement and serve a copy on the entity pursuant to section 1211 of this act.

(3) A domestic entity that is dissolved administratively continues its existence as an entity but may not carry on any activities except as necessary to wind up its activities and affairs and liquidate its assets in the manner provided in its organic law or to apply for reinstatement under section 1604 of this act.

(4) The administrative dissolution of a domestic entity does not terminate the authority of its registered agent.

NEW SECTION. Sec. 1604. REINSTATEMENT.(1) A domestic entity that is dissolved administratively under section 1603 of this act may apply to the secretary of state for reinstatement not later than five years after the effective date of dissolution. The application must be executed by the entity and state:

(a) The name of the entity and a statement that the name satisfies section 1301 of this act; if the name does not satisfy section 1301 of this act, the entity must deliver with its application an amendment to its public organic record changing its name;

(b) The address of the principal office of the entity and the name and address of its registered agent;

(c) The effective date of the entity's administrative dissolution; and

(d) That the grounds for dissolution did not exist or have been cured.

(2) To be reinstated, an entity must pay the full amount of all annual license or renewal fees which would have been assessed during the period of administrative dissolution had the entity been in active status, plus a penalty fee established by the secretary of state by rule, and the license or renewal fee for the year of reinstatement.

(3) If the secretary of state determines that an application under subsection (1) of this section contains the information required by subsection (1) of this section, is satisfied that the information is correct, and determines that all payments required to be made to the secretary of state by subsection (2) of this section have been made, the secretary of state shall:

(a) Cancel the statement of administrative dissolution and prepare a statement of reinstatement that states the secretary of state's determination and the effective date of reinstatement;

(b) File the statement; and

(c) Serve a copy of the statement on the entity.

(4) When reinstatement under this section is effective as provided in section 1203 of this act:

(a) It relates back to and takes effect as of the effective date of the administrative dissolution; and

(b) The domestic entity resumes carrying on its activities and affairs as if the administrative dissolution had never occurred, except for the rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had reason to know of the reinstatement.

NEW SECTION. Sec. 1605. JUDICIAL REVIEW OF DENIAL OF REINSTATEMENT.(1) If the secretary of state denies a domestic entity's application for reinstatement following administrative dissolution, the secretary of state shall serve the entity with a notice in a record that explains the reasons for denial.

(2) An entity may seek judicial review of denial of reinstatement in the superior court not later than thirty days after service of the notice of denial.

NEW SECTION. Sec. 1606. ENTITY NAME NOT DISTINGUISHABLE FROM NAME OF GOVERNMENTAL ENTITY.(1) Any county, city, town, district, or other political subdivision of the state, or the state of Washington or any department or agency of the state, may apply to the secretary of state for the administrative dissolution, or the termination of registration, of any entity using a name that is not distinguishable from the name of the applicant for dissolution. The application must state the precise legal name of the governmental entity and its date of formation and the applicant shall mail a copy to the entity's registered agent. If the name of the entity is not distinguishable from the name of the applicant, then, except as provided in subsection (4) of this section, the secretary of state shall commence proceedings for administrative dissolution under section 1603 of this act or termination of registration under section 1511 of this act.

(2) A name may not be considered distinguishable by virtue of the items specified in section 1301(3) of this act.

(3)(a) The following are not distinguishable for purposes of this section:

(i) "City of Anytown" and "City of Anytown, Inc."; and

(ii) "City of Anytown" and "Anytown City."

(b) The following are distinguishable for purposes of this section:

(i) "City of Anytown" and "Anytown, Inc.";

(ii) "City of Anytown" and "The Anytown Company"; and

(iii) "City of Anytown" and "Anytown Cafe, Inc."

(4) If the entity that is the subject of the application was formed or registered before the formation of the applicant as a governmental entity, then

this section applies only if the applicant for dissolution provides a certified copy of a final judgment of a court of competent jurisdiction determining that the applicant holds a superior property right to the name than does the entity.

(5) The duties of the secretary of state under this section are ministerial.

ARTICLE 7

MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 1701. RESERVATION OF POWER TO AMEND OR REPEAL. The legislature has power to amend or repeal all or part of this chapter at any time, and all domestic and foreign entities subject to this chapter are governed by the amendment or repeal.

NEW SECTION. Sec. 1702. SUPPLEMENTAL PRINCIPLES OF LAW. Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

NEW SECTION. Sec. 1703. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, and supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Sec. 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

NEW SECTION. Sec. 1704. SAVINGS CLAUSE. The repeal of a statute by this act does not affect:

- (1) The operation of the statute or any action taken under it before its repeal;
- (2) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;
- (3) Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation before its repeal; or
- (4) Any proceeding, reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

ARTICLE 8

IMPLEMENTATION

NEW SECTION. Sec. 1801. Sections 1101 through 1704 of this act constitute a new chapter in Title 23 RCW.

NEW SECTION. Sec. 1802. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 1803. (1) Parts I, II, III, IV, V, VI, VIII, and IX of this act take effect January 1, 2016.

(2) Part VII of this act takes effect upon the effective date of chapter (Substitute Senate Bill No. 5030), Laws of 2015.

PART II

BUSINESS CORPORATION ACT REVISIONS

Sec. 2101. RCW 23B.01.200 and 2002 c 297 s 1 are each amended to read as follows:

(1) A record required or permitted by this title to be filed in the office of the secretary of state must satisfy the requirements of part 1, Article 2 of this act, this section, and ((of)) any other section that adds to or varies from these requirements, to be entitled to filing by the secretary of state.

~~(2) ((The secretary of state may permit records to be filed through electronic transmission. The secretary of state may adopt rules varying from these requirements to facilitate electronic filing. These rules shall detail the circumstances under which the electronic filing of records shall be permitted and how such records shall be filed. These rules may also impose additional requirements related to implementation of electronic filing processes including but not limited to: File formats; signature technologies; the manner of delivery; and the types of entities or records permitted.~~

~~(3) This title must require or permit filing the record in the office of the secretary of state.~~

~~(4) The record must contain the information required by this title. It may contain other information as well.~~

~~(5) The record must: (a) Be typewritten or printed, and must meet such legibility or other standards as may be prescribed by the secretary of state; or (b) meet the standards for electronic filing as may be prescribed by the secretary of state.~~

~~(6) The record must be in the English language. A corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.~~

~~(7)) Unless otherwise indicated in this title, all records ((submitted)) delivered to the secretary of state for filing must be executed:~~

~~(a) By the chairperson of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;~~

~~(b) If directors have not been selected or the corporation has not been formed, by an incorporator; or~~

~~(c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.~~

~~((8) The person executing the record shall sign it and state beneath or opposite the signature the name of the person and the capacity in which the person signs. The record may but need not contain: (a) The corporate seal; (b) an attestation by the secretary or an assistant secretary; or (c) an acknowledgment, verification, or proof.~~

~~(9) If the secretary of state has prescribed a mandatory form for the record under RCW 23B.01.210, the record must be in or on the prescribed form.~~

~~(10) The record must be received by the office of the secretary of state for filing and, except in the case of an electronic filing, must be accompanied by one exact or conformed copy, the correct filing fee or charge, including license fee, penalty and service fee, and any attachments which are required for the filing.))~~

Sec. 2102. RCW 23B.01.220 and 2002 c 297 s 3 are each amended to read as follows:

~~((4)) Corporations are subject to the applicable fees, charges, and penalties established by the secretary of state ((shall collect in accordance with the provisions of this title:~~

~~(a) Fees for filing records and issuing certificates;~~

~~(b) Miscellaneous charges;~~

~~(c) License fees as provided in RCW 23B.01.500 through 23B.01.550;~~

~~(d) Penalty fees; and~~

~~(e) Other fees as the secretary of state may establish by rule adopted under chapter 34.05 RCW.~~

~~(2) The secretary of state shall collect the following fees when the records described in this subsection are delivered for filing:~~

~~—One hundred seventy five dollars, pursuant to RCW 23B.01.520 and 23B.01.540, for:~~

~~(a) Articles of incorporation; and~~

~~(b) Application for certificate of authority.~~

~~(3) The secretary of state shall establish by rule, fees for the following:~~

~~(a) Application for reinstatement;~~

~~(b) Articles of correction;~~

~~(c) Amendment of articles of incorporation;~~

~~(d) Restatement of articles of incorporation, with or without amendment;~~

~~(e) Articles of merger or share exchange;~~

~~(f) Articles of revocation of dissolution;~~

~~(g) Application for amended certificate of authority;~~

~~(h) Application for reservation, registration, or assignment of reserved name;~~

~~(i) Corporation's statement of change of registered agent or registered office, or both, except where this information is provided in conjunction with and on an initial report or an annual report form filed under RCW 23B.01.530, 23B.01.550, 23B.02.050, or 23B.16.220;~~

~~(j) Agent's resignation, or statement of change of registered office, or both, for each affected corporation;~~

~~(k) Initial report; and~~

~~(l) Any record not listed in this subsection that is required or permitted to be filed under this title.~~

~~(4) Fees shall be adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This shall be determined in a biennial cost study performed by the secretary of state.~~

~~(5) The secretary of state shall not collect fees for:~~

~~(a) Agent's consent to act as agent;~~

~~(b) Agent's resignation, if appointed without consent;~~

~~(c) Articles of dissolution;~~

~~(d) Certificate of judicial dissolution;~~

~~(e) Application for certificate of withdrawal; and~~

~~(f) Annual report when filed concurrently with the payment of annual license fees.~~

~~(6) The secretary of state shall collect a fee in an amount established by the secretary of state by rule per defendant served, upon being served process under this title. The party to a proceeding causing service of process is entitled to recover this fee as costs if such party prevails in the proceeding.~~

~~(7) The secretary of state shall establish by rule and collect a fee from every person or organization:~~

~~(a) For furnishing a certified copy of any record, instrument, or paper relating to a corporation;~~

~~(b) For furnishing a certificate, under seal, attesting to the existence of a corporation, or any other certificate; and~~

~~(c) For furnishing copies of any record, instrument, or paper relating to a corporation, other than of an initial report or an annual report.~~

~~(8) For annual license fees for domestic and foreign corporations, see RCW 23B.01.500, 23B.01.510, 23B.01.530, and 23B.01.550. For penalties for nonpayment of annual license fees and failure to complete annual report, see RCW 23B.01.570)) under section 1213 of this act and RCW 43.07.120.~~

Sec. 2103. RCW 23B.01.230 and 2002 c 297 s 4 are each amended to read as follows:

~~((1) Except as provided in subsection (2) of this section and RCW 23B.01.240(3), a record accepted for filing is effective on the date it is filed by the secretary of state and at the time on that date specified in the record. If no time is specified in the record, the record is effective at the close of business on the date it is filed by the secretary of state.~~

~~(2) If a record specifies a delayed effective time and date, the record becomes effective at the time and date specified. If a record specifies a delayed effective date but no time is specified, the record is effective at the close of business on that date. A delayed effective date for a record may not be later than the ninetieth day after the date it is filed.~~

~~(3) When a record is received for filing by the secretary of state in a form which complies with the requirements of this title and which would entitle the record to be filed on receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to and be shown as the date on which the secretary of state first received the record in acceptable form)) A record filed with the secretary of state is effective as provided in section 1203 of this act, and may state a delayed effective date and time in accordance with section 1203 of this act.~~

Sec. 2104. RCW 23B.01.240 and 2002 c 297 s 5 are each amended to read as follows:

~~((4)) A domestic or foreign corporation may correct a record filed by the secretary of state ((if the record (a) contains an incorrect statement; or (b) was defectively executed, attested, sealed, verified, or acknowledged.~~

~~(2) A record is corrected:~~

~~(a) By preparing articles of correction that (i) describe the record, including its filing date, or attach a copy of it to the articles of correction, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and~~

~~(b) By delivering the articles of correction to the secretary of state for filing.~~

~~(3) Articles of correction are effective on the effective date of the record they correct except as to persons relying on the uncorrected record and adversely affected by the correction. As to those persons, articles of correction are effective when filed)) in accordance with section 1205 of this act.~~

Sec. 2105. RCW 23B.01.250 and 2002 c 297 s 6 are each amended to read as follows:

~~((1) If a record delivered to the office of the secretary of state for filing satisfies the requirements of RCW 23B.01.200, the secretary of state shall file it.~~

~~(2)(a) The secretary of state files a record: (i) In the case of a record in a tangible medium, by stamping or otherwise endorsing "Filed," together with the secretary of state's name and official title and the date of filing, on both the original and the record copy; and (ii) in the case of an electronically transmitted record, by the electronic processes as may be prescribed by the secretary of state from time to time that result in the information required by (a)(i) of this subsection being permanently attached to or associated with such electronically transmitted record.~~

~~(b) After filing a record, the secretary of state shall deliver a record of the filing to the domestic or foreign corporation or its representative either: (i) In a written copy of the filing; or (ii) if the corporation has designated an address, location, or system to which the record may be electronically transmitted and the secretary of state elects to provide the record by electronic transmission, in an electronically transmitted record of the filing.~~

~~(3) If the secretary of state refuses to file a record, the secretary of state shall return it to the domestic or foreign corporation or its representative, together with a brief explanation of the reason for the refusal. The explanation shall be either: (a) In a written record or (b) if the corporation has designated an address, location, or system to which the explanation may be electronically transmitted and the secretary of state elects to provide the explanation by electronic transmission, in an electronically transmitted record.~~

~~(4) The secretary of state's duty to file records under this section is ministerial. Filing or refusal to file a record does not:~~

~~(a) Affect the validity or invalidity of the record in whole or part;~~

~~(b) Relate to the correctness or incorrectness of information contained in the record; or~~

~~(c) Create a presumption that the record is valid or invalid or that information contained in the record is correct or incorrect)) Section 1206 of this act governs the secretary of state's duty to file records delivered to the secretary of state for filing, the manner and effect of filing, and procedures that apply when the secretary of state refuses to file a record.~~

Sec. 2106. RCW 23B.01.280 and 1991 c 72 s 27 are each amended to read as follows:

~~((1)) Any person may apply to the secretary of state under section 1208 of this act to furnish a certificate of existence for a domestic corporation or a certificate of ~~((authorization))~~ registration for a foreign corporation.~~

~~((2) A certificate of existence or authorization means that as of the date of its issuance:~~

~~(a) The domestic corporation is duly incorporated under the laws of this state, or that the foreign corporation is authorized to transact business in this state;~~

~~(b) All fees and penalties owed to this state under this title have been paid, if (i) payment is reflected in the records of the secretary of state, and (ii) nonpayment affects the existence or authorization of the domestic or foreign corporation;~~

~~(c) The corporation's initial report or its most recent annual report required by RCW 23B.16.220 has been delivered to the secretary of state; and~~

~~(d) Articles of dissolution or an application for withdrawal have not been filed by the secretary of state.~~

~~(3) A person may apply to the secretary of state to issue a certificate covering any fact of record.~~

~~(4) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign corporation is in existence or is authorized to transact business in the corporate form in this state.))~~

Sec. 2107. RCW 23B.01.290 and 1989 c 165 s 12 are each amended to read as follows:

~~((Any person who signs a document such person knows is false in any material respect with intent that the document be delivered to the secretary of state for filing is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW)) Section 1209 of this act governs the penalty that applies for executing a false record that is intended to be delivered to the secretary of state for filing.~~

Sec. 2108. RCW 23B.01.410 and 2009 c 189 s 2 are each amended to read as follows:

(1) Notice under this title must be provided in the form of a record, except that oral notice of any meeting of the board of directors may be given if expressly authorized by the articles of incorporation or bylaws.

(2) Permissible means of transmission.

(a) Oral notice. Oral notice may be communicated in person, by telephone, wire, or wireless equipment which does not transmit a facsimile of the notice, or by any electronic means which does not create a record. If these forms of oral notice are impracticable, oral notice may be communicated by radio, television, or other form of public broadcast communication.

(b) Notice provided in a tangible medium. Notice may be provided in a tangible medium and be transmitted by mail, private carrier, or personal delivery; telegraph or teletype; or telephone, wire, or wireless equipment which transmits a facsimile of the notice. If these forms of notice in a tangible medium are impracticable, notice in a tangible medium may be transmitted by an advertisement in a newspaper of general circulation in the area where published.

(c) Notice provided in an electronic transmission.

(i) Notice may be provided in an electronic transmission and be electronically transmitted.

(ii) Notice to shareholders or directors in an electronic transmission is effective only with respect to shareholders and directors that have consented, in the form of a record, to receive electronically transmitted notices under this title and designated in the consent the address, location, or system to which these notices may be electronically transmitted and with respect to a notice that otherwise complies with any other requirements of this title and applicable federal law.

(A) Notice to shareholders or directors for this purpose includes material that this title requires to accompany the notice.

(B) A shareholder or director who has consented to receipt of electronically transmitted notices may revoke this consent by delivering a revocation to the corporation in the form of a record.

(C) The consent of any shareholder or director is revoked if (I) the corporation is unable to electronically transmit two consecutive notices given by the corporation in accordance with the consent, and (II) this inability becomes known to the secretary of the corporation, the transfer agent, or any other person responsible for giving the notice. The inadvertent failure by the corporation to treat this inability as a revocation does not invalidate any meeting or other corporate action.

(iii) Notice to shareholders or directors who have consented to receipt of electronically transmitted notices may be provided by (A) posting the notice on an electronic network and (B) delivering to the shareholder or director a separate record of the posting, together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.

(iv) Notice to a domestic or foreign corporation, authorized to transact business in this state, in an electronic transmission is effective only with respect to a corporation that has designated in a record an address, location, or system to which the notices may be electronically transmitted.

(d) Materials accompanying notice to shareholders of public companies. Notwithstanding anything to the contrary in this section or any other section of this title, if this title requires that a notice to shareholders be accompanied by certain material, a public company may satisfy such a requirement, whether or not a shareholder has consented to receive electronically transmitted notice, by (i) posting the material on an electronic network (either separate from, or in combination or as part of, any other materials the public company has posted on the electronic network in compliance with applicable federal law) at or prior to the time that the notice is delivered to the public company's shareholders entitled to receive the notice, and (ii) delivering to the public company's shareholders entitled to receive the notice a separate record of the posting (which record may accompany, or be contained in, the notice), together with comprehensible instructions regarding how to obtain access to the posting on the electronic network. In such a case, the material is deemed to have been delivered to the public company's shareholders at the time the notice to the shareholders is effective under this section. A public company that elects pursuant to this section to post on an electronic network any material required by this title to accompany a notice to shareholders is required, at its expense, to provide a copy of the material in a tangible medium (alone or in combination or as part of any other materials the public company has posted on the electronic network in compliance with federal law) to any shareholder entitled to such a notice who so requests.

(3) Effective time and date of notice.

(a) Oral notice. Oral notice is effective when received.

(b) Notice provided in a tangible medium.

(i) Notice in a tangible medium, if in a comprehensible form, is effective at the earliest of the following:

(A) If expressly authorized by the articles of incorporation or bylaws, and if notice is sent to the person's address, telephone number, or other number

appearing on the records of the corporation, when dispatched by telegraph, teletype, or facsimile equipment;

(B) When received;

(C) Except as provided in (b)(ii) of this subsection, five days after its deposit in the United States mail, as evidenced by the postmark, if mailed with first-class postage, prepaid and correctly addressed; or

(D) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

(ii) Notice in a tangible medium by a domestic or foreign corporation to its shareholder, if in a comprehensible form and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders, is effective:

(A) When mailed, if mailed with first-class postage prepaid; and

(B) When dispatched, if prepaid, by air courier.

(iii) Notice in a tangible medium to a domestic or foreign corporation, authorized to transact business in this state, may be addressed to the corporation's registered agent (~~(at its registered office)~~) or to the corporation or its secretary at its principal office shown in its most recent annual report, or in the case of a foreign corporation that has not yet delivered its annual report in its (~~application for a certificate of authority~~) foreign registration statement.

(c) Notice provided in an electronic transmission. Notice provided in an electronic transmission, if in comprehensible form, is effective when it: (i) Is electronically transmitted to an address, location, or system designated by the recipient for that purpose; or (ii) has been posted on an electronic network and a separate record of the posting has been delivered to the recipient together with comprehensible instructions regarding how to obtain access to the posting on the electronic network.

(4) If this title prescribes notice requirements for particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this title, those requirements govern.

Sec. 2109. RCW 23B.01.520 and 1989 c 165 s 18 are each amended to read as follows:

For the privilege of doing business, every domestic corporation, except one for which existing law provides a different fee schedule, shall pay a fee for the filing of its articles of incorporation and its first year's license (~~(a fee of one hundred seventy-five dollars)~~), and an annual license fee for each year following incorporation on or before the expiration of its corporate license, in an amount established by the secretary of state under section 1213 of this act.

Sec. 2110. RCW 23B.01.540 and 1989 c 165 s 20 are each amended to read as follows:

A foreign corporation doing an intrastate business or seeking to do an intrastate business in the state of Washington shall (~~qualify so to do in the manner prescribed in this title and shall~~) pay for the privilege of so doing the same filing and annual license fees prescribed in (~~this title for domestic corporations, including the same fees as are prescribed in~~) RCW 23B.01.520(;

~~for the filing of articles of incorporation of a domestic corporation))~~ for domestic corporations.

Sec. 2111. RCW 23B.01.570 and 1994 c 287 s 6 are each amended to read as follows:

In the event any corporation, foreign or domestic, fails to file a full and complete initial report under (~~RCW 23B.02.050(4) and 23B.16.220(3))~~ section 1212 of this act or does business in this state without having paid its annual corporate license fee and without having filed a substantially complete annual report under (~~RCW 23B.16.220(1))~~ section 1212 of this act when either is due, there shall become due and owing the state of Washington a penalty as established by rule by the secretary under section 1213 of this act.

A corporation organized under this title may at any time prior to its dissolution as provided in (~~RCW 23B.14.200~~) part I, Article 6 of this act, and a foreign corporation (~~qualified~~) registered to do business in this state may at any time prior to the (~~revocation of its certificate of authority~~) termination of its registration as provided in (~~RCW 23B.15.300~~) section 1511 of this act, pay to the state of Washington its current annual license fee, provided it also pays an amount equal to all previously unpaid annual license fees plus the penalty established by rule by the secretary under section 1213 of this act.

Sec. 2112. RCW 23B.02.020 and 2009 c 189 s 3 are each amended to read as follows:

(1) The articles of incorporation must set forth:

(a) A corporate name for the corporation that satisfies the requirements of (~~RCW 23B.04.010~~) part I, Article 3 of this act;

(b) The number of shares the corporation is authorized to issue in accordance with RCW 23B.06.010 and 23B.06.020;

(c) The (~~street address of the corporation's initial registered office and the~~) name and address of its initial registered agent (~~at that office~~) designated in accordance with (~~RCW 23B.05.010~~) part I, Article 4 of this act; and

(d) The name and address of each incorporator in accordance with RCW 23B.02.010.

(2) The articles of incorporation or bylaws must either specify the number of directors or specify the process by which the number of directors will be fixed, unless the articles of incorporation dispense with a board of directors pursuant to RCW 23B.08.010.

(3) Unless its articles of incorporation provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may adopt bylaws to be effective only in an emergency as provided by RCW 23B.02.070;

(b) A corporation has the purpose of engaging in any lawful business under RCW 23B.03.010;

(c) A corporation has perpetual existence and succession in its corporate name under RCW 23B.03.020;

(d) A corporation has the same powers as an individual to do all things necessary or convenient to carry out its business and affairs, including itemized powers under RCW 23B.03.020;

(e) All shares are of one class and one series, have unlimited voting rights, and are entitled to receive the net assets of the corporation upon dissolution under RCW 23B.06.010 and 23B.06.020;

(f) If more than one class of shares is authorized, all shares of a class must have preferences, limitations, and relative rights identical to those of other shares of the same class under RCW 23B.06.010;

(g) If the board of directors is authorized to designate the number of shares in a series, the board may, after the issuance of shares in that series, reduce the number of authorized shares of that series under RCW 23B.06.020;

(h) The board of directors must approve any issuance of shares under RCW 23B.06.210;

(i) Shares may be issued pro rata and without consideration to shareholders under RCW 23B.06.230;

(j) Shares of one class or series may not be issued as a share dividend with respect to another class or series, unless there are no outstanding shares of the class or series to be issued, or a majority of votes entitled to be cast by such class or series approve as provided in RCW 23B.06.230;

(k) A corporation may issue rights, options, or warrants for the purchase of shares of the corporation under RCW 23B.06.240;

(l) A shareholder has, and may waive, a preemptive right to acquire the corporation's unissued shares as provided in RCW 23B.06.300;

(m) Shares of a corporation acquired by it may be reissued under RCW 23B.06.310;

(n) The board may authorize and the corporation may make distributions not prohibited by statute under RCW 23B.06.400;

(o) The preferential rights upon dissolution of certain shareholders will be considered a liability for purposes of determining the validity of a distribution under RCW 23B.06.400;

(p) Corporate action may be approved by shareholders by unanimous consent of all shareholders entitled to vote on the corporate action, unless the approval of a lesser number of shareholders is permitted as provided in RCW 23B.07.040, which shareholder consent shall be in the form of a record;

(q) Unless this title requires otherwise, the corporation is required to give notice only to shareholders entitled to vote at a meeting and the notice for an annual meeting need not include the purpose for which the meeting is called under RCW 23B.07.050;

(r) A corporation that is a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(s) Subject to statutory exceptions, each outstanding share, regardless of class, is entitled to one vote on each matter voted on at a shareholders' meeting under RCW 23B.07.210;

(t) A majority of the votes entitled to be cast on a matter by a voting group constitutes a quorum, unless the title provides otherwise under RCW 23B.07.250 and 23B.07.270;

(u) Corporate action on a matter, other than election of directors, by a voting group is approved if the votes cast within the voting group favoring the

corporate action exceed the votes cast opposing the corporate action, unless this title requires a greater number of affirmative votes under RCW 23B.07.250;

(v) All shares of one or more classes or series that are entitled to vote will be counted together collectively on any matter at a meeting of shareholders under RCW 23B.07.260;

(w) Directors are elected by cumulative voting under RCW 23B.07.280;

(x) Directors are elected by a plurality of votes cast by shares entitled to vote under RCW 23B.07.280, except as otherwise provided in the articles of incorporation or a bylaw adopted pursuant to RCW 23B.10.205;

(y) A corporation must have a board of directors under RCW 23B.08.010;

(z) All corporate powers must be exercised by or under the authority of, and the business and affairs of the corporation managed under the direction of, its board of directors under RCW 23B.08.010;

(aa) The shareholders may remove one or more directors with or without cause under RCW 23B.08.080;

(bb) A vacancy on the board of directors may be filled by the shareholders or the board of directors under RCW 23B.08.100;

(cc) A corporation shall indemnify a director who was wholly successful in the defense of any proceeding to which the director was a party because the director is or was a director of the corporation against reasonable expenses incurred by the director in connection with the proceeding under RCW 23B.08.520;

(dd) A director of a corporation who is a party to a proceeding may apply for indemnification of reasonable expenses incurred by the director in connection with the proceeding to the court conducting the proceeding or to another court of competent jurisdiction under RCW 23B.08.540;

(ee) An officer of the corporation who is not a director is entitled to mandatory indemnification under RCW 23B.08.520, and is entitled to apply for court-ordered indemnification under RCW 23B.08.540, in each case to the same extent as a director under RCW 23B.08.570;

(ff) The corporation may indemnify and advance expenses to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director under RCW 23B.08.570;

(gg) A corporation may indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with law, that may be provided by its articles of incorporation, bylaws, general or specific approval of its board of directors, or contract under RCW 23B.08.570;

(hh) A corporation's board of directors may adopt certain amendments to the corporation's articles of incorporation without shareholder approval under RCW 23B.10.020;

(ii) Unless this title or the board of directors requires a greater vote or a vote by voting groups, an amendment to the corporation's articles of incorporation must be approved by each voting group entitled to vote on the proposed amendment by two-thirds, or, in the case of a public company, a majority, of all the votes entitled to be cast by that voting group under RCW 23B.10.030;

(jj) A corporation's board of directors may amend or repeal the corporation's bylaws unless this title reserves this power exclusively to the shareholders in whole or in part, or unless the shareholders in amending or repealing a bylaw

provide expressly that the board of directors may not amend or repeal that bylaw under RCW 23B.10.200;

(kk) Unless this title or the board of directors require a greater vote or a vote by voting groups, a plan of merger or share exchange must be approved by each voting group entitled to vote on the merger or share exchange by two-thirds of all the votes entitled to be cast by that voting group under RCW 23B.11.030;

(ll) Approval by the shareholders of the sale, lease, exchange, or other disposition of all, or substantially all, the corporation's property in the usual and regular course of business is not required under RCW 23B.12.010;

(mm) Approval by the shareholders of the mortgage, pledge, dedication to the repayment of indebtedness, or other encumbrance of any or all of the corporation's property, whether or not in the usual and regular course of business, is not required under RCW 23B.12.010;

(nn) Unless the board of directors requires a greater vote or a vote by voting groups, a sale, lease, exchange, or other disposition of all or substantially all of the corporation's property, other than in the usual and regular course of business, must be approved by each voting group entitled to vote on such transaction by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.12.020; and

(oo) Unless the board of directors requires a greater vote or a vote by voting groups, a proposal to dissolve must be approved by each voting group entitled to vote on the dissolution by two-thirds of all votes entitled to be cast by that voting group under RCW 23B.14.020.

(4) Unless its articles of incorporation or its bylaws provide otherwise, a corporation is governed by the following provisions:

(a) The board of directors may approve the issuance of some or all of the shares of any or all of the corporation's classes or series without certificates under RCW 23B.06.260;

(b) A corporation that is not a public company shall hold a special meeting of shareholders if the holders of at least ten percent of the votes entitled to be cast on any issue proposed to be considered at the meeting demand a meeting under RCW 23B.07.020;

(c) A director need not be a resident of this state or a shareholder of the corporation under RCW 23B.08.020;

(d) The board of directors may fix the compensation of directors under RCW 23B.08.110;

(e) Members of the board of directors may participate in a meeting of the board by any means of similar communication by which all directors participating can hear each other during the meeting under RCW 23B.08.200;

(f) Corporate action permitted or required by this title to be taken at a board of directors' meeting may be approved without a meeting if approved by all members of the board under RCW 23B.08.210;

(g) Regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting under RCW 23B.08.220;

(h) Special meetings of the board of directors must be preceded by at least two days' notice of the date, time, and place of the meeting, and the notice need not describe the purpose of the special meeting under RCW 23B.08.220;

(i) A quorum of a board of directors consists of a majority of the number of directors under RCW 23B.08.240;

(j) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board of directors under RCW 23B.08.240;

(k) A board of directors may create one or more committees and appoint members of the board of directors to serve on them under RCW 23B.08.250; and

(l) Unless approved by the shareholders, a corporation may indemnify, or make advances to, a director for reasonable expenses incurred in the defense of any proceeding to which the director was a party because of being a director only to the extent such action is consistent with RCW 23B.08.500 through 23B.08.580.

(5) The articles of incorporation may contain the following provisions:

(a) The names and addresses of the individuals who are to serve as initial directors;

(b) The par value of any authorized shares or classes of shares;

(c) Provisions not inconsistent with law related to the management of the business and the regulation of the affairs of the corporation;

(d) Any provision that under this title is required or permitted to be set forth in the bylaws;

(e) Provisions not inconsistent with law defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

(f) Provisions authorizing corporate action to be approved by consent of less than all of the shareholders entitled to vote on the corporate action, in accordance with RCW 23B.07.040;

(g) If the articles of incorporation authorize dividing shares into classes, the election of all or a specified number of directors may be effected by the holders of one or more authorized classes of shares under RCW 23B.08.040;

(h) The terms of directors may be staggered under RCW 23B.08.060;

(i) Shares may be redeemable or convertible (i) at the option of the corporation, the shareholder, or another person, or upon the occurrence of a designated event; (ii) for cash, indebtedness, securities, or other property; or (iii) in a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events under RCW 23B.06.010; and

(j) A director's personal liability to the corporation or its shareholders for monetary damages for conduct as a director may be eliminated or limited under RCW 23B.08.320.

(6) The articles of incorporation or the bylaws may contain the following provisions:

(a) A restriction on the transfer or registration of transfer of the corporation's shares under RCW 23B.06.270;

(b) Shareholders may participate in a meeting of shareholders by any means of communication by which all persons participating in the meeting can hear each other under RCW 23B.07.080;

(c) A quorum of the board of directors may consist of as few as one-third of the number of directors under RCW 23B.08.240;

(d) If the corporation is registered as an investment company under the investment company act of 1940, a provision limiting the requirement to hold an annual meeting of shareholders as provided in RCW 23B.07.010(2); and

(e) If the corporation is registered as an investment company under the investment company act of 1940, a provision establishing terms of directors which terms may be longer than one year as provided in RCW 23B.05.050.

(7) The articles of incorporation need not set forth any of the corporate powers enumerated in this title.

Sec. 2113. RCW 23B.02.050 and 2009 c 189 s 4 are each amended to read as follows:

(1) After incorporation:

(a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators:

(i) To elect directors and complete the organization of the corporation; or

(ii) To elect a board of directors who shall complete the organization of the corporation.

(2) Corporate action required or permitted by this title to be approved by incorporators at an organizational meeting may be approved without a meeting if the approval is evidenced by the consent of each of the incorporators in the form of a record describing the corporate action so approved and executed by each incorporator.

(3) An organizational meeting may be held in or out of this state.

(4) A ~~((corporation's initial report containing the information described in RCW 23B.16.220(1)))~~ corporation must ~~((be delivered))~~ deliver an initial report to the secretary of state ~~((within one hundred twenty days of the date on which the corporation's articles of incorporation were filed))~~ in accordance with section 1212 of this act.

Sec. 2114. RCW 23B.04.010 and 2012 c 215 s 18 are each amended to read as follows:

~~((1))~~ A corporate name(=:

~~(a) Must contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.,"~~

~~(b) Must not contain language stating or implying that the corporation is organized for a purpose other than those permitted by RCW 23B.03.010 and its articles of incorporation;~~

~~(c) Must not contain any of the following words or phrases:~~

~~"Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more of the words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and~~

~~(d) Except as authorized by subsections (2) and (3) of this section, must be distinguishable upon the records of the secretary of state from:~~

~~(i) The corporate name of a corporation incorporated or authorized to transact business in this state;~~

~~(ii) A corporate name reserved or registered under chapter 23B.04 RCW;~~

(iii) ~~The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~

(iv) ~~The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;~~

(v) ~~The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;~~

(vi) ~~The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;~~

(vii) ~~The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW;~~

(viii) ~~The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW; and~~

(ix) ~~The name or reserved name of a social purpose corporation registered under chapter 23B.25 RCW.~~

(2) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1) of this section. The secretary of state shall authorize use of the name applied for if:

(a) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(3) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is formed or authorized to transact business in this state, and the proposed user corporation:

(a) Has merged with the other corporation, limited liability company, or limited partnership; or

(b) Has been formed by reorganization of the other corporation.

(4) This title does not control the use of assumed business names or "trade names."

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," "limited liability partnership," or "social purpose corporation," or the abbreviations "corp.," "inc.," "co.," "Ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," "L.L.C.," "SPC," or "S.P.C.;"

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

~~(d) Use of abbreviation or the plural form of a word in the same name)) must comply with the requirements of part I, Article 3 of this act.~~

Sec. 2115. RCW 23B.04.020 and 1989 c 165 s 38 are each amended to read as follows:

~~((+)) A person may reserve the exclusive use of a corporate name(, including a fictitious name adopted pursuant to RCW 23B.15.060 for a foreign corporation whose corporate name is not available, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the corporate name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred eighty-day period.~~

~~(2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the secretary of state a signed notice of the transfer that states the name and address of the transferee)) in accordance with section 1303 of this act.~~

Sec. 2116. RCW 23B.04.030 and 1989 c 165 s 39 are each amended to read as follows:

~~((+)) A foreign corporation may register its corporate name(, or its corporate name with any addition required by RCW 23B.15.060, if the name is distinguishable upon the records of the secretary of state from the names specified in RCW 23B.04.010(1).~~

~~(2) A foreign corporation registers its corporate name, or its corporate name with any addition required by RCW 23B.15.060, by delivering to the secretary of state for filing an application that:~~

~~(a) Sets forth its corporate name, or its corporate name with any addition required by RCW 23B.15.060, and the state or country and date of its incorporation; and~~

~~(b) Is accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.~~

~~(3) The name is registered for the applicant's exclusive use upon the effective date of the application and until the close of the calendar year in which the application for registration is filed.~~

~~(4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application when filed renews the registration for the following calendar year.~~

~~(5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name, or consent in writing to the use of that name by a corporation thereafter incorporated under this title, by a limited partnership thereafter formed under chapter 25.10 RCW, or by another foreign corporation or limited partnership thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the domestic limited partnership is formed, or the foreign corporation qualifies or consents to the qualification of another foreign corporation or limited partnership under the registered name)) in accordance with section 1304 of this act.~~

Sec. 2117. RCW 23B.05.010 and 2002 c 297 s 15 are each amended to read as follows:

~~((1))~~ Each corporation must continuously maintain in this state ~~((:~~

~~(a) A registered office that may be the same as any of its places of business. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made;~~

~~(b) A registered agent that may be:~~

~~(i) An individual residing in this state whose business office is identical with the registered office;~~

~~(ii) A domestic corporation or not for profit domestic corporation whose business office is identical with the registered office;~~

~~(iii) A foreign corporation or not for profit foreign corporation authorized to conduct affairs in this state whose business office is identical with the registered office;~~

~~(iv) A domestic limited liability company whose business office is identical with the registered office; or~~

~~(v) A foreign limited liability company authorized to conduct affairs in this state whose business office is identical with the registered office.~~

~~(2) A registered agent shall not be appointed without having given prior consent in a record to the appointment. The consent shall be filed with the secretary of state in such form as the secretary of state may prescribe. The consent shall be filed with or as a part of the record first appointing a registered agent. In the event any individual, corporation, or limited liability company has been appointed agent without consent, that person, corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall immediately be removed from the records of the secretary of state)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 2118. RCW 23B.05.020 and 2002 c 297 s 16 are each amended to read as follows:

(1) A corporation may change its ~~((registered office or))~~ registered agent ~~((by delivering to the secretary of state for filing a statement of change that sets forth:~~

~~(a) The name of the corporation;~~

~~(b) If the current registered office is to be changed, the street address of the new registered office in accord with RCW 23B.05.010(1)(a);~~

~~(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's consent in a record, either on the statement or attached to it in a manner and form as the secretary of state may prescribe, to the appointment; and~~

~~(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical)) in accordance with section 1407 of this act.~~

~~(2) ((F)) A registered agent ((changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any corporation for which the agent is the registered agent by notifying the corporation of the change either (a) in a written record, or (b) if the corporation has designated an address, location, or system to which the notices may be electronically transmitted and the registered agent electronically transmits the notice to the corporation at the designated address, location, or system, in an electronically transmitted record and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change)) may change its information on file with the secretary of state in accordance with section 1408 or 1409 of this act.~~

Sec. 2119. RCW 23B.05.030 and 1989 c 165 s 42 are each amended to read as follows:

~~((H)) A registered agent may resign as agent by ((signing and)) delivering to the secretary of state for filing a statement of resignation in accordance with section 1410 of this act. ((The statement may include a statement that the registered office is also discontinued.~~

~~(2) After filing the statement the secretary of state shall mail a copy of the statement to the corporation at its principal office.~~

~~(3) The agency appointment is terminated, and the registered office discontinued if so provided, on the 31st day after the date on which the statement was filed.)~~

Sec. 2120. RCW 23B.05.040 and 1989 c 165 s 43 are each amended to read as follows:

~~((I) A corporation's registered agent is the corporation's agent for)) Service of process, notice, or demand required or permitted by law to be served on the corporation may be made in accordance with section 1411 of this act.~~

~~((2) The secretary of state shall be an agent of a corporation upon whom any such process, notice, or demand may be served if:~~

~~(a) The corporation fails to appoint or maintain a registered agent in this state; or~~

~~(b) The registered agent cannot with reasonable diligence be found at the registered office.~~

~~(3) Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by certified mail, addressed to the secretary of the corporation at the corporation's principal office as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.~~

~~(4) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.~~

~~(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.)~~

Sec. 2121. RCW 23B.09.040 and 2014 c 83 s 12 are each amended to read as follows:

(1) After a plan of entity conversion by a domestic corporation converting into an other entity has been adopted and approved as required by this chapter, articles of entity conversion must be signed on behalf of the domestic corporation by any officer or other duly authorized representative and must be delivered to the secretary of state for filing.

(2) After the conversion of an other entity into a domestic corporation has been adopted and approved as required by the organic law of the converting entity, articles of entity conversion must be signed on behalf of the converting entity by any officer or other duly authorized representative and must be delivered to the secretary of state for filing.

(3) The articles of entity conversion must set forth:

(a) A statement that the converting entity has been converted into the surviving entity;

(b) The name and form of the converting entity before conversion;

(c) The name and form of the surviving entity after conversion, which must be a name that satisfies the requirements of ~~((RCW 23B.04.010))~~ part I, Article 3 of this act if the surviving entity after conversion is a domestic corporation;

(d) Articles of incorporation that comply with RCW 23B.02.020 if the surviving entity after conversion is a domestic corporation;

(e) The date the conversion is effective under the organic law of the surviving entity;

(f) If the converting entity is a domestic corporation, a statement that the conversion was duly approved by the shareholders of the domestic corporation pursuant to RCW 23B.09.030;

(g) If the converting entity is an other entity, a statement that the conversion was duly approved as required by the organic law of the converting entity; and

(h) If the surviving entity is a foreign other entity not authorized to transact business in this state: (i) A statement that the surviving entity ~~((appoints the secretary of state as its agent for))~~ consents to service of process pursuant to section 1411 of this act in a proceeding to enforce any obligation or the rights of dissenting shareholders of the domestic corporation; and (ii) the street and mailing address of ~~((an office which the secretary of state may use for the purposes of RCW 23B.15.100))~~ the entity's principal office that may be used for service of process under section 1411 of this act.

(4) The articles of entity conversion take effect at the effective time provided in ~~((RCW 23B.01.230))~~ section 1203 of this act. Articles of entity conversion under subsection (1) or (2) of this section may be combined with any required conversion filing under the organic law of the other entity if the combined filing satisfies the requirements of both this section and the organic law of the other entity.

Sec. 2122. RCW 23B.09.050 and 2014 c 83 s 13 are each amended to read as follows:

(1) An entity that has been converted pursuant to this chapter is, for all purposes of the laws of the state of Washington, deemed to be the same entity that existed before the conversion and, unless otherwise agreed or as required under applicable non-Washington law, the converting entity is not required to wind up its affairs or pay its liabilities and distribute its assets, and the conversion is not deemed to constitute a dissolution of the converting entity.

(2) When any conversion becomes effective under this chapter:

(a) The title to all real estate and other property, both tangible and intangible, owned by the converting entity remains vested in the surviving entity without reversion or impairment;

(b) All rights of creditors and all liens upon any property of the converting entity must be preserved unimpaired, and all debts, liabilities, and other obligations of the converting entity continue as obligations of the surviving entity, remain attached to the surviving entity, and may be enforced against it to the same extent as if the debts, liabilities, and other obligations had originally been incurred or contracted by it in its capacity as the surviving entity;

(c) An action or proceeding pending by or against the converting entity may be continued by or against the surviving entity as if the conversion had not occurred;

(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting entity remain vested in the surviving entity; and

(e) Except as otherwise provided in the plan of entity conversion, the terms and conditions of the plan of entity conversion take effect.

(3) When a conversion of a domestic corporation to a foreign other entity becomes effective, the surviving entity is deemed:

(a) To consent to the jurisdiction of the courts of this state to enforce any obligation owed by the converting entity, if before the conversion the converting entity was subject to suit in this state on the obligation;

(b) To ~~((appoint the secretary of state as its agent for))~~ consent to service of process pursuant to section 1411 of this act in a proceeding to enforce any obligation or the rights of dissenting shareholders of the domestic corporation in connection with the conversion; and

(c) To agree that it will promptly pay to the dissenting shareholders of the domestic corporation the amount, if any, to which they are entitled under chapter 23B.13 RCW.

~~((4) Service of process on the secretary of state under this section is made in the same manner and with the same consequences as in RCW 23B.15.100.))~~

Sec. 2123. RCW 23B.09.060 and 2014 c 83 s 14 are each amended to read as follows:

(1) Unless otherwise provided in a plan of entity conversion of a domestic corporation, after the plan of entity conversion has been adopted and approved as required by this chapter, and at any time before the articles of entity conversion have become effective, the planned conversion may be abandoned by the board of directors without action by the shareholders.

(2) If any entity conversion is abandoned after articles of entity conversion have been filed with the secretary of state but before the entity conversion has become effective, a statement that the entity conversion has been abandoned in accordance with this section, signed by an officer or other duly authorized

representative, must be delivered to the secretary of state for filing prior to the effective date of the entity conversion and in accordance with section 1204 of this act. Upon filing, the statement takes effect and the entity conversion is deemed abandoned and may not become effective.

Sec. 2124. RCW 23B.11.070 and 1989 c 165 s 137 are each amended to read as follows:

(1) One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:

(a) In a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(b) In a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;

(c) The foreign corporation complies with RCW 23B.11.050 if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and

(d) Each domestic corporation complies with the applicable provisions of RCW 23B.11.010 through 23B.11.040 and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with RCW 23B.11.050.

(2) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is deemed:

(a) To (~~appoint the secretary of state as its agent for~~) consent to service of process pursuant to section 1411 of this act in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and

(b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under chapter 23B.13 RCW.

(3) This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise.

Sec. 2125. RCW 23B.11.110 and 2009 c 188 s 1403 are each amended to read as follows:

(1) One or more foreign limited partnerships, foreign corporations, foreign partnerships, and foreign limited liability companies may merge with one or more domestic partnerships, domestic limited liability companies, domestic limited partnerships, or domestic corporations, provided that:

(a) The merger is permitted by the law of the jurisdiction under which each foreign limited partnership was organized and the law of the state or country under which each foreign corporation was incorporated and each foreign limited partnership or foreign corporation complies with that law in effecting the merger;

(b) If the surviving entity is a foreign or domestic corporation, that corporation complies with RCW 23B.11.090;

(c) If the surviving entity is a foreign or domestic limited partnership, that limited partnership complies with RCW 25.10.786;

(d) Each domestic corporation complies with RCW 23B.11.080;

(e) Each domestic limited partnership complies with RCW 25.10.781;

(f) Each domestic limited liability company complies with RCW 25.15.400; and

(g) Each domestic partnership complies with RCW 25.05.375.

(2) Upon the merger taking effect, a surviving foreign corporation, foreign limited partnership, foreign limited liability corporation, or foreign partnership is deemed:

(a) To (~~appoint the secretary of state as its agent for~~) consent to service of process pursuant to section 1411 of this act in a proceeding to enforce any obligation or the rights of dissenting shareholders or partners of each domestic corporation, domestic limited partnership, domestic limited liability company, or domestic partnership party to the merger; and

(b) To agree that it will promptly pay to the dissenting shareholders or partners of each domestic corporation, domestic limited partnership, domestic limited liability company, or domestic partnership party to the merger the amount, if any, to which they are entitled under chapter 23B.13 RCW, in the case of dissenting shareholders, or under chapter 25.10, 25.15, or 25.05 RCW, in the case of dissenting partners.

Sec. 2126. RCW 23B.14.040 and 2009 c 189 s 52 are each amended to read as follows:

(1) A corporation may revoke its dissolution within one hundred twenty days of its effective date.

(2) Revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation upon approval by the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder approval.

(3) After the revocation of dissolution is approved, the corporation may revoke the dissolution by delivering to the secretary of state for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

(a) The name of the corporation and a statement that such name satisfies the requirements of (~~RCW 23B.04.010~~) part I, Article 3 of this act; if the name is not available, the corporation must (~~file~~) deliver to the secretary of state for filing articles of amendment changing its name with the articles of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved;

(d) If the corporation's board of directors, or incorporators, revoked the dissolution, a statement to that effect;

(e) If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(f) If shareholder approval was required to revoke the dissolution, a statement that revocation of the dissolution was duly approved by the shareholders in accordance with (~~RCW 23B.14.040(2) [subsection (2) of this section]~~) subsection (2) of this section and RCW 23B.14.020.

(4) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(5) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

Sec. 2127. RCW 23B.14.200 and 1994 c 287 s 7 are each amended to read as follows:

The secretary of state may administratively dissolve a corporation under ~~((RCW 23B.14.210 if:~~

~~(1) The corporation does not pay any license fees or penalties, imposed by this title, when they become due;~~

~~(2) The corporation does not deliver its completed initial report or annual report to the secretary of state when it is due;~~

~~(3) The corporation is without a registered agent or registered office in this state;~~

~~(4) The corporation does not notify the secretary of state that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued;~~

~~(5) The corporation's period of duration stated in its articles of incorporation expired after July 1, 1990; or~~

~~(6) The corporation's period of duration stated in its articles of incorporation expired prior to July 1, 1990, but the corporation has timely paid all license fees imposed by this title and set by rule by the secretary, has timely filed annual reports with the secretary of state, has never been without a registered agent or registered office in this state for sixty days or more, and has never failed to notify the secretary of state of changes in a registered agent or registered office within sixty days of such change)) the circumstances and procedures provided in part I, Article 6 of this act.~~

Sec. 2128. RCW 23B.14.220 and 2006 c 52 s 13 are each amended to read as follows:

(1) A corporation administratively dissolved under ~~((RCW 23B.14.210))~~ section 1603 of this act may apply to the secretary of state for reinstatement ~~((within five years after the effective date of dissolution. The application must:~~

~~(a) Recite the name of the corporation and the effective date of its administrative dissolution;~~

~~(b) State that the ground or grounds for dissolution either did not exist or have been eliminated; and~~

~~(c) State that the corporation's name satisfies the requirements of RCW 23B.04.010.~~

~~(2) If the secretary of state determines that the application contains the information required by subsection (1) of this section and that the name is available, the secretary of state shall reinstate the corporation and give the corporation written notice of the reinstatement that recites the effective date of reinstatement. If the name is not available, the corporation must file articles of amendment changing its name with its application for reinstatement.~~

~~(3) When the reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation~~

~~resumes carrying on its business as if the administrative dissolution had never occurred~~) in accordance with section 1604 of this act.

Sec. 2129. RCW 23B.14.390 and 1995 c 47 s 8 are each amended to read as follows:

On the first day of each month, the secretary of state shall prepare a list of corporations dissolved during the preceding month pursuant to RCW 23B.14.030, ~~((23B.14.210, and))~~ 23B.14.330, and section 1603 of this act.

Sec. 2130. RCW 23B.15.010 and 1993 c 181 s 11 are each amended to read as follows:

(1) Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation may not transact business in this state until it ~~((obtains a certificate of authority from))~~ registers with the secretary of state in accordance with part I, Article 5 of this act.

(2) ~~((The following activities, among others,))~~ A nonexhaustive list of activities that do not constitute transacting business ~~((within the meaning of subsection (1) of this section:~~

~~(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;~~

~~(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;~~

~~(c) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;~~

~~(d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities;~~

~~(e) Selling through independent contractors;~~

~~(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;~~

~~(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same;~~

~~(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;~~

~~(i) Owning, without more, real or personal property;~~

~~(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature;~~

~~(k) Transacting business in interstate commerce;~~

~~(l) Owning and controlling a subsidiary corporation incorporated in or transacting business within this state; or~~

~~(m) Operating an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW and in accordance with RCW 23B.15.015.~~

(3) The list of activities in subsection (2) of this section is not exhaustive) in this state is provided in section 1505 of this act.

Sec. 2131. RCW 23B.15.020 and 1990 c 178 s 8 are each amended to read as follows:

~~((1))~~ Unless it is otherwise authorized to transact business pursuant to a state or federal statute, a foreign corporation transacting business in this state without ~~((a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.~~

~~(2) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding based on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.~~

~~(3) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.~~

~~(4) A foreign corporation which transacts business in this state without a certificate of authority is liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this title upon such corporation had it applied for and received a certificate of authority to transact business in this state as required by this title and thereafter filed all reports required by this title, plus all penalties imposed by this title for failure to pay such fees.~~

~~(5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state)) registering with the secretary of state is subject to section 1502 of this act.~~

Sec. 2132. RCW 23B.15.030 and 1989 c 165 s 171 are each amended to read as follows:

~~((1))~~ A foreign corporation may ~~((apply for a certificate of authority))~~ register to transact business in this state by delivering ~~((an application))~~ a foreign registration statement to the secretary of state for filing in accordance with section 1503 of this act. ~~((The application must state:~~

~~(a) That the name of the foreign corporation meets the requirements stated in RCW 23B.15.060;~~

~~(b) The name of the state or country under whose law it is incorporated;~~

~~(c) Its date of incorporation and period of duration;~~

~~(d) The street address of its principal office;~~

~~(e) The street address of its registered office in this state and the name of its registered agent at that office, in accordance with RCW 23B.15.070; and~~

~~(f) The names and usual business addresses of its current directors and officers.~~

~~(2) The foreign corporation shall deliver with the completed application a certificate of existence, or a document of similar import, issued no more than sixty days before the date of the application and duly authenticated by the secretary of state or other official having custody of corporate records in the state or country under whose law it is incorporated.))~~

Sec. 2133. RCW 23B.15.040 and 1991 c 72 s 38 are each amended to read as follows:

~~((4))~~ A foreign corporation ~~((authorized))~~ registered to transact business in this state must ~~((obtain an amended certificate of authority from the secretary of state if it changes:~~

- ~~(a) Its corporate name; or~~
- ~~(b) The period of its duration.~~

~~(2) A foreign corporation may apply for an amended certificate of authority by delivering an application to the secretary of state for filing that sets forth:~~

- ~~(a) The name of the foreign corporation and the name in which the corporation is authorized to transact business in Washington, if different;~~
- ~~(b) The name of the state or country under whose law it is incorporated;~~
- ~~(c) The date it was authorized to transact business in this state;~~
- ~~(d) A statement of the change or changes being made;~~
- ~~(e) In the event the change or changes include a name change to a name that does not meet the requirements of RCW 23B.15.060, a fictitious name for use in Washington, and a copy of the resolution of the board of directors, certified by the corporation's secretary, adopting the fictitious name; and~~

~~(f) A copy of the document filed in the state or country of incorporation showing that jurisdiction's "filed" stamp))~~ amend its foreign registration statement under the circumstances specified in section 1504 of this act.

Sec. 2134. RCW 23B.15.050 and 1989 c 165 s 173 are each amended to read as follows:

(1) A ~~((certificate of authority authorizes the))~~ registered foreign corporation ~~((to which it is issued to))~~ may transact business in this state subject, however, to the right of the state to ~~((revoke the certificate))~~ terminate the registration as provided in ~~((this title))~~ part I, Article 5 of this act.

~~(2) ((A foreign corporation holding a valid certificate of authority shall have no greater rights and privileges than a domestic corporation of like character. Except as otherwise provided by this title, a foreign corporation is subject to the same duties, restrictions, penalties, and liabilities now or later imposed on a domestic corporation of like character.~~

~~(3) Except as otherwise provided in chapter 23B.19 RCW, this title does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state))~~ A foreign corporation registered to transact business in this state is subject to section 1501 of this act relating to the effect of registration and the governing law for registered foreign corporations.

Sec. 2135. RCW 23B.15.060 and 1998 c 102 s 2 are each amended to read as follows:

~~((1) No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation:~~

~~(a) Contains the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.;"~~

~~(b) Does not contain language stating or implying that the corporation is organized for a purpose other than that permitted by RCW 23B.03.010 and its articles of incorporation;~~

~~(c) Does not contain any of the following words or phrases: "Bank," "banking," "banker," "trust," "cooperative," or any combination of the words "industrial" and "loan," or any combination of any two or more words "building," "savings," "loan," "home," "association," and "society," or any other words or phrases prohibited by any statute of this state; and~~

~~(d) Except as authorized by subsections (4) and (5) of this section, is distinguishable upon the records of the secretary of state from:~~

~~(i) The corporate name of a corporation incorporated or authorized to transact business in this state;~~

~~(ii) A corporate name reserved or registered under chapter 23B.04 RCW;~~

~~(iii) The fictitious name adopted pursuant to subsection (3) of this section by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~

~~(iv) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;~~

~~(v) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;~~

~~(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;~~

~~(vii) The name or reserved name of any limited liability company organized or registered under chapter 25.15 RCW; and~~

~~(viii) The name or reserved name of any limited liability partnership registered under chapter 25.04 RCW.~~

~~(2) A name shall not be considered distinguishable under the same grounds as provided under RCW 23B.04.010.~~

~~(3) If the corporate name of a foreign corporation does not satisfy the requirements of subsection (1) of this section, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:~~

~~(a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or~~

~~(b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.~~

~~(4) A foreign corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in subsection (1)(d) of this section. The secretary of state shall authorize use of the name applied for if:~~

~~(a) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or~~

~~(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.~~

~~(5) A foreign corporation may use in this state the name, including the fictitious name, of another domestic or foreign corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:~~

~~(a) Has merged with the other corporation; or~~

~~(b) Has been formed by reorganization of the other corporation.~~

~~(6) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of subsection (1) of this section, it may not transact business in this state under the changed name until it adopts a name satisfying such requirements and obtains an amended certificate of authority under RCW 23B.15.040)) The corporate name of a foreign corporation registered in this state must comply with the provisions of section 1506 of this act and part I, Article 3 of this act.~~

Sec. 2136. RCW 23B.15.070 and 2002 c 297 s 43 are each amended to read as follows:

~~((4))~~ Each foreign corporation ~~((authorized))~~ registered to transact business in this state must continuously maintain in this state~~((:~~

~~(a) A registered office which may be, but need not be, the same as its place of business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, building address, or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in the same city as the registered office to be used in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.~~

~~(b) A registered agent, who may be:~~

~~(i) An individual who resides in this state and whose business office is identical with the registered office;~~

~~(ii) A domestic corporation or not-for-profit domestic corporation whose business office is identical with the registered office;~~

~~(iii) A foreign corporation or foreign not for profit corporation authorized to transact business or conduct affairs in this state whose business office is identical with the registered office;~~

~~(iv) A domestic limited liability company whose business office is identical with the registered office; or~~

~~(v) A foreign limited liability company authorized to conduct affairs in this state whose business office is identical with the registered office.~~

~~(2) A registered agent shall not be appointed without having given prior consent in a record to the appointment. The consent shall be filed with the secretary of state in such form as the secretary of state may prescribe. The consent shall be filed with or as a part of the record first appointing a registered agent. In the event any individual, corporation, or limited liability company has been appointed agent without consent, that person, corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 2137. RCW 23B.15.080 and 2002 c 297 s 44 are each amended to read as follows:

(1) A foreign corporation (~~((authorized))~~) registered to transact business in this state may change its registered (~~((office or registered))~~) agent by delivering to the secretary of state for filing a statement of change (~~((that sets forth:~~

(a) ~~Its name;~~

(b) ~~If the current registered office is to be changed, the street address of its new registered office;~~

(c) ~~If the current registered agent is to be changed, the name of its new registered agent and the new agent's consent, either on the statement or attached to it in the manner and form as the secretary of state may prescribe, to the appointment; and~~

(d) ~~That, after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical))~~ in accordance with section 1407 of this act.

(2) (~~((F))~~) A registered agent (~~((changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation of the change either (a) in a record or (b) if the corporation has designated an address, location, or system to which the notices may be electronically transmitted and the registered agent electronically transmits the notice to the corporation at the designated address, location, or system, in an electronically transmitted record, and delivering to the secretary of state for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the corporation has been notified of the change))~~) of a foreign corporation may change its information on file with the secretary of state in accordance with section 1408 or 1409 of this act.

Sec. 2138. RCW 23B.15.090 and 1989 c 165 s 177 are each amended to read as follows:

~~((F))~~) The registered agent of a foreign corporation may resign as agent by signing and delivering to the secretary of state for filing a statement of resignation (~~((The statement of resignation may include a statement that the registered office is also discontinued.~~

(2) ~~After filing the statement, the secretary of state shall mail a copy of the statement to the foreign corporation at its principal office address shown in its most recent annual report, or in the application for certificate of authority if no annual report has been filed.~~

(3) ~~The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed))~~ in accordance with section 1410 of this act.

Sec. 2139. RCW 23B.15.100 and 1989 c 165 s 178 are each amended to read as follows:

~~((1))~~) ~~The registered agent appointed by a foreign corporation authorized to transact business in this state shall be an agent of such corporation upon whom))~~ Service of any process, notice, or demand required or permitted by law to be served upon the foreign corporation may be (~~((served.~~

(2) ~~The secretary of state shall be an agent of a foreign corporation upon whom any process, notice, or demand may be served, if:~~

~~(a) The corporation is authorized to transact business in this state, and it fails to appoint or maintain a registered agent in this state, or its registered agent cannot with reasonable diligence be found at the registered office;~~

~~(b) The corporation's authority to transact business in this state has been revoked under RCW 23B.15.310; or~~

~~(c) The corporation has been authorized to transact business in this state and has withdrawn under RCW 23B.15.200.~~

~~(3) Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by certified mail, addressed to the secretary of the corporation at its principal office as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.~~

~~(4) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.~~

~~(5) This section does not limit or affect the right to serve any process, notice, or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law)) made in accordance with section 1411 of this act.~~

Sec. 2140. RCW 23B.15.200 and 1989 c 165 s 179 are each amended to read as follows:

~~((4)) A foreign corporation ((authorized)) registered to transact business in this state may not withdraw from this state until it ((obtains a certificate)) delivers a statement of withdrawal ((from)) to the secretary of state((-~~

~~(2) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the secretary of state for filing. The application must be accompanied by a copy of a revenue clearance certificate issued pursuant to RCW 82.32.260, and must set forth:~~

~~(a) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;~~

~~(b) That it is not transacting business in this state and that it surrenders its authority to transact business in this state;~~

~~(c) That it revokes the authority of its registered agent to accept service on its behalf and appoints the secretary of state as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this state;~~

~~(d) A mailing address to which the secretary of state may mail a copy of any process served on the secretary of state under (c) of this subsection; and~~

~~(e) A commitment to notify the secretary of state in the future of any change in its mailing address.~~

~~(3) After the withdrawal of the corporation is effective, service of process on the secretary of state under RCW 23B.15.100 is service on the foreign corporation)) for filing in accordance with section 1507 of this act.~~

Sec. 2141. RCW 23B.15.300 and 1991 c 72 s 39 are each amended to read as follows:

The secretary of state may ~~((revoke the certificate of authority))~~ terminate the registration of a registered foreign corporation ~~((authorized to transact business in this state if:~~

(1) ~~The foreign corporation does not deliver its completed initial report or annual report to the secretary of state when it is due;~~

(2) ~~The foreign corporation does not pay any license fees or penalties, imposed by this title, when they become due;~~

(3) ~~The foreign corporation is without a registered agent or registered office in this state;~~

(4) ~~The foreign corporation does not inform the secretary of state under RCW 23B.15.080 or 23B.15.090 that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued;~~

(5) ~~An incorporator, director, officer, or agent of the foreign corporation signed a document knowing it was false in any material respect with intent that the document be delivered to the secretary of state for filing; or~~

(6) ~~The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or disappeared as the result of a merger))~~ under the circumstances and procedures specified in section 1511 of this act.

Sec. 2142. RCW 23B.16.010 and 2009 c 189 s 54 are each amended to read as follows:

(1) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all corporate actions approved by the shareholders or board of directors by executed consent without a meeting, and a record of all corporate actions approved by a committee of the board of directors exercising the authority of the board of directors on behalf of the corporation.

(2) A corporation shall maintain appropriate accounting records.

(3) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(4) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(5) A corporation shall keep a copy of the following records at its principal office:

(a) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(b) Its bylaws or restated bylaws and all amendments to them currently in effect;

(c) The minutes of all shareholders' meetings, and records of all corporate actions approved by shareholders without a meeting, for the past three years;

(d) The financial statements described in RCW 23B.16.200(1), for the past three years;

(e) All communications in the form of a record to shareholders generally within the past three years;

(f) A list of the names and business addresses of its current directors and officers; and

(g) Its initial report or most recent annual report delivered to the secretary of state under ~~((RCW 23B.16.220))~~ section 1212 of this act.

Sec. 2143. RCW 23B.16.220 and 2001 c 307 s 1 are each amended to read as follows:

~~((+))~~ Each domestic corporation, and each foreign corporation ~~((authorized))~~ registered to transact business in this state, shall deliver to the secretary of state for filing initial and annual reports ~~((that set forth:~~

~~(a) The name of the corporation and the state or country under whose law it is incorporated;~~

~~(b) The street address of its registered office and the name of its registered agent at that office in this state;~~

~~(c) In the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated;~~

~~(d) The address of the principal place of business of the corporation in this state;~~

~~(e) The names and addresses of its directors, if the corporation has dispensed with or limited the authority of its board of directors pursuant to RCW 23B.08.010, in an agreement authorized under RCW 23B.07.320, or analogous authority, the names and addresses of persons who will perform some or all of the duties of the board of directors;~~

~~(f) A brief description of the nature of its business; and~~

~~(g) The names and addresses of its chairperson of the board of directors, if any, president, secretary, and treasurer, or of individuals, however designated, performing the functions of such officers.~~

~~(2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the corporation.~~

~~(3) A corporation's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which the articles of incorporation for a domestic corporation were filed, or on which a foreign corporation's certificate of authority was filed. Subsequent annual reports must be delivered to the secretary of state on, or prior to, the date on which the domestic or foreign corporation is required to pay its annual corporate license fee, and at such additional times as the corporation elects.~~

~~(4)(a) The secretary of state may allow a corporation to file an annual report through electronic means. If allowed, the secretary of state shall adopt rules detailing the circumstances under which the electronic filing of such reports shall be permitted and how such reports may be filed.~~

~~(b) For purposes of this section only, a person executing an electronically filed annual report may deliver the report to the office of the secretary of state without a signature and without an exact or conformed copy, but the person's name must appear in the electronic filing as the person executing the filing, and the filing must state the capacity in which the person is executing the filing))~~ in accordance with section 1212 of this act.

Sec. 2144. RCW 23B.18.020 and 1989 c 165 s 192 are each amended to read as follows:

Such nonadmitted organizations shall have the right to foreclose such mortgages under the laws of this state or to receive voluntary conveyance in lieu of foreclosure, and in the course of such foreclosure or of such receipt of conveyance in lieu of foreclosure, to acquire the mortgaged property, and to hold and own such property and to dispose thereof. Such nonadmitted organizations however, shall not be allowed to hold, own, and operate said property for a period exceeding five years. In the event said nonadmitted organizations do hold, own, and operate said property for a period in excess of five years, it shall be forthwith required to appoint an agent as required by RCW 23B.15.070 and part I, Article 4 of this act for foreign corporations doing business in this state.

Sec. 2145. RCW 23B.18.030 and 1989 c 165 s 193 are each amended to read as follows:

The activities authorized by RCW 23B.18.010 and 23B.18.020 by such nonadmitted organizations shall not constitute "transacting business" within the meaning of chapter 23B.15 RCW or part I, Article 5 of this act.

Sec. 2146. RCW 23B.18.040 and 1989 c 165 s 194 are each amended to read as follows:

In any action in law or equity commenced by the obligor or obligors, it, his, her, or their assignee or assignees against the said nonadmitted organizations on the said notes secured by said real estate mortgages purchased by said nonadmitted organizations, service of all legal process may be ~~((had by serving the secretary of state of the state of Washington))~~ made in accordance with section 1411 of this act.

Sec. 2147. RCW 23B.19.020 and 1996 c 155 s 1 are each amended to read as follows:

The definitions in this section apply throughout this chapter.

(1) "Acquiring person" means a person or group of persons, other than the target corporation or a subsidiary of the target corporation, who beneficially owns ten percent or more of the outstanding voting shares of the target corporation. The term "acquiring person" does not include a person who (a) beneficially owned ten percent or more of the outstanding voting shares of the target corporation on March 23, 1988; (b) acquires its shares by gift, inheritance, or in a transaction in which no consideration is exchanged; (c) exceeds the ten percent threshold as a result of action taken solely by the target corporation, such as redemption of shares, unless that person, by its own action, acquires additional shares of the target corporation; (d) beneficially was the owner of ten percent or more of the outstanding voting shares prior to the time the target corporation had a class of voting shares registered with the securities and exchange commission pursuant to section 12 or 15 of the exchange act; or (e) beneficially was the owner of ten percent or more of the outstanding voting shares prior to the time the target corporation amended its articles of incorporation to provide that the corporation shall be subject to the provisions of this chapter. An agent, bank, broker, nominee, or trustee for another person, if the other person is not an acquiring person, who acts in good faith and not for the purpose of circumventing this chapter, is not an acquiring person. For the purpose of determining whether a person is an acquiring person, the number of

voting shares of the target corporation that are outstanding shall include shares beneficially owned by the person through application of subsection (4) of this section, but shall not include any other unissued voting shares of the target corporation which may be issuable pursuant to any agreement, arrangement, or understanding; or upon exercise of conversion rights, warrants, or options; or otherwise.

(2) "Affiliate" means a person who directly or indirectly controls, or is controlled by, or is under common control with, a person.

(3) "Announcement date," when used in reference to any significant business transaction, means the date of the first public announcement of the final, definitive proposal for such a significant business transaction.

(4) "Associate" means (a) a domestic or foreign corporation or organization of which a person is an officer, director, member, or partner or in which a person performs a similar function; (b) a direct or indirect beneficial owner of ten percent or more of any class of equity securities of a person; (c) a trust or estate in which a person has a beneficial interest or as to which a person serves as trustee or in a similar fiduciary capacity; and (d) the spouse or a parent or sibling of a person or a child, grandchild, sibling, parent, or spouse of any thereof, of a person or an individual having the same home as a person.

(5) "Beneficial ownership," when used with respect to any shares, means ownership by a person:

(a) Who, individually or with or through any of its affiliates or associates, beneficially owns such shares, directly or indirectly; or

(b) Who, individually or with or through any of its affiliates or associates, has (i) the right to acquire the shares, whether the right is exercisable immediately or only after the passage of time, pursuant to any agreement, arrangement, or understanding, whether or not in writing, or upon the exercise of conversion rights, exchange rights, warrants or options, or otherwise. A person is not the beneficial owner of shares tendered pursuant to a tender or exchange offer made by the person or any of the person's affiliates or associates until the tendered shares are accepted for purchase or exchange; or (ii) the right to vote the shares pursuant to any agreement, arrangement, or understanding, whether or not in writing. A person is not the beneficial owner of any shares under (b)(ii) of this subsection if the agreement, arrangement, or understanding to vote the shares arises solely from a revocable proxy or consent given in response to a proxy or consent solicitation made in accordance with the applicable rules and regulations under the exchange act and is not then reportable on schedule 13D under the exchange act, or any comparable or successor report; or

(c) Who has any agreement, arrangement, or understanding, whether or not in writing, for the purpose of acquiring, holding, voting, except voting pursuant to a revocable proxy or consent as described in (b)(ii) of this subsection, or disposing of the shares with any other person who beneficially owns, or whose affiliates or associates beneficially own, directly or indirectly, the shares.

(6) "Common shares" means any shares other than preferred shares.

(7) "Consummation date," with respect to any significant business transaction, means the date of consummation of such a significant business transaction, or, in the case of a significant business transaction as to which a shareholder vote is taken, the later of the business day prior to the vote or twenty

days prior to the date of consummation of such a significant business transaction.

(8) "Control," "controlling," "controlled by," and "under common control with," means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise. A person's beneficial ownership of ten percent or more of a domestic or foreign corporation's outstanding voting shares shall create a rebuttable presumption that such person has control of such corporation. However, a person does not have control of a domestic or foreign corporation if the person holds voting shares, in good faith and not for the purpose of circumventing this chapter, as an agent, bank, broker, nominee, custodian, or trustee for one or more beneficial owners who do not individually or as a group have control of such corporation.

(9) "Domestic corporation" means an issuer of voting shares which is organized under chapter 23B.02 RCW or any predecessor provision.

(10) "Exchange act" means the federal securities exchange act of 1934, as amended.

(11) "Market value," in the case of property other than cash or shares, means the fair market value of the property on the date in question as determined by the board of directors of the target corporation in good faith.

(12) "Person" means an individual, domestic or foreign corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

(13) "Preferred shares" means any class or series of shares of a target corporation which under the bylaws or articles of incorporation of such a corporation is entitled to receive payment of dividends prior to any payment of dividends on some other class or series of shares, or is entitled in the event of any voluntary liquidation, dissolution, or winding up of the target corporation to receive payment or distribution of a preferential amount before any payments or distributions are received by some other class or series of shares.

(14) "Shares" means any:

(a) Shares or similar security, any certificate of interest, any participation in any profit sharing agreement, any voting trust certificate, or any certificate of deposit for shares; and

(b) Security convertible, with or without consideration, into shares, or any warrant, call, or other option or privilege of buying shares without being bound to do so, or any other security carrying any right to acquire, subscribe to, or purchase shares.

(15) "Significant business transaction" means:

(a) A merger, share exchange, or consolidation of a target corporation or a subsidiary of a target corporation with (i) an acquiring person, or (ii) any other domestic or foreign corporation which is, or after the merger, share exchange, or consolidation would be, an affiliate or associate of the acquiring person;

(b) A sale, lease, exchange, mortgage, pledge, transfer, or other disposition or encumbrance, whether in one transaction or a series of transactions, to or with an acquiring person or an affiliate or associate of an acquiring person of assets of a target corporation or a subsidiary of a target corporation (i) having an

aggregate market value equal to five percent or more of the aggregate market value of all the assets, determined on a consolidated basis, of the target corporation, (ii) having an aggregate market value equal to five percent or more of the aggregate market value of all the outstanding shares of the target corporation, or (iii) representing five percent or more of the earning power or net income, determined on a consolidated basis, of the target corporation;

(c) The termination, while the corporation has an acquiring person and as a result of the acquiring person's acquisition of ten percent or more of the shares of the corporation, of five percent or more of the employees of the target corporation or its subsidiaries employed in this state, whether at one time or over the five-year period following the share acquisition time. For the purposes of (c) of this subsection, a termination other than an employee's death or disability or bona fide voluntary retirement, transfer, resignation, termination for cause under applicable common law principles, or leave of absence shall be presumed to be a termination resulting from the acquiring person's acquisition of shares, which presumption is rebuttable. A bona fide voluntary transfer of employees between the target corporation and its subsidiaries or between its subsidiaries is not a termination for the purposes of (c) of this subsection;

(d) The issuance, transfer, or redemption by a target corporation or a subsidiary of a target corporation, whether in one transaction or a series of transactions, of shares or of options, warrants, or rights to acquire shares of a target corporation or a subsidiary of a target corporation to or beneficially owned by an acquiring person or an affiliate or associate of an acquiring person except pursuant to the exercise of warrants or rights to purchase shares offered, or a dividend, distribution, or redemption paid or made pro rata to, all shareholders or holders of options, warrants, or rights to acquire shares of the target corporation, and except for involuntary redemptions permitted by the target corporation's charter or by the law of this state or the state of incorporation;

(e) The liquidation or dissolution of a target corporation proposed by, or pursuant to an agreement, arrangement, or understanding, whether or not in writing, with an acquiring person or an affiliate or associate of an acquiring person;

(f) A reclassification of securities, including, without limitation, any shares split, shares dividend, or other distribution of shares in respect of stock, or any reverse shares split, or recapitalization of a target corporation, or a merger or consolidation of a target corporation with a subsidiary of the target corporation, or any other transaction, whether or not with or into or otherwise involving an acquiring person, proposed by, or pursuant to an agreement, arrangement, or understanding, whether or not in writing, with an acquiring person or an affiliate or associate of an acquiring person, that has the effect, directly or indirectly, of increasing the proportionate share of the outstanding shares of a class or series of voting shares or securities convertible into voting shares of a target corporation or a subsidiary of the target corporation that is directly or indirectly owned by an acquiring person or an affiliate or associate of an acquiring person, except as a result of immaterial changes due to fractional share adjustments; or

(g) A receipt by an acquiring person or an affiliate or associate of an acquiring person of the benefit, directly or indirectly, except proportionately as a shareholder of a target corporation, of loans, advances, guarantees, pledges, or

other financial assistance or tax credits or other tax advantages provided by or through a target corporation.

(16) "Share acquisition time" means the time at which a person first becomes an acquiring person of a target corporation.

(17) "Subsidiary" means a domestic or foreign corporation that has a majority of its outstanding voting shares owned, directly or indirectly, by another domestic or foreign corporation.

(18) "Tangible assets" means tangible real and personal property of all kinds. It shall also include leasehold interests in tangible real and personal property.

(19) "Target corporation" means:

(a) Every domestic corporation, if:

(i) The corporation has a class of voting shares registered with the securities and exchange commission pursuant to section 12 or 15 of the exchange act; or

(ii) The corporation's articles of incorporation have been amended to provide that such a corporation shall be subject to the provisions of this chapter, if the corporation did not have a class of voting shares registered with the securities and exchange commission pursuant to section 12 or 15 of the exchange act on the effective date of that amendment; and

(b) Every foreign corporation required to ~~((have a certificate of authority))~~ register to transact business in this state pursuant to chapter 23B.15 RCW and part I, Article 5 of this act, if:

(i) The corporation has a class of voting shares registered with the securities and exchange commission pursuant to section 12 or 15 of the exchange act;

(ii) The corporation's principal executive office is located in the state;

(iii) The corporation has: (A) More than ten percent of its shareholders of record resident in the state; or (B) more than ten percent of its shares owned of record by state residents; or (C) one thousand or more shareholders of record resident in the state;

(iv) A majority of the corporation's employees, together with those of its subsidiaries, are residents of the state or the corporation, together with its subsidiaries, employs more than one thousand residents of the state; and

(v) A majority of the corporation's tangible assets, together with those of its subsidiaries, measured by market value, are located in the state or the corporation, together with its subsidiaries, has more than fifty million dollars' worth of tangible assets located in the state.

For purposes of this subsection, the record date for determining the percentages and numbers of shareholders and shares shall be the last shareholder record date before the event requiring that the determination be made. A shareholder record date shall be determined pursuant to the comparable provision to RCW 23B.07.070 of the law of the state in which a foreign corporation is incorporated. If a shareholder record date has not been fixed by the board of directors within the preceding four months, the determination shall be made as of the end of the corporation's most recent fiscal quarter.

The residence of each shareholder is presumed to be the address appearing in the records of the corporation. Shares held of record by brokers or nominees shall be disregarded for purposes of calculating the percentages and numbers specified in this subsection. Shares of a corporation allocated to the account of an employee or former employee or beneficiaries of employees or former

employees of a corporation and held in a plan that is qualified under section 401(a) of the federal internal revenue code of 1986, as amended, and is a defined contribution plan within the meaning of section 414(i) of the code shall be deemed, for the purposes of this subsection, to be held of record by the employee to whose account such shares are allocated.

A domestic or foreign corporation shall be deemed to be a target corporation if the domestic or foreign corporation's failure to satisfy the requirements of this subsection is caused by the action of, or is the result of a proposal by, an acquiring person or affiliate or associate of an acquiring person.

(20) "Voting shares" means shares of a corporation entitled to vote generally in the election of directors.

Sec. 2148. RCW 23B.01.400 and 2012 c 215 s 17 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this title.

(1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.

(2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.

(3) "Conspicuous" means so prepared that a reasonable person against whom the record is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlined, is conspicuous.

(4) "Corporate action" means any resolution, act, policy, contract, transaction, plan, adoption or amendment of articles of incorporation or bylaws, or other matter approved by or submitted for approval to a corporation's incorporators, board of directors or a committee thereof, or shareholders.

(5) "Corporation" or "domestic corporation" means a corporation for profit, including a social purpose corporation, which is not a foreign corporation, incorporated under or subject to the provisions of this title.

(6) "Deliver" includes (a) mailing, (b) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders, transmission by facsimile equipment, and (c) for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or shareholders under RCW 23B.01.410 or chapter 23B.07, 23B.08, 23B.11, 23B.13, 23B.14, or 23B.16 RCW delivery by electronic transmission.

(7) "Distribution" means a direct or indirect transfer of money or other property, except its own shares, or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect to any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a distribution in partial or complete liquidation, or upon voluntary or involuntary dissolution; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.

(8) "Effective date of notice" has the meaning provided in RCW 23B.01.410.

(9) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient

thereof, and that may be directly reproduced in a tangible medium by such a sender and recipient.

(10) "Electronically transmitted" means the initiation of an electronic transmission.

(11) "Employee" includes an officer but not a director. A director may accept duties that make the director also an employee.

(12) "Entity" includes a corporation and foreign corporation, not-for-profit corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, two or more persons having a joint or common economic interest, the state, United States, and a foreign governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) "Execute," "executes," or "executed" means (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission, or (c) with respect to a record to be filed with the secretary of state, in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state.

(14) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.

(15) "Foreign limited partnership" means a partnership formed under laws other than of this state and having as partners one or more general partners and one or more limited partners.

(16) "General social purpose" means the general social purpose for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(1)(c).

(17) "Governmental subdivision" includes authority, county, district, and municipality.

(18) "Includes" denotes a partial definition.

(19) "Individual" includes the estate of an incompetent or deceased individual.

(20) "Limited partnership" or "domestic limited partnership" means a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners.

(21) "Means" denotes an exhaustive definition.

(22) "Notice" has the meaning provided in RCW 23B.01.410.

(23) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(24) "Principal office" means the office, in or out of this state, so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located.

(25) "Proceeding" includes civil suit and criminal, administrative, and investigatory action.

(26) "Public company" means a corporation that has a class of shares registered with the federal securities and exchange commission pursuant to section 12 or 15 of the securities exchange act of 1934, or section 8 of the investment company act of 1940, or any successor statute.

(27) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

(28) "Record date" means the date established under chapter 23B.07 RCW on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this title. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(29) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under RCW 23B.08.400(3) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(30) "Shares" means the units into which the proprietary interests in a corporation are divided.

(31) "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

(32) "Social purpose" includes any general social purpose and any specific social purpose.

(33) "Social purpose corporation" means a corporation that has elected to be governed as a social purpose corporation under chapter 23B.25 RCW.

(34) "Specific social purpose" means the specific social purpose or purposes for which a social purpose corporation is organized as set forth in the articles of incorporation of the corporation in accordance with RCW 23B.25.040(2)(a).

(35) "State," when referring to a part of the United States, includes a state and commonwealth, and their agencies and governmental subdivisions, and a territory and insular possession, and their agencies and governmental subdivisions, of the United States.

(36) "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

(37) "Tangible medium" means a writing, copy of a writing, or facsimile, or a physical reproduction, each on paper or on other tangible material.

(38) "United States" includes a district, authority, bureau, commission, department, and any other agency of the United States.

(39) "Voting group" means all shares of one or more classes or series that under the articles of incorporation or this title are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this title to vote generally on the matter are for that purpose a single voting group.

(40) "Writing" does not include an electronic transmission.

(41) "Written" means embodied in a tangible medium.

(42) "Registered office" means the address of the corporation's registered agent.

NEW SECTION. Sec. 2149. The following acts or parts of acts are each repealed:

(1) RCW 23B.01.210 (Forms) and 1991 c 72 s 25 & 1989 c 165 s 4;

(2) RCW 23B.01.260 (Judicial review of secretary of state's refusal to file a record) and 2002 c 297 s 7 & 1989 c 165 s 9;

(3) RCW 23B.01.270 (Evidentiary effect of copy of filed record) and 2002 c 297 s 8 & 1989 c 165 s 10;

(4) RCW 23B.01.500 (Domestic corporations—Notice of due date for payment of annual license fee and filing annual report) and 2011 c 183 s 3 & 1989 c 165 s 16;

(5) RCW 23B.01.510 (Foreign corporations—Notice of due date for payment of annual license fee and filing annual report) and 2011 c 183 s 4, 1990 c 178 s 3, & 1989 c 165 s 17;

(6) RCW 23B.01.530 (Domestic corporations—Inactive corporation defined—Annual license fee) and 2010 1st sp.s. c 29 s 2, 1993 c 269 s 3, & 1989 c 165 s 19;

(7) RCW 23B.01.550 (Foreign corporations—Annual license fees) and 1989 c 165 s 21;

(8) RCW 23B.01.560 (License fees for reinstated corporation) and 1993 c 269 s 4 & 1989 c 165 s 22;

(9) RCW 23B.01.580 (Waiver of penalty fees) and 1990 c 178 s 4 & 1989 c 165 s 24;

(10) RCW 23B.14.203 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 1;

(11) RCW 23B.14.210 (Administrative dissolution—Procedure and effect) and 2006 c 52 s 12 & 1989 c 165 s 161;

(12) RCW 23B.15.015 (Foreign degree-granting institution branch campus—Acts not deemed transacting business in state) and 1993 c 181 s 5;

(13) RCW 23B.15.310 (Revocation—Procedure and effect) and 1989 c 165 s 181; and

(14) RCW 23B.18.050 (Service of process—Procedure) and 1989 c 165 s 195.

PART III

NONPROFIT CORPORATION ACT REVISIONS

Sec. 3101. RCW 24.03.005 and 2004 c 265 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(3) "Not for profit corporation" or "nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(4) "Articles of incorporation" and "articles" mean the original articles of incorporation and all amendments thereto, and includes articles of merger and restated articles.

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(6) "Member" means an individual or entity having membership rights in a corporation in accordance with the provisions of its articles (~~(or [of])~~) of incorporation or bylaws.

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated in the articles or bylaws.

(8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(9) "Deliver" means: (a) Mailing; (b) transmission by facsimile equipment, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members; (c) electronic transmission, in accordance with the officer's, director's, or member's consent, for purposes of delivering a demand, consent, notice, or waiver to the corporation or one of its officers, directors, or members under RCW 24.03.009; and (d) as prescribed by the secretary of state for purposes of submitting a record for filing with the secretary of state.

(10) "Conforms to law" as used in connection with duties of the secretary of state in reviewing records for filing under this chapter, means the secretary of state has determined that the record complies as to form with the applicable requirements of this chapter and part I, Article 2 of this act.

(11) "Effective date" means, in connection with a record filing made by the secretary of state, the date ~~((which is shown by affixing a "filed" stamp on the records. When a record is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the record to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the record in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might otherwise be applied as the effective date))~~ on which the filing becomes effective under section 1203 of this act.

(12) "Electronic transmission" means an electronic communication (a) not directly involving the physical transfer of a record in a tangible medium and (b) that may be retained, retrieved, and reviewed by the sender and the recipient thereof, and that may be directly reproduced in a tangible medium by a sender and recipient.

(13) "Electronically transmitted" means the initiation of an electronic transmission.

(14) "Execute," "executes," or "executed" means (a) signed, with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity, with respect to an electronic transmission, or (c) filed in compliance with the standards for filing with the office of the secretary of state as prescribed by the secretary of state, with respect to a record to be filed with the secretary of state.

(15) "Executed by an officer of the corporation," or words of similar import, means that any record executed by such person shall be and is executed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the record submission with the secretary of state and, for the purpose of records filed electronically with the secretary of state, in compliance with the rules adopted by the secretary of state for electronic filing.

(16) "An officer of the corporation" means, in connection with the execution of records submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.

(17) "Public benefit not for profit corporation" or "public benefit nonprofit corporation" means a corporation no part of the income of which is distributable to its members, directors, or officers and that holds a current tax exempt status as provided under 26 U.S.C. Sec. 501(c)(3) or is specifically exempted from the requirement to apply for its tax exempt status under 26 U.S.C. Sec. 501(c)(3).

(18) "Record" means information inscribed on a tangible medium or contained in an electronic transmission.

(19) "Tangible medium" means a writing, copy of a writing, facsimile, or a physical reproduction, each on paper or on other tangible material.

(20) "Writing" does not include an electronic transmission.

(21) "Written" means embodied in a tangible medium.

(22) "Registered office" means the address of the corporation's registered agent.

Sec. 3102. RCW 24.03.017 and 2004 c 265 s 5 are each amended to read as follows:

Any corporation organized under any act of the state of Washington for any one or more of the purposes for which a corporation may be organized under this chapter and for no purpose other than those permitted by this chapter, and to which this chapter does not otherwise apply, may elect to have this chapter and the provisions thereof apply to such corporation. Such corporation may so elect by having a resolution to do so adopted by the governing body of such corporation and by delivering to the secretary of state a statement of election in accordance with this section. Such statement of election shall be executed by the corporation by an officer of the corporation, and shall set forth:

(1) The name of the corporation;

(2) The act which created the corporation or pursuant to which it was organized;

(3) That the governing body of the corporation has elected to have this chapter and the provisions thereof apply to the corporation.

The statement of election shall be delivered to the secretary of state (~~If the secretary of state finds that the statement of election conforms to law, the secretary of state shall, when fees in the same amount as required by this chapter for filing articles of incorporation have been paid, endorse on the statement the word "filed" and the effective date of the filing thereof, shall file the statement, and shall issue a certificate of elective coverage to which an exact or conformed copy of the statement shall be affixed.~~

~~The certificate of elective coverage together with the exact or conformed copy of the statement affixed thereto by the secretary of state shall be returned to the corporation or its representative))~~ for filing in accordance with part I, Article 2 of this act. Upon the filing of the statement of elective coverage, the provisions of this chapter shall apply to the corporation which thereafter shall be subject to and shall have the benefits of this chapter and the provisions thereof as they exist on the date of filing such statement of election and as they may be amended from time to time thereafter, including, without limiting the generality of the foregoing, the power to amend its charter or articles of incorporation, whether or not created by special act of the legislature, delete provisions therefrom and add

provisions thereto in any manner and to any extent it may choose to do from time to time so long as its amended articles shall not be inconsistent with the provisions of this chapter.

Sec. 3103. RCW 24.03.045 and 2004 c 265 s 7 are each amended to read as follows:

The corporate name(=

~~(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.~~

~~(2)(a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:~~

~~(i) The corporate name or reserved name of a corporation or domestic corporation organized or authorized to transact business under this chapter;~~

~~(ii) A corporate name reserved or registered under chapter 23B.04 RCW;~~

~~(iii) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~

~~(iv) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under chapter 24.06 RCW;~~

~~(v) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;~~

~~(vi) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and~~

~~(vii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.~~

~~(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:~~

~~(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in the form of a record and files with the secretary of state records necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or~~

~~(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.~~

~~(c) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is formed or authorized to transact business in this state, and the proposed user corporation:~~

~~(i) Has merged with the other corporation, limited liability company, or limited partnership; or~~

~~(ii) Has been formed by reorganization of the other corporation.~~

~~(3) Shall be transliterated into letters of the English alphabet, if it is not in English.~~

~~(4) Shall not include or end with "incorporated," "company," "corporation," "partnership," "limited partnership," or "Ltd.," or any abbreviation thereof, but~~

may use "~~club,~~" "~~league,~~" "~~association,~~" "~~services,~~" "~~committee,~~" "~~fund,~~" "~~society,~~" "~~foundation,~~" "~~.....~~," a nonprofit corporation," or any name of like import.

(5) May only include the term "public benefit" or names of like import if the corporation has been designated as a public benefit nonprofit corporation by the secretary in accordance with this chapter.

(6) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ld.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(7) This title does not control the use of assumed business names or "trade names.") must comply with the provisions of part I, Article 3 of this act.

Sec. 3104. RCW 24.03.046 and 1993 c 356 s 1 are each amended to read as follows:

A person may reserve the exclusive right to the use of a corporate name ((may be reserved by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.

The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing.

The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee)) in accordance with section 1303 of this act.

Sec. 3105. RCW 24.03.047 and 1994 c 211 s 1306 are each amended to read as follows:

Any corporation((?) organized and existing under the laws of any state or territory of the United States may register its corporate name (~~under this title,~~

~~provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, the name of any foreign corporation authorized to transact business in this state, the name of any domestic limited liability company organized under the laws of this state, the name of any foreign limited liability company authorized to transact business in this state, the name of any limited partnership on file with the secretary, or any corporate name reserved or registered under this title.~~

~~Such registration shall be made by:~~

~~(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or country under the laws of which it is incorporated, [and] the date of its incorporation, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or territory wherein it is organized, executed by the secretary of state of such state or country or by such other official as may have custody of the records pertaining to corporations, and~~

~~(2) Paying to the secretary of state the applicable registration fee.~~

~~The registration shall be effective until the close of the calendar year in which the application for registration is filed)) in accordance with section 1304 of this act.~~

Sec. 3106. RCW 24.03.048 and 1986 c 240 s 8 are each amended to read as follows:

A corporation which has in effect a registration of its corporate name(;) may renew such registration ((from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying the applicable fee. A renewal application may be filed between the first day of October and the thirty-first day of December in each year, and shall extend the registration for the following calendar year)) in accordance with section 1304 of this act.

Sec. 3107. RCW 24.03.050 and 2009 c 202 s 1 are each amended to read as follows:

Each corporation shall have and continuously maintain in this state(=

~~(1) A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.~~

~~(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a governmental body or agency, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office~~

~~identical with such registered office, or a domestic limited liability company whose business office is identical with the registered office, or a foreign limited liability company authorized to conduct affairs in this state whose business address is identical with the registered office. A registered agent shall not be appointed without having given prior consent to the appointment, in the form of a record. The consent shall be filed with the secretary of state in such form as the secretary may prescribe. The consent shall be filed with or as a part of the record first appointing a registered agent. In the event any individual, corporation, or limited liability company has been appointed agent without consent, that person, corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall immediately be removed from the records of the secretary of state.~~

~~No Washington corporation or foreign corporation authorized to conduct affairs in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 3108. RCW 24.03.055 and 2004 c 265 s 9 are each amended to read as follows:

A corporation may change its registered ~~((office or change its registered))~~ agent ~~(, or both, upon))~~ by filing in the office of the secretary of state ~~((in the form prescribed by the secretary of state a statement setting forth:~~

(1) The name of the corporation;

(2) If the current registered office is to be changed, the street address to which the registered office is to be changed;

(3) If the current registered agent is to be changed, the name of the new registered agent;

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

~~Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a consent, in the form of a record, of the registered agent to the appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified)) a statement of change in accordance with section 1407 of this act.~~

Any registered agent of a corporation may resign as such agent upon filing a notice thereof, in the form of a record, with the secretary of state ~~(, who shall immediately deliver an exact or conformed copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state)) in accordance with section 1410 of this act.~~

~~((H))~~ A registered agent ~~((changes the agent's business address to another place within the state, the agent may change such address and the address of the registered office of any corporation of which the agent is a registered agent, by filing a statement as required by this section except that it need be executed only~~

~~by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been delivered to the secretary of the corporation)) may change its information on file with the secretary of state in accordance with section 1408 or 1409 of this act.~~

Sec. 3109. RCW 24.03.060 and 1986 c 240 s 11 are each amended to read as follows:

~~((The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any)) Service of process, notice, or demand required or permitted by law to be served upon the corporation may be (~~served.~~~~

~~Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.~~

~~The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.~~

~~Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law)) made in accordance with section 1411 of this act.~~

Sec. 3110. RCW 24.03.145 and 2002 c 74 s 7 are each amended to read as follows:

~~The articles of incorporation shall be delivered to the secretary of state((If the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:~~

~~(1) Endorse on the articles the word "Filed" and the effective date of the filing;~~

~~(2) File the articles;~~

~~(3) Issue a certificate of incorporation.~~

~~The certificate of incorporation together with an exact or conformed copy of the articles of incorporation will be returned to the incorporators or their representative)) for filing in accordance with part I, Article 2 of this act.~~

Sec. 3111. RCW 24.03.175 and 2002 c 74 s 8 are each amended to read as follows:

~~The articles of amendment shall be delivered to the secretary of state((If the secretary of state finds that the articles of amendment conform to law, the~~

~~secretary of state shall, when all fees have been paid as in this chapter prescribed:~~

~~(1) Endorse on the articles the word "Filed," and the effective date of the filing;~~

~~(2) File the articles.~~

The exact or conformed copy of the articles of amendment bearing the filing endorsement affixed thereto by the secretary of state, shall be returned to the corporation or its representative)) for filing in accordance with part I, Article 2 of this act.

Sec. 3112. RCW 24.03.180 and 1986 c 240 s 28 are each amended to read as follows:

~~((Upon the filing of the articles of amendment by the secretary of state, or on such later date, not more than thirty days subsequent to the filing thereof by the secretary of state, as may be provided in the articles of amendment, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly))~~ Articles of amendment are effective as provided in section 1203 of this act and may state a delayed effective date in accordance with section 1203 of this act.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

Sec. 3113. RCW 24.03.183 and 2004 c 265 s 18 are each amended to read as follows:

A domestic corporation may at any time restate its articles of incorporation by a resolution adopted by the board of directors. A corporation may amend and restate in one resolution, but may not present the amendments and restatement for filing by the secretary in a single record. Separate articles of amendment, under RCW 24.03.165 and articles of restatement, under this section, must be presented notwithstanding the corporation's adoption of a single resolution of amendment and restatement.

Upon the adoption of the resolution, restated articles of incorporation shall be executed by the corporation by one of its officers. The restated articles shall set forth all of the operative provisions of the articles of incorporation together with a statement that the restated articles of incorporation correctly set forth without change the provisions of the articles of incorporation as amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

The restated articles of incorporation shall be delivered to the secretary of state(~~(- If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:~~

~~(1) Endorse on the articles the word "Filed" and the date of the filing;~~

~~(2) File the restated articles.~~

An exact or conformed copy of the restated articles of incorporation bearing the endorsement affixed thereto by the secretary of state, shall be returned to the

~~incorporation or its representative)) for filing in accordance with part I, Article 2 of this act.~~

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective and shall supersede the original articles of incorporation and all amendments thereto.

Sec. 3114. RCW 24.03.200 and 2004 c 265 s 20 are each amended to read as follows:

(1) Upon such approval, articles of merger or articles of consolidation shall be executed by each corporation by an officer of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (ii) a statement that such amendment was adopted by a consent in the form of a record executed by all members entitled to vote with respect thereto;

(c) Where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) The articles of merger or articles of consolidation shall be delivered to the secretary of state ~~(-If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this chapter prescribed:~~

~~(a) Endorse on the articles of merger or consolidation the word "Filed," and the date of the filing;~~

~~(b) File the articles of merger or consolidation.~~

~~An exact or conformed copy of the articles of merger or articles of consolidation bearing the filing endorsement affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative)) for filing in accordance with part I, Article 2 of this act.~~

Sec. 3115. RCW 24.03.205 and 1986 c 240 s 34 are each amended to read as follows:

A merger or consolidation shall become effective upon the filing of the articles of merger or articles of consolidation with the secretary of state ~~(-or on such later date, not more than thirty days after the filing thereof with the secretary of state, as shall be provided for in the plan)) as provided in section 1203 of this act, and may state a delayed effective date as provided in section 1203 of this act.~~

Sec. 3116. RCW 24.03.207 and 2004 c 265 s 21 are each amended to read as follows:

One or more foreign corporations and one or more domestic corporations may be merged or consolidated in the following manner, if such merger or

consolidation is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger or consolidation as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title and part I, Article 5 of this act with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state(~~(-~~

~~(a)) an agreement that it may be served with process in ((this state)) accordance with section 1411 of this act in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to the merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a member of any such domestic corporation against the surviving or new corporation(~~(-~~ and~~

~~(b) An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding)).~~

The effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of the merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except as the laws of the other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger or consolidation. In the event the merger or consolidation is abandoned, the parties thereto shall execute a notice of abandonment (~~(in triplicate))~~ executed by an officer for each corporation executing the notice, which must be in the form of a record, and deliver the notice to the secretary of state for filing in accordance with part I, Article 2 of this act. (~~(If the secretary of state finds the notice conforms to law, the secretary of state shall:~~

~~(a) Endorse on each of the originals the word "Filed" and the date of the filing;~~

~~(b) File one of the triplicate originals in the secretary of state's office; and~~

~~(c) Issue the other triplicate originals to the respective parties or their representatives.))~~

Sec. 3117. RCW 24.03.245 and 2002 c 74 s 11 are each amended to read as follows:

Articles of dissolution shall be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. (~~(If the secretary of state finds that such articles of dissolution conform to law, the secretary of state shall, when all requirements have been met as in this chapter prescribed:~~

~~(1) Endorse on the articles of dissolution the word "Filed," and the effective date of the filing.~~

~~(2) File the articles of dissolution.~~

~~The exact or conformed copy of the articles of dissolution, bearing the filing endorsement affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation.)) Upon the filing of such articles of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors, and officers as provided in this chapter.~~

Sec. 3118. RCW 24.03.300 and 1986 c 240 s 41 are each amended to read as follows:

The dissolution of a corporation either (1) by the filing and issuance of a certificate of dissolution, voluntary or administrative, by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years after expiration so as to extend its period of duration. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the corporation extending its period of duration shall be required to adopt another name consistent with the requirements of ~~((this chapter))~~ part I, Article 3 of this act and to amend its articles of incorporation accordingly. The corporation shall also pay to the state all fees and penalties which would otherwise have been due if the corporate charter had not expired, plus a reinstatement fee as ~~((provided in this chapter))~~ established by the secretary of state under section 1213 of this act.

Sec. 3119. RCW 24.03.302 and 1994 c 287 s 8 are each amended to read as follows:

A corporation shall be administratively dissolved by the secretary of state ~~((upon the conditions prescribed in this section when the corporation:~~

~~(1) Has failed to file or complete its annual report within the time required by law; or~~

~~(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or~~

~~(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.~~

~~A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and~~

unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of the state shall dissolve the corporation by issuing a certificate of administrative dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of administrative dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of administrative dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution.

Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution) under the circumstances and procedures provided in part I, Article 6 of this act.

A corporation which has been administratively dissolved ((by operation of this section may be reinstated within a period of three years following its administrative dissolution if it completes and files a current annual report for the reinstatement year or if it appoints or maintains a registered agent, or if it files with the secretary of state a required statement of change of registered agent or registered office and in addition, if it pays a reinstatement fee as set by rule by the secretary plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year plus any penalties established by rule by the secretary of state. If, during the period of dissolution, another person or corporation has reserved or adopted a corporate name which is identical to or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles of incorporation accordingly)) under section 1603 of this act may apply to the secretary of state for reinstatement in accordance with section 1604 of this act.

When a corporation has been administratively dissolved ((by operation of this section)) under section 1603 of this act, remedies available to or against it shall survive in the manner provided in RCW 24.03.300 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and members.

Sec. 3120. RCW 24.03.305 and 1993 c 181 s 12 are each amended to read as follows:

((No)) (1) A foreign corporation shall ((have the right to)) not conduct affairs in this state until it ((shall have procured a certificate of authority so to do from)) registers with the secretary of state in accordance with part I, Article 5 of this act. ((No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a

~~corporation organized under this chapter is not permitted to conduct. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.~~

~~Without excluding other activities which may)) (2) A nonexhaustive list of activities that do not constitute conducting affairs in this state((~~— a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:~~~~

~~(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.~~

~~(2) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.~~

~~(3) Maintaining bank accounts.~~

~~(4) Creating evidences of debt, mortgages or liens on real or personal property.~~

~~(5) Securing or collecting debts due to it or enforcing any rights in property securing the same.~~

~~(6) Effecting sales through independent contractors.~~

~~(7) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where such orders require acceptance without this state before becoming binding contracts.~~

~~(8) Creating as borrower or lender, or acquiring, indebtedness or mortgages or other security interests in real or personal property.~~

~~(9) Securing or collecting debts or enforcing any rights in property securing the same.~~

~~(10) Transacting any business in interstate commerce.~~

~~(11) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.~~

~~(12) Operating an approved branch campus of a foreign degree-granting institution in compliance with chapter 28B.90 RCW and in accordance with RCW 24.03.307)) is provided in section 1505 of this act.~~

Sec. 3121. RCW 24.03.310 and 1967 c 235 s 63 are each amended to read as follows:

A foreign corporation ((~~which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued; and, except as in this chapter otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character~~)) that registers to conduct affairs in this state is subject to section 1501 of this act relating to the effect of registration and the governing law for registered foreign corporations.

Sec. 3122. RCW 24.03.315 and 1982 c 35 s 98 are each amended to read as follows:

~~((No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.03.045. However, a foreign corporation applying for a certificate of authority may file with the secretary of state a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, if the fictitious name complies with RCW 24.03.045)) The corporate name of a foreign corporation registered in this state must comply with the provisions of section 1506 of this act and part I, Article 3 of this act.~~

Sec. 3123. RCW 24.03.325 and 2002 c 74 s 12 are each amended to read as follows:

A foreign corporation(~~(; in order to procure a certificate of authority)) may register to conduct affairs in this state(~~(; shall make application therefor)) by delivering to the secretary of state(~~(; which application shall set forth:~~~~~~

(1) ~~The name of the corporation and the state or country under the laws of which it is incorporated.~~

(2) ~~If the name of the corporation contains the word "corporation," "company," "incorporated," or "limited," or contains an abbreviation of one of such words, then the name of the corporation which it elects for use in this state.~~

(3) ~~The date of incorporation and the period of duration of the corporation.~~

(4) ~~The address of the principal office of the corporation.~~

(5) ~~A statement that a registered agent has been appointed and the name and address of such agent, and that a registered office exists and the address of such registered office is identical to that of the registered agent.~~

(6) ~~The purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.~~

(7) ~~The names and respective addresses of the directors and officers of the corporation.~~

(8) ~~Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state.~~

~~The application shall be made in the form prescribed by the secretary of state and shall)) for filing a foreign registration statement in accordance with section 1503 of this act. The statement must be executed by the corporation by one of its officers.~~

~~((The application shall be accompanied by a certificate of good standing which has been issued no more than sixty days before the date of filing of the application for a certificate of authority to do business in this state and has been certified to by the proper officer of the state or country under the laws of which the corporation is incorporated.))~~

Sec. 3124. RCW 24.03.335 and 1982 c 35 s 100 are each amended to read as follows:

Upon the filing of the (~~(application for certificate of authority)) foreign registration statement by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application, subject, however, to the right of this state to (~~(suspend or to revoke~~~~

such authority)) terminate the registration as provided in ((this chapter)) section 1511 of this act.

Sec. 3125. RCW 24.03.340 and 2004 c 265 s 29 are each amended to read as follows:

Each foreign corporation ((authorized)) registered to conduct affairs in this state shall have and continuously maintain in this state((:

(1) ~~A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.~~

(2) ~~A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office or a domestic limited liability company whose business office is identical with the registered office or a foreign limited liability company authorized to conduct affairs in this state whose business address is identical with the registered office. A registered agent shall not be appointed without having given prior consent in the form of a record to the appointment. The consent shall be filed with the secretary of state in such form as the secretary may prescribe. The consent shall be filed with or as a part of the record first appointing a registered agent. In the event any individual, corporation, or limited liability company has been appointed agent without consent, that person, corporation, or limited liability company may file a notarized statement attesting to that fact, and the name shall immediately be removed from the records of the secretary of state.~~

~~No foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 3126. RCW 24.03.345 and 2004 c 265 s 30 are each amended to read as follows:

A foreign corporation ((authorized)) registered to conduct affairs in this state may change its ((registered office or change its)) registered agent((, or both, upon filing in the office of) by delivering to the secretary of state ((in a form approved by the secretary of state)) for filing a statement ((setting forth:

(1) ~~The name of the corporation.~~

(2) ~~If the current registered office is to be changed, the street address to which the registered office is to be changed.~~

(3) ~~If the current registered agent is to be changed, the name of the new registered agent.~~

(4) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

~~Such)) of change in accordance with section 1407 of this act. The statement shall be executed by the corporation by an officer of the corporation(, and delivered to the secretary of state, together with a consent, in the form of a record, of the registered agent to the appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall endorse thereon the word "Filed," and the month, day, and year of the filing thereof, and file the statement. The change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective upon filing unless a later date is specified)).~~

Any registered agent in this state appointed by a foreign corporation may resign as such agent (~~upon filing a notice thereof, in the form of a record, executed in duplicate, with~~) by executing and delivering to the secretary of state ((who shall immediately deliver a copy thereof to the secretary of the foreign corporation at its principal office as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state)) for filing a statement of resignation in accordance with section 1410 of this act.

~~((H) A registered agent ((changes his or her business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is a registered agent by filing a statement as required by this section, except that it need be executed only by the registered agent, it need not be responsive to subsection (3) of this section, and it must recite that a copy of the statement has been delivered to the corporation)) of a foreign corporation may change its information on file with the secretary of state in accordance with section 1408 or 1409 of this act.~~

Sec. 3127. RCW 24.03.350 and 2011 c 336 s 658 are each amended to read as follows:

~~((The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom)) Service of any process, notice, or demand required or permitted by law to be served upon the corporation may be ~~((served.~~~~

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the secretary of the corporation as shown on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

~~The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and his or her action with reference thereto)) made in accordance with section 1411 of this act.~~

Nothing herein contained shall limit or affect the right to serve any process, notice, or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Sec. 3128. RCW 24.03.365 and 2004 c 265 s 31 are each amended to read as follows:

A foreign corporation (~~(authorized)~~) registered to conduct affairs in this state shall (~~procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.~~

~~The requirements in respect to the form and contents of such application, the manner of its execution, the filing of the application with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority)) amend its foreign registration statement under the circumstances specified in section 1504 of this act.~~

Sec. 3129. RCW 24.03.370 and 1993 c 356 s 7 are each amended to read as follows:

A foreign corporation (~~(authorized)~~) registered to conduct affairs in this state may withdraw from this state (~~(upon procuring from)~~) by delivering a statement of withdrawal to the secretary of state (~~(a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:~~

(1) ~~The name of the corporation and the state or country under the laws of which it is incorporated.~~

(2) ~~That the corporation is not conducting affairs in this state.~~

(3) ~~That the corporation surrenders its authority to conduct affairs in this state.~~

(4) ~~That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.~~

(5) ~~A copy of a revenue clearance certificate issued pursuant to chapter 82.32 RCW.~~

(6) ~~A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on the secretary of state.~~

~~The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee)) for filing in accordance with section 1507 of this act.~~

Sec. 3130. RCW 24.03.380 and 2004 c 265 s 32 are each amended to read as follows:

(1) The ~~((certificate of authority))~~ registration of a foreign corporation to conduct affairs in this state ~~((shall be revoked))~~ may be terminated by the secretary of state ~~((upon the conditions prescribed in this section when:~~

~~(a) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or~~

~~(b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or~~

~~(c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or~~

~~(d) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or~~

~~(e) A misrepresentation has been made of any material matter in any application, report, affidavit, or other record submitted by such corporation pursuant to this chapter.~~

(2) Prior to revoking a certificate of authority under subsection (1) of this section, the secretary of state shall give the corporation written notice of the corporation's delinquency or omission by first class mail, postage prepaid, addressed to the corporation's registered agent. If, according to the records of the secretary of state, the corporation does not have a registered agent, the notice may be given by mail addressed to the corporation at its last known address or at the address of any officer or director of the corporation, as shown by the records of the secretary of state. Notice is deemed to have been given five days after the date deposited in the United States mail, correctly addressed, and with correct postage affixed. The notice shall inform the corporation that its certificate of authority shall be revoked at the expiration of sixty days following the date the notice had been deemed to have been given, unless it corrects the delinquency or omission within the sixty day period.

(3) Any notice provided by the secretary of state under this section shall be designed to clearly identify and warn the recipient of the contents thereof. A delinquency notice shall provide a succinct and readable description of the delinquency or omission, the date on which dissolution will occur, and the action necessary to cure the delinquency or omission prior to dissolution.

(4) The attorney general may take such action regarding revocation of a certificate of authority as is provided by RCW 24.03.250 for the dissolution of a domestic corporation. The procedures of RCW 24.03.250 shall apply to any action under this section. The clerk of any superior court entering a decree of revocation of a certificate of authority shall file a certified copy, without cost or filing fee, with the office of the secretary of state)) in accordance with section 1511 of this act.

Sec. 3131. RCW 24.03.390 and 1986 c 240 s 52 are each amended to read as follows:

~~((No))~~ A foreign corporation which is conducting affairs in this state without ~~((a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained~~

~~in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the conduct of affairs by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets:~~

~~The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state.~~

~~A foreign corporation which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees which would have been imposed by this chapter upon such corporation had it duly applied for and received a certificate of authority to transact business in this state as required by this chapter and thereafter filed all reports required by this chapter, plus all penalties imposed by this chapter for failure to pay such fees. The attorney general shall bring proceedings to recover all amounts due this state under the provisions of this section) registering with the secretary of state is subject to section 1502 of this act.~~

Sec. 3132. RCW 24.03.395 and 1993 c 356 s 10 are each amended to read as follows:

Each domestic corporation, and each foreign corporation (~~(authorized)~~) registered to conduct affairs in this state, shall (~~(file, within the time prescribed by this chapter,)~~) deliver an annual report (~~(in the form prescribed by)~~) to the secretary of state(~~(-The secretary may by rule provide that a biennial filing meets this requirement. The report shall set forth:~~

(1) ~~The name of the corporation and the state or country under the laws of which it is incorporated;~~

(2) ~~The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office;~~

(3) ~~A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state;~~

(4) ~~The names and respective addresses of the directors and officers of the corporation; and~~

(5) ~~The corporation's unified business identifier number.~~

~~The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.~~

~~The secretary of state may provide that correction or updating of information appearing on previous annual or biennial filings is sufficient to constitute the current filing)) in accordance with section 1212 of this act.~~

Sec. 3133. RCW 24.03.405 and 2010 1st sp.s. c 29 s 3 are each amended to read as follows:

~~((4)) Nonprofit corporations are subject to the applicable fees, charges, and penalties established by the secretary of state ((must establish by rule, fees for the following:~~

- ~~(a) Filing articles of incorporation.~~
- ~~(b) Filing an annual report of a domestic or foreign corporation.~~
- ~~(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state.~~
- ~~(d) An application for reinstatement under RCW 24.03.386.~~
- ~~(e) Filing articles of amendment or restatement or an amendment or supplement to an application for reinstatement.~~
- ~~(f) Filing articles of merger or consolidation.~~
- ~~(g) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these.~~
- ~~(h) Filing articles of dissolution.~~
- ~~(i) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.~~
- ~~(j) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal.~~
- ~~(k) Filing a certificate by a foreign corporation of the appointment of a registered agent.~~
- ~~(l) Filing a certificate of election adopting the provisions of chapter 24.03 RCW.~~
- ~~(m) Filing an application to reserve a corporate name.~~
- ~~(n) Filing a notice of transfer of a reserved corporate name.~~
- ~~(o) Filing a name registration.~~
- ~~(p) Filing any other statement or report authorized for filing under this chapter.~~

~~(2) Fees are adjusted by rule only in an amount that does not exceed the average biennial increase in the cost of providing service. This must be determined in a biennial cost study performed by the secretary)) under section 1213 of this act and RCW 43.07.120.~~

Sec. 3134. RCW 24.03.425 and 2004 c 265 s 34 are each amended to read as follows:

Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories propounded to him or her by the secretary of state in accordance with the provisions of this chapter ~~((or who signs any articles, statement, report, application or other record filed with the secretary of state which is known to such officer or director to be false in any material respect,))~~ shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars.

Sec. 3135. RCW 24.03.445 and 2004 c 265 s 36 are each amended to read as follows:

~~((If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other record required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall give written notice of disapproval to the person or corporation, domestic or foreign, delivering the~~

~~same, specifying the reasons therefor. Within thirty days from such disapproval such person or corporation may appeal to the superior court pursuant to the provisions of the administrative procedure act, chapter 34.05 RCW)) Section 1206 of this act governs the secretary of state's duty to file records delivered to the secretary of state for filing, the manner and effect of filing, and procedures that apply when the secretary of state refuses to file a record.~~

NEW SECTION. Sec. 3136. The following acts or parts of acts are each repealed:

(1) RCW 24.03.007 (Standards for electronic filing—Rules) and 2004 c 265 s 2 & 2002 c 74 s 5;

(2) RCW 24.03.008 (Records submitted for filing—Exact or conformed copies) and 2004 c 265 s 3 & 2002 c 74 s 6;

(3) RCW 24.03.3025 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 2;

(4) RCW 24.03.303 (Reinstatement under certain circumstances—Request for relief) and 1987 c 117 s 6;

(5) RCW 24.03.307 (Foreign degree-granting institution branch campus—Acts not deemed transacting business in state) and 1993 c 181 s 6;

(6) RCW 24.03.320 (Change of name by foreign corporation) and 1986 c 240 s 44 & 1967 c 235 s 65;

(7) RCW 24.03.330 (Filing of application for certificate of authority) and 2004 c 265 s 27, 2002 c 74 s 13, 1986 c 240 s 46, 1982 c 35 s 99, 1969 ex.s. c 163 s 4, & 1967 c 235 s 67;

(8) RCW 24.03.375 (Filing of application for withdrawal) and 2002 c 74 s 14, 1982 c 35 s 105, & 1967 c 235 s 76;

(9) RCW 24.03.385 (Issuance of certificate of revocation) and 1986 c 240 s 51, 1982 c 35 s 107, & 1967 c 235 s 78;

(10) RCW 24.03.386 (Foreign corporations—Application for reinstatement) and 1993 c 356 s 8, 1987 c 117 s 1, & 1986 c 240 s 57;

(11) RCW 24.03.388 (Foreign corporations—Fees for application for reinstatement—Filing current annual report—Penalties established by rule) and 1994 c 287 s 9, 1993 c 356 s 9, 1991 c 223 s 3, 1987 c 117 s 2, & 1986 c 240 s 58;

(12) RCW 24.03.400 (Filing of annual or biennial report of domestic and foreign corporations—Notice—Reporting dates) and 2011 c 183 s 5, 1993 c 356 s 11, 1986 c 240 s 54, 1982 c 35 s 109, 1973 c 90 s 1, & 1967 c 235 s 81;

(13) RCW 24.03.410 (Miscellaneous fees) and 2004 c 265 s 33, 1993 c 269 s 6, 1982 c 35 s 111, 1979 ex.s. c 133 s 2, 1969 ex.s. c 163 s 6, & 1967 c 235 s 83;

(14) RCW 24.03.415 (Disposition of fees) and 2011 c 336 s 659 & 1967 c 235 s 84; and

(15) RCW 24.03.450 (Certificates and certified copies to be received in evidence) and 2004 c 265 s 37, 1982 c 35 s 116, & 1967 c 235 s 91.

PART IV
NONPROFIT MISCELLANEOUS AND MUTUAL CORPORATIONS ACT
REVISIONS

Sec. 4101. RCW 24.06.005 and 2001 c 271 s 1 are each amended to read as follows:

As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a mutual corporation or miscellaneous corporation subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a mutual or miscellaneous corporation or other corporation organized under laws other than the laws of this state which would be subject to the provisions of this chapter if organized under the laws of this state.

(3) "Mutual corporation" means a corporation organized to accomplish one or more of its purposes on a mutual basis for members and other persons.

(4) "Miscellaneous corporation" means any corporation which is organized for a purpose or in a manner not provided for by the Washington business corporation act or by the Washington nonprofit corporation act, and which is not required to be organized under other laws of this state.

(5) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(7) "Member" means one having membership rights in a corporation in accordance with provisions of its articles of incorporation or bylaws.

(8) "Stock" or "share" means the units into which the proprietary interests of a corporation are divided in a corporation organized with stock.

(9) "Stockholder" or "shareholder" means one who is a holder of record of one or more shares in a corporation organized with stock.

(10) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(11) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs.

(12) "Duplicate originals" means two copies, original or otherwise, each with original signatures, or one original with original signatures and one copy thereof.

(13) "Conforms to law" as used in connection with duties of the secretary of state in reviewing documents for filing under this chapter, means the secretary of state has determined the document complies as to form with the applicable requirements of this chapter.

(14) "Effective date" means, in connection with a document filing made by the secretary of state, the date ~~((which is shown by affixing a "filed" stamp on the documents. When a document is received for filing by the secretary of state in a form which complies with the requirements of this chapter and which would entitle the document to be filed immediately upon receipt, but the secretary of state's approval action occurs subsequent to the date of receipt, the secretary of state's filing date shall relate back to the date on which the secretary of state first received the document in acceptable form. An applicant may request a specific effective date no more than thirty days later than the receipt date which might~~

otherwise be applied as the effective date)) on which the filing becomes effective under section 1203 of this act.

(15) "Executed by an officer of the corporation," or words of similar import, means that any document signed by such person shall be and is signed by that person under penalties of perjury and in an official and authorized capacity on behalf of the corporation or person making the document submission with the secretary of state.

(16) "An officer of the corporation" means, in connection with the execution of documents submitted for filing with the secretary of state, the president, a vice president, the secretary, or the treasurer of the corporation.

(17) "Electronic transmission" or "electronically transmitted" means any process of electronic communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of the transmitted information by the recipient. However, such an electronic transmission must either set forth or be submitted with information, including any security or validation controls used, from which it can reasonably be determined that the electronic transmission was authorized by, as applicable, the corporation or shareholder or member by or on behalf of which the electronic transmission was sent.

(18) "Consumer cooperative" means a corporation engaged in the retail sale, to its members and other consumers, of goods or services of a type that are generally for personal, living, or family use.

(19) "Registered office" means the address of the corporation's registered agent.

Sec. 4102. RCW 24.06.032 and 2012 c 216 s 1 are each amended to read as follows:

(1) In addition to any other rights and powers granted under this chapter, any mutual or miscellaneous corporation that was organized under this chapter prior to June 10, 2004, and conducts its business on a cooperative basis is entitled, by means of an express election contained in its articles of incorporation or bylaws, to avail itself of part or all of the additional rights and powers granted to cooperative associations under RCW 23.86.105(1), 23.86.160, and 23.86.170, and, if the corporation is a consumer cooperative, under section 1302(6) of this act and RCW 23.86.030 ~~((1) and~~) (2).

(2) Any other provision of this chapter notwithstanding:

(a) A consumer cooperative organized under this chapter may give notice to its members of the place, day, and hour of its annual meeting not less than ten nor more than one hundred twenty days before the date of the annual meeting.

(b) A consumer cooperative organized under this chapter may satisfy any provisions of this chapter requiring that certain information or materials must be set forth in a writing accompanying or contained in the notice of a meeting of its members, by: (i) Posting the information or materials on an electronic network not less than thirty days prior to the meeting at which such information or materials will be considered by members; and (ii) delivering to those members who are eligible to vote a notification, either in a meeting notice authorized under this chapter or in such other reasonable form as the board of directors may specify, setting forth the address of the electronic network at which and the date after which such information or materials will be posted and available for viewing by members eligible to vote, together with comprehensible instructions

regarding how to obtain access to the information and materials posted on the electronic network. A consumer cooperative that elects to post information or materials required by this chapter on an electronic network shall, at its expense, provide a copy of such information or materials in a written or other tangible medium to any member who is eligible to vote and so requests.

(c) The articles of incorporation or bylaws of a consumer cooperative organized under this chapter may provide that the annual meeting of its members need not involve a physical assembly at a particular geographic location if the meeting is held by means of electronic or other remote communications with its members, in a fashion that its board of directors determines will afford members a reasonable opportunity to read or hear the proceedings substantially concurrently with their occurrence, to vote by electronic transmission on matters submitted to a vote by members, and to pose questions of and make comments to management, subject to such procedural guidelines and limitations as its board of directors may adopt. Members participating in an annual meeting by means of electronic or other remote communications technology in accordance with any such procedural guidelines and limitations shall be deemed present at the meeting for all purposes under this chapter. For any annual meeting of members that is conducted by means of electronic or other remote communications without a physical assembly at a geographic location, the address of the electronic network or other communications site or connection specified in the notice of the meeting shall be deemed to be the place of the meeting.

Sec. 4103. RCW 24.06.045 and 1998 c 102 s 4 are each amended to read as follows:

The corporate name(=

~~(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.~~

~~(2)(a) Except as provided in (b) and (c) of this subsection, must be distinguishable upon the records of the secretary of state from:~~

~~(i) The corporate name of a corporation organized or authorized to transact business in this state;~~

~~(ii) A corporate name reserved or registered under chapter 23B.04 RCW;~~

~~(iii) The name or reserved name of a mutual corporation or miscellaneous corporation incorporated or authorized to do business under this chapter;~~

~~(iv) The fictitious name adopted under RCW 23B.15.060 by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~

~~(v) The corporate name or reserved name of a not-for-profit corporation incorporated or authorized to conduct affairs in this state under chapter 24.03 RCW;~~

~~(vi) The name or reserved name of a foreign or domestic limited partnership formed or registered under chapter 25.10 RCW;~~

~~(vii) The name or reserved name of a limited liability company organized or registered under chapter 25.15 RCW; and~~

~~(viii) The name or reserved name of a limited liability partnership registered under chapter 25.04 RCW.~~

~~(b) A corporation may apply to the secretary of state for authorization to use a name that is not distinguishable upon the records from one or more of the~~

names described in (a) of this subsection. The secretary of state shall authorize use of the name applied for if:

(i) The other corporation, company, holder, limited liability partnership, or limited partnership consents to the use in writing and files with the secretary of state documents necessary to change its name or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or

(ii) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(e) A corporation may use the name, including the fictitious name, of another domestic or foreign corporation, limited liability company, limited partnership, or limited liability partnership, that is used in this state if the other entity is incorporated, organized, formed, or authorized to transact business in this state, and the proposed user corporation:

(i) Has merged with the other corporation, limited liability company, or limited partnership; or

(ii) Has been formed by reorganization of the other corporation.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section shall not include nor end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", "foundation", " , a nonprofit mutual corporation", or any name of like import.

(5) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLC," or "L.L.C.";

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(6) This title does not control the use of assumed business names or "trade names.") must comply with the requirements of part I, Article 3 of this act.

Sec. 4104. RCW 24.06.046 and 1993 c 356 s 13 are each amended to read as follows:

The exclusive right to the use of a corporate name may be reserved ((by:

(1) Any person intending to organize a corporation under this title.

(2) Any domestic corporation intending to change its name.

(3) Any foreign corporation intending to make application for a certificate of authority to transact business in this state.

(4) Any foreign corporation authorized to transact business in this state and intending to change its name.

~~(5) Any person intending to organize a foreign corporation and intending to have such corporation make application for a certificate of authority to transact business in this state.~~

~~The reservation shall be made by filing with the secretary of state an application to reserve a specified corporate name, executed by or on behalf of the applicant. If the secretary of state finds that the name is available for corporate use, the secretary of state shall reserve the same for the exclusive use of the applicant for a period of one hundred and eighty days. Such reservation shall be limited to one filing.~~

~~The right to the exclusive use of a specified corporate name so reserved may be transferred to any other person or corporation by filing in the office of the secretary of state, a notice of such transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee)) in accordance with section 1303 of this act.~~

Sec. 4105. RCW 24.06.047 and 1994 c 211 s 1308 are each amended to read as follows:

Any corporation, organized and existing under the laws of any state or territory of the United States may register its corporate name (~~under this title, provided its corporate name is not the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state, or the name of any foreign corporation authorized to transact business in this state, the name of any domestic limited liability company organized under the laws of this state, or the name of any foreign limited liability company authorized to transact business in this state, the name of any domestic or foreign limited partnership on file with the secretary, or any corporate name reserved or registered under this title.~~

Such registration shall be made by:

(1) Filing with the secretary of state: (a) An application for registration executed by the corporation by an officer thereof, setting forth the name of the corporation, the state or country under the laws of which it is incorporated, and the date of its incorporation, and (b) a certificate setting forth that such corporation is in good standing under the laws of the state or country wherein it is organized, executed by the secretary of state of such state or territory or by such other official as may have custody of the records pertaining to corporations, and

(2) Paying to the secretary of state the applicable annual registration fee.

The registration shall be effective until the close of the calendar year in which the application for registration is filed)) in accordance with section 1304 of this act.

Sec. 4106. RCW 24.06.048 and 1982 c 35 s 124 are each amended to read as follows:

A corporation which has in effect a registration of its corporate name, may renew such registration (~~from year to year by annually filing an application for renewal setting forth the facts required to be set forth in an original application for registration and a certificate of good standing as required for the original registration and by paying a fee of ten dollars. A renewal application may be filed between the first day of October and the thirty-first day of December in~~

each year, and shall extend the registration for the following calendar year)) in accordance with section 1304 of this act.

Sec. 4107. RCW 24.06.050 and 2009 c 202 s 2 are each amended to read as follows:

Each domestic corporation and foreign corporation authorized to do business in this state shall have and continuously maintain in this state(=

(1) ~~A registered office which may be, but need not be, the same as its principal office. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the corporation also maintains on file the specific geographic address of the registered office where personal service of process may be made.~~

(2) ~~A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation existing under any act of this state, or a governmental body or agency, or a foreign corporation authorized to transact business or conduct affairs in this state under any act of this state having an office identical with such registered office. The resident agent and registered office shall be designated by duly adopted resolution of the board of directors; and a statement of such designation, executed by an officer of the corporation, shall be filed with the secretary of state. A registered agent shall not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent shall be filed with or as a part of the document first appointing a registered agent. In the event any individual or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name shall forthwith be removed from the records of the secretary of state.~~

~~No Washington corporation or foreign corporation authorized to transact business in this state may be permitted to maintain any action in any court in this state until the corporation complies with the requirements of this section)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 4108. RCW 24.06.055 and 2011 c 336 s 661 are each amended to read as follows:

A corporation may change its ((registered office or change its)) registered agent(, or both, upon filing in the office of the secretary of state a statement in the form prescribed by the secretary of state setting forth:

- (1) ~~The name of the corporation.~~
- (2) ~~If the address of its registered office is to be changed, the address to which the registered office is to be changed, including street and number.~~
- (3) ~~If the current registered agent is to be changed, the name of its successor registered agent.~~
- (4) ~~That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.~~

~~Such statement shall be executed by the corporation by an officer of the corporation, and delivered to the secretary of state, together with a written consent of the registered office to his, her, or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, the secretary of state shall file such statement, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective)) by delivering to the secretary of state for filing a statement of change in accordance with section 1407 of this act.~~

Any registered agent of a corporation may resign as ~~((such)) agent ((upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state))~~ by delivering to the secretary of state for filing a statement of resignation in accordance with section 1410 of this act.

Sec. 4109. RCW 24.06.060 and 1982 c 35 s 127 are each amended to read as follows:

~~((The registered agent so appointed by a corporation shall be an agent of such corporation upon whom))~~ Service of any process, notice or demand required or permitted by law to be served upon the corporation may be ~~((served.~~

~~Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of his or her office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.~~

~~The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this section, and shall record therein the time of such service and his action with reference thereto.~~

~~Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law))~~ made in accordance with section 1411 of this act.

Sec. 4110. RCW 24.06.200 and 1982 c 35 s 131 are each amended to read as follows:

~~((Duplicate originals of))~~ The articles of amendment shall be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. ((If the secretary of state finds that the articles of amendment conform to law, he or she shall, when all fees have been paid as prescribed in this chapter:

~~(1) Endorse on each of such originals the word "filed", and the effective date of the filing thereof.~~

~~(2) File one of such originals in his or her office.~~

~~(3) Issue a certificate of amendment to which he or she shall affix one of such originals.~~

~~The certificate of amendment, together with the other duplicate original of the articles of amendment affixed thereto by the secretary of state shall be returned to the corporation or its representative and shall be retained by the corporation.)~~

Sec. 4111. RCW 24.06.205 and 1982 c 35 s 132 are each amended to read as follows:

Upon the filing of the articles of amendment by the secretary of state, the amendment shall become effective as provided in section 1203 of this act and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, nor any pending action to which such corporation shall be a party, nor the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason.

Sec. 4112. RCW 24.06.207 and 1982 c 35 s 133 are each amended to read as follows:

A domestic corporation may at any time restate its articles of incorporation as theretofore amended, by a resolution adopted by the board of directors.

Upon the adoption of the resolution, restated articles of incorporation shall be executed (~~in duplicate~~) by the corporation by one of its officers and shall set forth all of the operative provisions of the articles of incorporation as theretofore amended together with a statement that the restated articles of incorporation correctly set forth without change the corresponding provisions of the articles of incorporation as theretofore amended and that the restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

~~((Duplicate originals of))~~ The restated articles of incorporation shall be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. ~~((If the secretary of state finds that the restated articles of incorporation conform to law, the secretary of state shall, when all fees required by this title have been paid:~~

~~(1) Endorse on each duplicate original the word "Filed" and the effective date of the filing thereof;~~

~~(2) File one duplicate original; and~~

~~(3) Issue a restated certificate of incorporation, to which the other duplicate original shall be affixed.~~

~~The restated certificate of incorporation, together with the duplicate original of the restated articles of incorporation affixed thereto by the secretary of state, shall be returned to the corporation or its representative.)~~

Upon the filing of the restated articles of incorporation by the secretary of state, the restated articles of incorporation shall become effective as provided in section 1203 of this act and shall supersede the original articles of incorporation and all amendments thereto.

Sec. 4113. RCW 24.06.225 and 2000 c 167 s 9 are each amended to read as follows:

(1) Upon approval, articles of merger or articles of consolidation shall be executed (~~(in duplicate originals)~~) by each corporation, by an officer of each corporation, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) A statement setting forth the date of the meeting of members or shareholders at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members and shareholders of the corporation and of each class entitled to vote thereon as a class, present at such meeting in person or by mail or by electronic transmission or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members;

(2) (~~(Duplicate originals of)~~) The articles of merger or articles of consolidation shall be delivered to the secretary of state (~~(-If the secretary of state finds that such articles conform to law, he or she shall, when all fees have been paid as prescribed in this chapter:~~

(a) Endorse on each of such originals the word "filed", and the effective date of the filing thereof;

(b) File one of such originals in his or her office;

(c) Issue a certificate of merger or a certificate of consolidation to which he or she shall affix one of such originals.

The certificate of merger or certificate of consolidation, together with the original of the articles of merger or articles of consolidation affixed thereto by the secretary of state shall be returned to the surviving or new corporation, as the case may be, or its representative, and shall be retained by the corporation) for filing in accordance with part I, Article 2 of this act.

Sec. 4114. RCW 24.06.233 and 1982 c 35 s 136 are each amended to read as follows:

One or more foreign corporations and one or more domestic corporations may be merged or consolidated or participate in an exchange in the following manner, if such merger, consolidation, or exchange is permitted by the laws of the state under which each such foreign corporation is organized:

(1) Each domestic corporation shall comply with the provisions of this title with respect to the merger, consolidation, or exchange, as the case may be, of domestic corporations and each foreign corporation shall comply with the applicable provisions of the laws of the state under which it is organized.

(2) If the surviving or new corporation in a merger or consolidation is to be governed by the laws of any state other than this state, it shall comply with the provisions of this title and part I, Article 5 of this act with respect to foreign corporations if it is to transact business in this state, and in every case it shall file with the secretary of state of this state:

(a) An agreement that it may be served with process in (~~(this state)~~) accordance with section 1411 of this act in any proceeding for the enforcement of any obligation of any domestic corporation which is a party to such merger or consolidation and in any proceeding for the enforcement of the rights, if any, of a dissenting shareholder of any such domestic corporation against the surviving or new corporation; and

~~(b) ((An irrevocable appointment of the secretary of state of this state as its agent to accept service of process in any such proceeding; and~~

~~(e)) An agreement that it will promptly pay to the dissenting shareholders of any such domestic corporation the amount, if any, to which they shall be entitled under the provisions of this title with respect to the rights of dissenting shareholders.~~

The effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations, if the surviving or new corporation is to be governed by the laws of this state. If the surviving or new corporation is to be governed by the laws of any state other than this state, the effect of such merger or consolidation shall be the same as in the case of the merger or consolidation of domestic corporations except insofar as the laws of such other state provide otherwise.

(3) At any time prior to the effective date of the articles of merger, consolidation, or exchange, the merger, consolidation, or exchange, may be abandoned pursuant to provision therefor, if any, set forth in the plan of merger, consolidation or exchange. In the event the merger, consolidation, or exchange is abandoned, the parties thereto shall execute a notice of abandonment ~~((in triplicate))~~ signed by an officer for each corporation signing the notice and deliver the notice to the secretary of state for filing in accordance with part I, Article 2 of this act. ~~((If the secretary of state finds the notice conforms to law, the secretary of state shall:~~

~~(a) Endorse on each of the originals the word "Filed" and the effective date of the filing thereof;~~

~~(b) File one of the triplicate originals in the secretary of state's office; and~~

~~(c) Issue the other triplicate originals to the respective parties or their representatives.))~~

Sec. 4115. RCW 24.06.280 and 1982 c 35 s 139 are each amended to read as follows:

~~((Duplicate originals of))~~ The articles of dissolution shall be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. ~~((If the secretary of state finds that such articles of dissolution conform to law, he or she shall, when all requirements have been met as prescribed in this chapter:~~

~~(1) Endorse on each of such originals the word "filed", and the effective date of the filing thereof.~~

~~(2) File one of the originals in his or her office.~~

~~(3) Issue a certificate of dissolution which he or she shall affix to one of such originals.~~

~~The certificate of dissolution, together with the original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation and shall be retained with the corporation minutes.))~~

Upon the filing of the articles of dissolution, the corporate existence shall cease, except for the purpose of determining such suits, other proceedings and appropriate corporate action by members, directors and officers as are authorized in this chapter.

Sec. 4116. RCW 24.06.290 and 1994 c 287 s 10 are each amended to read as follows:

Failure of the corporation to file its annual report within the time required shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation under law.

A corporation shall be administratively dissolved by the secretary of state ~~((upon the conditions prescribed in this section when the corporation:~~

~~(1) Has failed to file or complete its annual report within the time required by law;~~

~~(2) Has failed for thirty days to appoint or maintain a registered agent in this state; or~~

~~(3) Has failed for thirty days, after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change.~~

A corporation shall not be dissolved under this section unless the secretary of state has given the corporation not less than sixty days' notice of its delinquency or omission, by first class mail, postage prepaid, addressed to the registered office, or, if there is no registered office, to the last known address of any officer or director as shown by the records of the secretary of state, and unless the corporation has failed to correct the omission or delinquency before expiration of the sixty-day period.

~~When a corporation has given cause for dissolution under this section, and has failed to correct the delinquency or omission as provided in this section, the secretary of state shall dissolve the corporation by issuing a certificate of involuntary dissolution containing a statement that the corporation has been dissolved and the date and reason for which it was dissolved. The original certificate of involuntary dissolution shall be filed in the records of the secretary of state, and a copy of the certificate shall forthwith be mailed to the corporation at its registered office or, if there is no registered office, to the last known address of the corporation or any officer, director, or incorporator of the corporation, as shown by the records of the secretary of state. Upon the filing of the certificate of involuntary dissolution, the existence of the corporation shall cease, except as otherwise provided in this chapter, and its name shall be available to and may be adopted by another corporation after the dissolution)) under the circumstances and procedures provided in part I, Article 6 of this act.~~

A corporation which has been administratively dissolved ~~((by operation of this section may be reinstated within a period of three years following its dissolution if it completes and files a current annual report for the current reinstatement year or it appoints or maintains a registered agent, or files a required statement of change of registered agent or registered office and in addition pays the reinstatement fee as set by rule by the secretary of state, plus the full amount of all annual fees that would have been assessed for the years of administrative dissolution had the corporation been in active status, including the reinstatement year plus any penalties as established by rule by the secretary of state. If during the period of dissolution another person or corporation has reserved or adopted a corporate name which is identical or deceptively similar to the dissolved corporation's name, the dissolved corporation seeking reinstatement shall be required to adopt another name consistent with the requirements of this chapter and to amend its articles accordingly)) under section~~

1603 of this act may apply to the secretary of state for reinstatement in accordance with section 1604 of this act.

When a corporation has been administratively dissolved (~~(by operation of this section)~~) under section 1603 of this act, remedies available to or against it shall survive in the manner provided by RCW 24.06.335 and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders.

Sec. 4117. RCW 24.06.340 and 1969 ex.s. c 120 s 68 are each amended to read as follows:

(1) No foreign corporation shall have the right to conduct affairs in this state until it (~~(shall have procured a certificate of authority from)~~) registers with the secretary of state (~~(to do so)~~) in accordance with the requirements of part I, Article 5 of this act. (~~(No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct: PROVIDED, That no foreign corporation shall be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state: PROVIDED FURTHER, That nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation:))~~)

(2) (~~(Without excluding other activities not constituting the conduct of affairs in this state, a foreign corporation shall, for purposes of this chapter, not be considered to be))~~) A nonexhaustive list of activities that do not constitute conducting affairs in this state (by reason of carrying on in this state any one or more of the following activities:

(a) ~~Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof, or the settlement of claims or disputes.~~

(b) ~~Holding meetings of its directors, members, or shareholders, or carrying on other activities concerning its internal affairs.~~

(c) ~~Maintaining bank accounts.~~

(d) ~~Creating evidences of debt, mortgages or liens on real or personal property.~~

(e) ~~Securing or collecting debts due to it or enforcing any rights in property securing the same))~~ is provided in section 1505 of this act.

Sec. 4118. RCW 24.06.345 and 1969 ex.s. c 120 s 69 are each amended to read as follows:

A foreign corporation (~~(which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same but no greater rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued, and shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character))~~) that registers to conduct affairs in this state is subject to section 1501 of this act relating to the effect of registration and the governing law for registered foreign corporations.

Sec. 4119. RCW 24.06.350 and 1982 c 35 s 143 are each amended to read as follows:

~~((No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.06.045. However, a foreign corporation applying for a certificate of authority may file with the secretary of state a resolution of its board of directors adopting a fictitious name for use in transacting business in this state, if the fictitious name complies with RCW 24.06.045.))~~ The corporate name of a foreign corporation registered in this state must comply with the provisions of section 1506 and part I, Article 3 of this act.

Sec. 4120. RCW 24.06.360 and 1989 c 307 s 38 are each amended to read as follows:

A foreign corporation ~~((in order to procure a certificate of authority))~~ may register to conduct affairs in this state ~~((shall make application therefor))~~ by delivering to the secretary of state ~~((which application shall set forth:~~

(1) ~~The name of the corporation and the state or country under the laws of which it is incorporated.~~

(2) ~~The date of incorporation and the period of duration of the corporation.~~

(3) ~~The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.~~

(4) ~~The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.~~

(5) ~~For the purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.~~

(6) ~~The names and respective addresses of the directors and officers of the corporation.~~

(7) ~~Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state))~~ for filing a foreign registration statement in accordance with section 1503 of this act.

Sec. 4121. RCW 24.06.370 and 1982 c 35 s 145 are each amended to read as follows:

Upon the filing of the ~~((application for certificate of authority))~~ foreign registration statement by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application ~~((PROVIDED, That the state may suspend or revoke such authority as provided in this chapter for revocation and suspension of domestic corporation franchises))~~ subject to the right of the state to terminate the registration as provided in section 1511 of this act.

Sec. 4122. RCW 24.06.375 and 1969 ex.s. c 120 s 75 are each amended to read as follows:

Every foreign corporation ~~((authorized))~~ registered to conduct affairs in this state shall have and continuously maintain in this state ~~((:~~

(1) ~~A registered office which may but need not be the same as its principal office.~~

(2) ~~A registered agent, who may be:~~

(a) ~~An individual resident of this state whose business office is identical with the registered office; or~~

~~(b) A domestic corporation organized under any law of this state; or~~

~~(e) A foreign corporation authorized under any law of this state to transact business or conduct affairs in this state, having an office identical with the registered office)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 4123. RCW 24.06.380 and 1993 c 356 s 19 are each amended to read as follows:

A foreign corporation (~~(authorized)~~) registered to conduct affairs in this state may change its (~~(registered office or change its)~~) registered agent (~~(, or both, upon filing in the office of)~~) by delivering to the secretary of state ((in a form approved by the secretary of state a statement setting forth:

(1) ~~The name of the corporation.~~

(2) ~~If the address of the current registered office is to be changed, such new address.~~

(3) ~~If the current registered agent is to be changed, the name of the new registered agent.~~

(4) ~~That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.~~

Sueh)) for filing a statement of change in accordance with section 1407 of this act. The statement shall be executed by the corporation, by an officer of the corporation(, and delivered to the secretary of state, together with a written consent of the registered agent to his or its appointment, if applicable. If the secretary of state finds that such statement conforms to the provisions of this chapter, he or she shall file such statement in his or her office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective)).

~~((H) A registered agent ((changes his or her business address to another place within the state, the registered agent may change such address and the address of the registered office of any corporation of which the registered agent is registered agent by filing a statement as required by this section, except that it need be signed only by the registered agent, it need not be responsive to subsection (3) of this section, and it shall recite that a copy of the statement has been mailed to the corporation)) may change its information on file with the secretary of state in accordance with sections 1408 or 1409 of this act.~~

Sec. 4124. RCW 24.06.385 and 1969 ex. s. c 120 s 77 are each amended to read as follows:

Any registered agent in this state appointed by a foreign corporation may resign as such agent (~~(upon filing a written notice thereof, executed in duplicate, with)~~) by executing and delivering to the secretary of state(, who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state)) for filing a statement of resignation in accordance with section 1410 of this act.

Sec. 4125. RCW 24.06.390 and 1969 ex. s. c 120 s 78 are each amended to read as follows:

~~((The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom))~~

Service of any process, notice or demand required or permitted by law to be served upon the corporation may be ~~((served))~~ made in accordance with section 1411 of this act.

Sec. 4126. RCW 24.06.395 and 1982 c 35 s 147 are each amended to read as follows:

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked ~~((then the secretary of state shall be an agent of such corporation upon whom any such))~~ service of any process, notice, or demand upon the corporation may be ~~((served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the corporation department of the secretary of state's office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, the secretary of state shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.~~

The secretary of state shall keep a record of all processes, notices and demands served upon the secretary of state under this action, and shall record therein the time of such service and his or her action with reference thereto. ~~PROVIDED, That~~) made in accordance with section 1411 of this act. Nothing contained in this section shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law.

Sec. 4127. RCW 24.06.410 and 1969 ex.s. c 120 s 82 are each amended to read as follows:

A foreign corporation ~~((authorized))~~ registered to conduct affairs in this state shall ~~((apply for an amended certificate of authority in the event that it wishes to change its corporate name, or desires to pursue in this state purposes other or additional to those set forth in its initial application for a certificate of authority.~~

~~The requirements with respect to the form and content of such application, the manner of its execution, the filing, the issuance of an amended certificate of authority, and the effect thereof shall be the same as in the case of an original application for a certificate of authority))~~ amend its foreign registration statement under the circumstances specified in section 1504 of this act.

Sec. 4128. RCW 24.06.415 and 1993 c 356 s 20 are each amended to read as follows:

A foreign corporation ~~((authorized))~~ registered to conduct affairs in this state may withdraw from this state ~~((upon procuring from))~~ by delivering a statement of withdrawal to the secretary of state ~~((a certificate of withdrawal. In order to procure such certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:~~

(1) The name of the corporation and the state or country under whose laws it is incorporated;

(2) A declaration that the corporation is not conducting affairs in this state;

(3) A surrender of its authority to conduct affairs in this state;

(4) A notice that the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding, based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state, may thereafter be made upon such corporation by service thereof on the secretary of state;

(5) A copy of the revenue clearance certificate issued pursuant to chapter 82.32 RCW;

(6) A post office address to which the secretary of state may mail a copy of any process that may be served on the secretary of state as agent for the corporation;

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation, by one of the officers of the corporation, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee) for filing in accordance with section 1507 of this act.

Sec. 4129. RCW 24.06.425 and 1982 c 35 s 150 are each amended to read as follows:

~~((1))~~ The ~~((certificate of authority))~~ registration of a foreign corporation to conduct affairs in this state may be ~~((revoked))~~ terminated by the secretary of state ~~((upon the conditions prescribed in this section when:~~

(a) The corporation has failed to file its annual report within the time required by this chapter or has failed to pay any fees or penalties prescribed by this chapter as they become due and payable; or

(b) The corporation has failed for thirty days to appoint and maintain a registered agent in this state as required by this chapter; or

(c) The corporation has failed, for thirty days after change of its registered agent or registered office, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

(e) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(f) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(g) A misrepresentation has been made as to any material matter in any application, report, affidavit, or other document, submitted by such corporation pursuant to this chapter.

(2) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless the secretary of state shall have given the corporation not less than sixty days' notice thereof by first class mail addressed to its registered office in this state, or, if there is no registered office, to the last known address of any officer or director of the corporation as shown by the records of the secretary of state, and the corporation shall have failed prior to

revocation to (a) file such annual report, (b) pay such fees or penalties, (c) file the required statement of change of registered agent or registered office, (d) file such articles of amendment or articles of merger, or (e) correct any delinquency, omission, or material misrepresentation in its application, report, affidavit, or other document)) in accordance with section 1511 of this act.

Sec. 4130. RCW 24.06.435 and 1969 ex.s. c 120 s 87 are each amended to read as follows:

~~((No))~~ A foreign corporation conducting affairs in this state without ~~((a certificate of authority shall be permitted to maintain any action, suit, or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim, or demand arising out of the conduct of affairs by such corporation in this state until a certificate of authority shall have been obtained by the corporation or by a valid corporation which has (1) acquired all or substantially all of its assets and (2) assumed all of its liabilities: PROVIDED, That the failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the substantive validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state under such terms and conditions as a court may find just))~~ registering with the secretary of state is subject to section 1502 of this act.

Sec. 4131. RCW 24.06.440 and 1993 c 356 s 22 are each amended to read as follows:

Each domestic corporation, and each foreign corporation ~~((authorized))~~ registered to conduct affairs in this state, shall ~~((file, within the time prescribed by this chapter,))~~ deliver an annual ~~((or biennial))~~ report ~~((established by))~~ to the secretary of state ~~((by rule, in the form prescribed by the secretary of state setting forth:~~

(1) The name of the corporation and the state or country under whose laws it is incorporated.

(2) The address of the registered office of the corporation in this state, including street and number, the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under whose laws it is incorporated.

(3) A brief statement of the character of the affairs in which the corporation is engaged, or, in the case of a foreign corporation, engaged in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

(5) The corporation's unified business identifier number.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by an officer of the corporation, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation by such receiver or trustee.

The secretary of state may by rule adopted under chapter 34.05 RCW provide that correction or updating of information appearing on previous annual or biennial filings is sufficient to constitute the current filing)) in accordance with section 1212 of this act.

Sec. 4132. RCW 24.06.450 and 2010 1st sp.s. c 29 s 4 are each amended to read as follows:

~~((4))~~ Corporations are subject to the applicable fees, charges, and penalties established by the secretary of state ~~((must establish by rule, fees for the following:~~

- ~~(a) Filing articles of incorporation.~~
- ~~(b) Filing an annual report.~~
- ~~(c) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state.~~
- ~~(d) Filing articles of amendment or restatement.~~
- ~~(e) Filing articles of merger or consolidation.~~
- ~~(f) Filing a statement of change of address of registered office or change of registered agent, or revocation, resignation, or any combination of these.~~
- ~~(g) Filing articles of dissolution, no fee.~~
- ~~(h) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state.~~
- ~~(i) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state.~~
- ~~(j) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state.~~
- ~~(k) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal.~~
- ~~(l) Filing a certificate by a foreign corporation of the appointment of a registered agent.~~
- ~~(m) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent.~~
- ~~(n) Filing an application to reserve a corporate name.~~
- ~~(o) Filing a notice of transfer of a reserved corporate name.~~
- ~~(p) Filing any other statement or report of a domestic or foreign corporation.~~
- ~~(2) Fees are adjusted by rule in an amount that does not exceed the average biennial increase in the cost of providing service. This must be determined in a biennial cost study performed by the secretary))~~ under section 1213 of this act and RCW 43.07.120.

Sec. 4133. RCW 24.06.470 and 2011 c 336 s 669 are each amended to read as follows:

Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter, to answer truthfully and fully any interrogatories propounded to him or her by the secretary of state in accordance with the provisions of this chapter, ~~((or who signs any articles, statement, report, application, or other document filed with the secretary of state,))~~ which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count.

Sec. 4134. RCW 24.06.490 and 1982 c 35 s 160 are each amended to read as follows:

~~((1) If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his or her office, the secretary of state shall, within ten days after the delivery of such document to him or her, give written notice of disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The person or corporation may apply to the superior court of the county in which the registered office of such corporation is situated, or is proposed, in the document, by filing a petition with the clerk of such court setting forth a copy of the articles or other document tendered to the secretary of state, together with a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.~~

~~(2) If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, such foreign corporation may likewise apply to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.~~

~~(3) Appeals from all final orders and judgments entered by the superior court under this section, in the review of any ruling or decision of the secretary of state may be taken as in other civil actions:-) Section 1206 of this act governs the secretary of state's duty to file records delivered to the secretary of state for filing, the manner and effect of filing, and procedures that apply when the secretary of state refuses to file a record.~~

NEW SECTION. Sec. 4135. The following acts or parts of acts are each repealed:

(1) RCW 24.06.170 (Filing of articles of incorporation) and 1982 c 35 s 128, 1981 c 302 s 5, & 1969 ex.s. c 120 s 34;

(2) RCW 24.06.293 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 3;

(3) RCW 24.06.355 (Change of name by foreign corporation) and 1969 ex.s. c 120 s 71;

(4) RCW 24.06.365 (Filing of application for certificate of authority—Issuance) and 1982 c 35 s 144 & 1969 ex.s. c 120 s 73;

(5) RCW 24.06.420 (Filing of application for withdrawal—Issuance of certificate of withdrawal) and 1982 c 35 s 149 & 1969 ex.s. c 120 s 84;

(6) RCW 24.06.430 (Issuance and filing of certificate of revocation—Effect) and 1982 c 35 s 151 & 1969 ex.s. c 120 s 86;

(7) RCW 24.06.433 (Foreign corporations—Application for reinstatement) and 1993 c 356 s 21;

(8) RCW 24.06.445 (Filing of annual or biennial report of domestic and foreign corporations) and 2011 c 183 s 6, 1993 c 356 s 23, 1982 c 35 s 153, 1973 c 146 s 1, & 1969 ex.s. c 120 s 89;

(9) RCW 24.06.455 (Miscellaneous fees) and 1993 c 269 s 8, 1982 c 35 s 155, 1979 ex.s. c 133 s 3, 1973 c 70 s 3, & 1969 ex.s. c 120 s 91;

(10) RCW 24.06.460 (Disposition of fees) and 1982 c 35 s 156 & 1969 ex.s. c 120 s 92;

(11) RCW 24.06.495 (Certificates and certified copies to be received in evidence) and 1982 c 35 s 161 & 1969 ex.s. c 120 s 99; and

(12) RCW 24.06.915 (Notice to existing corporations) and 1982 c 35 s 164 & 1969 ex.s. c 120 s 109.

PART V

GENERAL AND LIMITED LIABILITY PARTNERSHIPS AND REVISED UNIFORM PARTNERSHIP ACT REVISIONS

Sec. 5101. RCW 25.05.005 and 2009 c 202 s 3 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Business" includes every trade, occupation, and profession.

(2) "Debtor in bankruptcy" means a person who is the subject of:

(a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) A comparable order under federal, state, or foreign law governing insolvency.

(3) "Distribution" means a transfer of money or other property from a partnership to a partner in the partner's capacity as a partner or to the partner's transferee.

(4) "Foreign limited liability partnership" means a partnership that:

(a) Is formed under laws other than the laws of this state; and

(b) Has the status of a limited liability partnership under those laws.

(5) "Limited liability partnership" means a partnership that has filed an application under RCW 25.05.500 and does not have a similar statement in effect in any other jurisdiction.

(6) "Partnership" means an association of two or more persons to carry on as co-owners a business for profit formed under RCW 25.05.055, predecessor law, or comparable law of another jurisdiction.

(7) "Partnership agreement" means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(8) "Partnership at will" means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(9) "Partnership interest" or "partner's interest in the partnership" means all of a partner's interests in the partnership, including the partner's transferable interest and all management and other rights.

(10) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(11) "Property" means all property, real, personal, or mixed, tangible or intangible, or any interest therein.

(12) "Registered agent" means ~~((an individual resident of this state, a domestic corporation, a government, governmental subdivision, agency, or instrumentality, or a foreign corporation authorized to do business in this state))~~ the person designated under part I, Article 4 of this act to serve as the agent of the entity authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity.

(13) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States.

(14) "Statement" means a statement of partnership authority under RCW 25.05.110, a statement of denial under RCW 25.05.115, a statement of dissociation under RCW 25.05.265, a statement of dissolution under RCW 25.05.320, or an amendment or cancellation of any statement under these sections.

(15) "Transfer" includes an assignment, conveyance, lease, mortgage, deed, and encumbrance.

Sec. 5102. RCW 25.05.025 and 1998 c 103 s 105 are each amended to read as follows:

(1) A statement may be ~~((filed in))~~ delivered to the office of the secretary of state for filing in accordance with part I, Article 2 of this act. A certified copy of a statement that is filed in an office in another state may be ~~((filed in))~~ delivered to the office of the secretary of state for filing in accordance with part I, Article 2 of this act. Either filing has the effect provided in this chapter with respect to partnership property located in or transactions that occur in this state.

(2) A statement ~~((filed))~~ delivered by a partnership to the secretary of state for filing must be executed by at least two partners. Other statements must be executed by a partner or other person authorized by this chapter. An individual who executes a statement as, or on behalf of, a partner or other person shall personally declare under penalty of perjury that the contents of the statement are accurate.

(3) A person authorized by this chapter to ~~((file))~~ deliver a statement to the secretary of state for filing may amend or cancel the statement by delivering to the secretary of state for filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(4) A person who ~~((files))~~ delivers a statement ~~((pursuant to this section))~~ to the secretary of state for filing shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.

Sec. 5103. RCW 25.05.110 and 1998 c 103 s 303 are each amended to read as follows:

(1) A partnership may ~~((file))~~ deliver to the secretary of state for filing a statement of partnership authority, which:

(a) Must include:

(i) The name of the partnership; and

(ii) The street address of its chief executive office and of one office in this state, if there is one; and

(b) May state the names of all of the partners, the names of the partners authorized to execute an instrument transferring real property held in the name of the partnership, the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(2) A grant of authority contained in a filed statement of partnership authority is conclusive in favor of a person not a partner who gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in a subsequently filed statement. A filed cancellation of a limitation on authority revives the previous grant of authority.

(3) A person not a partner is deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if the limitation is contained in a filed statement of partnership authority.

(4) Except as otherwise provided in subsection (3) of this section and RCW 25.05.265 and 25.05.320, a person not a partner is not deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

(5) Unless earlier canceled, a filed statement of partnership authority is canceled by operation of law five years after the date on which the statement, or the most recent amendment, was filed (~~with~~) by the secretary of state.

Sec. 5104. RCW 25.05.115 and 1998 c 103 s 304 are each amended to read as follows:

A partner, or other person named as a partner in a filed statement of partnership authority, may (~~file~~) deliver to the secretary of state for filing a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person's authority or status as a partner. A statement of denial is a limitation on authority as provided in RCW 25.05.110 (2) and (3).

Sec. 5105. RCW 25.05.355 and 2009 c 188 s 1405 are each amended to read as follows:

(1) A partnership may be converted to a limited partnership pursuant to this section.

(2) The terms and conditions of a conversion of a partnership to a limited partnership must be approved by all of the partners or by a number or percentage specified for conversion in the partnership agreement.

(3) After the conversion is approved by the partners, the partnership shall file a certificate of limited partnership in the jurisdiction in which the limited partnership is to be formed. The certificate must include:

(a) A statement that the partnership was converted to a limited partnership from a partnership;

(b) Its former name; and

(c) A statement of the number of votes cast by the partners for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement.

(4) If the partnership was converted to a domestic limited partnership, the certificate must also include:

(a) The name of the limited partnership;

(b) The address of the office for records and the name and address of the registered agent for service of process (~~(appointed pursuant to RCW 25.10.121)~~) designated in accordance with part I, Article 4 of this act;

(c) The name and the geographical and mailing address of each general partner;

(d) The latest date upon which the limited partnership is to dissolve; and

(e) Any other matters the general partners determine to include therein.

(5) The conversion takes effect when the certificate of limited partnership is filed or at any later date specified in the certificate in accordance with section 1203 of this act.

(6) A general partner who becomes a limited partner as a result of the conversion remains liable as a general partner for an obligation incurred by the partnership before the conversion takes effect. If the other party to a transaction with the limited partnership reasonably believes when entering the transaction that the limited partner is a general partner, the limited partner is liable for an obligation incurred by the limited partnership within ninety days after the conversion takes effect. The limited partner's liability for all other obligations of the limited partnership incurred after the conversion takes effect is that of a limited partner as provided in the Washington uniform limited partnership act.

Sec. 5106. RCW 25.05.370 and 1998 c 103 s 905 are each amended to read as follows:

(1) One or more domestic partnerships may merge with one or more domestic partnerships, domestic limited partnerships, domestic limited liability companies, or domestic corporations pursuant to a plan of merger approved or adopted as provided in RCW 25.05.375.

(2) The plan of merger must set forth:

(a) The name of each partnership, limited liability company, limited partnership, and corporation planning to merge and the name of the surviving partnership, limited liability company, limited partnership, or corporation into which the other partnership, limited liability company, limited partnership, or corporation plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the interests of each member of each limited liability company, the partnership interests in each partnership and each limited partnership, and the shares of each corporation party to the merger into the interests, shares, obligations, or other securities of the surviving or any other partnership, limited liability company, limited partnership, or corporation or into cash or other property in whole or part.

(3) The plan of merger may set forth:

(a) Amendments to the certificate of formation of the surviving limited liability company;

(b) Amendments to the certificate of limited partnership of the surviving limited partnership;

(c) Amendments to the articles of incorporation of the surviving corporation; and

(d) Other provisions relating to the merger.

(4) If the plan of merger does not specify a delayed effective date, it shall become effective upon the filing of articles of merger as provided in section 1203 of this act. ~~((If the))~~ A plan of merger ~~((specifies))~~ may specify a delayed

effective time and date(~~(, the plan of merger becomes effective at the time and date specified. If the plan of merger specifies a delayed effective date but no time is specified, the plan of merger is effective at the close of business on that date. A delayed effective date for a plan of merger may not be later than the ninetieth day after the date it is filed))~~) in accordance with section 1203 of this act.

Sec. 5107. RCW 25.05.390 and 2009 c 188 s 1408 are each amended to read as follows:

(1) One or more foreign partnerships, foreign limited liability companies, foreign limited partnerships, and foreign corporations may merge with one or more domestic partnerships, domestic limited liability companies, domestic limited partnerships, or domestic corporations if:

(a) The merger is permitted by the law of the jurisdiction under which each foreign partnership was organized, each foreign limited liability company was formed, each foreign limited partnership was organized, and each foreign corporation was incorporated, and each foreign partnership, foreign limited liability company, foreign limited partnership, and foreign corporation complies with that law in effecting the merger;

(b) The surviving entity complies with RCW 25.05.380;

(c) Each domestic limited liability company complies with RCW 25.15.400;

(d) Each domestic limited partnership complies with RCW 25.10.781; and

(e) Each domestic corporation complies with RCW 23B.11.080.

(2) Upon the merger taking effect, a surviving foreign limited liability company, limited partnership, or corporation (~~(is deemed to appoint the secretary of state as its agent for service of)~~) may be served with process in accordance with section 1411 of this act in a proceeding to enforce any obligation or the rights of dissenting members, partners, or shareholders of each domestic limited liability company, domestic limited partnership, or domestic corporation party to the merger.

Sec. 5108. RCW 25.05.500 and 2010 1st sp.s. c 29 s 5 are each amended to read as follows:

(1) A partnership which is not a limited liability partnership on June 11, 1998, may become a limited liability partnership upon the approval of the terms and conditions upon which it becomes a limited liability partnership by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute to the partnership, the vote necessary to amend those provisions, and by delivering to the secretary of state for filing the applications required by subsection (2) of this section. A partnership which is a limited liability partnership on June 11, 1998, continues as a limited liability partnership under this chapter.

(2)(a) To become and to continue as a limited liability partnership, a partnership must (~~(file with))~~ deliver to the secretary of state for filing an application stating the name of the partnership; (~~(the location of a registered office, which need not be a place of its activity in this state;))~~) the address of its principal office; (~~(if the partnership's principal office is not located in this state, the address of a registered office and))~~) the name and address of a registered agent for service of process in this state which the partnership will be required to continuously maintain in accordance with part I, Article 4 of this act; the number

of partners; a brief statement of the business in which the partnership engages; any other matters that the partnership determines to include; and that the partnership thereby applies for status as a limited liability partnership.

(b) A registered agent for service of process under (a) of this subsection ~~((must be an individual who is a resident of this state or other person authorized to do business in this state))~~ may be any person authorized under part I, Article 4 of this act to serve as registered agent.

(3) The application must be accompanied by a fee for each partnership as established by the secretary of state ~~((in rule))~~ under section 1213 of this act.

(4) The secretary of state must register as a limited liability partnership any partnership that submits a completed application with the required fee.

(5) A partnership registered under this section must pay an annual fee, in each year following the year in which its application is filed, on a date and in an amount specified by the secretary of state under section 1213 of this act. The fee must be accompanied by a notice, on a form provided by the secretary of state, of the number of partners currently in the partnership and of any material changes in the information contained in the partnership's application for registration.

(6) Registration is effective ~~((immediately after the date an application is filed))~~ as specified in section 1203 of this act, and remains effective until:

(a) It is voluntarily withdrawn by ~~((filing with))~~ delivering to the secretary of state for filing a written withdrawal notice executed by a majority of the partners or by one or more partners or other persons authorized to execute a withdrawal notice; or

(b) Thirty days after receipt by the partnership of a notice from the secretary of state, which notice must be sent by first-class mail, postage prepaid, that the partnership has failed to make timely payment of the annual fee specified in subsection (5) of this section, unless the fee is paid within such a thirty-day period.

(7) The status of a partnership as a limited liability partnership, and the liability of the partners thereof, is not affected by: (a) Errors in the information stated in an application under subsection (2) of this section or a notice under subsection (6) of this section; or (b) changes after the filing of such an application or notice in the information stated in the application or notice.

~~((8) The secretary of state may provide forms for the application under subsection (2) of this section or a notice under subsection (6) of this section.))~~

Sec. 5109. RCW 25.05.505 and 1998 c 103 s 1102 are each amended to read as follows:

The name of a limited liability partnership ~~((shall contain the words "limited liability partnership" or the abbreviation "L.L.P." or "LLP" as the last words or letters of its name))~~ must comply with part I, Article 3 of this act.

Sec. 5110. RCW 25.05.530 and 2009 c 437 s 5 are each amended to read as follows:

~~((1) In order to))~~ A limited liability partnership may change its ((registered office,)) registered agent for service of process, ((or the address of its registered agent for service of process, a limited liability partnership must deliver to the secretary of state for filing a statement of change containing:

(a) The name of the limited liability partnership;

- ~~(b) The street and mailing address of its current registered office;~~
- ~~(c) If the current registered office is to be changed, the street and mailing address of the new registered office;~~
- ~~(d) The name and street and mailing address of its current registered agent for service of process; and~~
- ~~(e) If the current registered agent for service of process or an address of the registered agent is to be changed, the new information.~~
- (2) A statement of change is effective when filed by the secretary of state)) by delivering to the secretary of state for filing a statement of change in accordance with section 1407 of this act.

Sec. 5111. RCW 25.05.533 and 2009 c 437 s 6 are each amended to read as follows:

~~((1) In order to resign as)) A registered agent for service of process of a limited liability partnership(~~the registered agent must deliver to the secretary of state for filing a statement of resignation containing the name of the limited liability partnership.~~~~

~~(2) After receiving a statement of resignation, the secretary of state shall file it and mail a copy to the registered office of the limited liability partnership and another copy to the principal office if the address of the office appears in the records of the secretary of state and is different from the address of the registered office.~~

~~(3) A registered agent for service of process is terminated on the thirty first day after the secretary of state files the statement of resignation)) may resign as agent by delivering to the secretary of state for filing a statement of resignation in accordance with section 1410 of this act.~~

Sec. 5112. RCW 25.05.536 and 2009 c 437 s 7 are each amended to read as follows:

~~((1) A registered agent for service of process appointed by a limited liability partnership is a registered agent of the limited liability partnership for)) Service of any process, notice, or demand required or permitted by law to be served upon the limited liability partnership may be made in accordance with section 1411 of this act.~~

~~((2) If a limited liability partnership does not appoint or maintain a registered agent for service of process in this state or the registered agent for service of process cannot with reasonable diligence be found at the registered agent's address, the secretary of state is an agent of the limited liability partnership upon whom process, notice, or demand may be served.~~

~~(3) Service of any process, notice, or demand on the secretary of state may be made by delivering to and leaving with the secretary of state duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the secretary of state, the secretary of state shall forward one of the copies by registered or certified mail, return receipt requested, to the limited liability partnership at its registered office.~~

~~(4) Service is effected under subsection (3) of this section at the earliest of:~~

- ~~(a) The date the limited liability partnership receives the process, notice, or demand;~~
- ~~(b) The date shown on the return receipt, if signed on behalf of the limited liability partnership; or~~

(e) Five days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.

(5) The secretary of state shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.

(6) This section does not affect the right to serve process, notice, or demand in any other manner provided by law.)

Sec. 5113. RCW 25.05.550 and 1998 c 103 s 1201 are each amended to read as follows:

~~((1) The law under which a foreign limited liability partnership is formed governs relations among the partners and between the partners and the partnership and, except as otherwise provided in RCW 25.05.125(4), the liability of partners for obligations of the partnership.~~

~~(2) A foreign limited liability partnership may not be denied a statement of foreign qualification by reason of any difference between the law under which the partnership was formed and the law of this state.~~

~~(3) A statement of foreign qualification does not authorize a foreign limited liability partnership to engage in any business or exercise any power that a partnership may not engage in or exercise in this state as a limited liability partnership)) A foreign limited liability partnership that registers to transact business in this state is subject to section 1501 of this act relating to the effect of registration and the governing law for registered foreign limited liability partnerships.~~

Sec. 5114. RCW 25.05.555 and 1998 c 103 s 1202 are each amended to read as follows:

Before transacting business in this state, a foreign limited liability partnership must register with the secretary of state ~~((under this chapter in the same manner as a limited liability partnership, except that if the foreign limited liability partnership's name contains the words "registered limited liability partnership" or the abbreviation "R.L.L.P." or "RLLP," it may include those words or abbreviations in its application with the secretary of state)) in accordance with part I, Article 5 of this act.~~

Sec. 5115. RCW 25.05.560 and 2009 c 437 s 12 are each amended to read as follows:

~~((4)) A foreign limited liability partnership transacting business in this state ~~((may not maintain an action or proceeding in this state unless it has in effect a registration as a foreign limited liability partnership.~~~~

~~(2) The failure of a foreign limited liability partnership to have in effect a registration as a foreign limited liability partnership does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this state.~~

~~(3) A limitation on personal liability of a partner is not waived solely by transacting business in this state without registration as a foreign limited liability partnership)) without registering with the secretary of state is subject to section 1502 of this act.~~

~~((4)) If a foreign limited liability partnership transacts business in this state without a registration as a foreign limited liability partnership, ~~((the secretary of state is its agent, as set forth under RCW 25.05.589, for))~~ service of process with~~

respect to a right of action arising out of the transaction of business in this state may be made on the foreign limited liability partnership in accordance with section 1411 of this act.

Sec. 5116. RCW 25.05.565 and 1998 c 103 s 1204 are each amended to read as follows:

~~((4))~~ A nonexhaustive list of activities of a foreign limited liability partnership ((which)) that do not constitute transacting business ((for the purpose of this article include:

- ~~(a) Maintaining, defending, or settling an action or proceeding;~~
 - ~~(b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;~~
 - ~~(c) Maintaining bank accounts;~~
 - ~~(d) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities;~~
 - ~~(e) Selling through independent contractors;~~
 - ~~(f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;~~
 - ~~(g) Creating or acquiring indebtedness, with or without a mortgage, or other security interest in property;~~
 - ~~(h) Collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;~~
 - ~~(i) Conducting an isolated transaction that is completed within thirty days and is not one in the course of similar transactions; and~~
 - ~~(j) Transacting business in interstate commerce.~~
- ~~(2) For purposes of this article, the ownership in this state of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this state.~~

~~(3) This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership to service of process, taxation, or regulation under any other law of this state)) in this state is provided in section 1505 of this act.~~

Sec. 5117. RCW 25.05.580 and 2009 c 437 s 8 are each amended to read as follows:

~~((4))~~ A foreign limited liability partnership shall designate and continuously maintain in this state(~~:~~

- ~~(a) A registered office, which need not be a place of its activity in this state; and~~
 - ~~(b) A registered agent for service of process.~~
- ~~(2) A registered agent for service of process of a foreign limited liability partnership must be an individual who is a resident of this state or other person authorized to do business in this state)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 5118. RCW 25.05.583 and 2009 c 437 s 9 are each amended to read as follows:

~~((1) In order to))~~ A foreign limited liability partnership may change its
~~((registered office,))~~ registered agent for service of process,~~(, or the address of~~
~~its registered agent for service of process, a foreign limited liability partnership~~
~~must deliver to the secretary of state for filing a statement of change containing:~~

- ~~(a) The name of the foreign limited liability partnership;~~
- ~~(b) The street and mailing address of its current registered office;~~
- ~~(c) If the current registered office is to be changed, the street and mailing address of the new registered office;~~
- ~~(d) The name and street and mailing address of its current registered agent for service of process; and~~
- ~~(e) If the current registered agent for service of process or an address of the registered agent is to be changed, the new information.~~

~~(2) A statement of change is effective when filed by the secretary of state))~~
by delivering to the secretary of state for filing a statement of change in accordance with section 1407 of this act.

Sec. 5119. RCW 25.05.586 and 2009 c 437 s 10 are each amended to read as follows:

~~((1) In order to resign as a registered agent for service of process of a foreign limited liability partnership, the registered agent must deliver to the secretary of state for filing a statement of resignation containing the name of the foreign limited liability partnership.~~

~~(2) After receiving a statement of resignation, the secretary of state shall file it and mail a copy to the registered office of the foreign limited liability partnership and another copy to the principal office if the address of the office appears in the records of the secretary of state and is different from the address of the registered office.~~

~~(3) A registered agent for service of process is terminated on the thirty-first day after the secretary of state files the statement of resignation))~~ A registered agent of a foreign limited liability partnership may resign as agent by delivering to the secretary of state for filing a statement of resignation in accordance with section 1410 of this act.

Sec. 5120. RCW 25.05.589 and 2009 c 437 s 11 are each amended to read as follows:

~~((1) A registered agent for service of process appointed by a foreign limited liability partnership is a registered agent of the foreign limited liability partnership for))~~ Service of any process, notice, or demand required or permitted by law to be served upon the foreign limited liability partnership((-

~~(2) If a foreign limited liability partnership does not appoint or maintain a registered agent for service of process in this state or the registered agent for service of process cannot with reasonable diligence be found at the registered agent's address, the secretary of state is an agent of the foreign limited liability partnership upon whom process, notice, or demand may be served.~~

~~(3) Service of any process, notice, or demand on the secretary of state may be made by delivering to and leaving with the secretary of state duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the secretary of state, the secretary of state shall forward one of the copies by registered or certified mail, return receipt requested, to the foreign limited liability partnership at its registered office.~~

(4) Service is effected under subsection (3) of this section at the earliest of:

(a) ~~The date the foreign limited liability partnership receives the process, notice, or demand;~~

(b) ~~The date shown on the return receipt, if signed on behalf of the foreign limited liability partnership; or~~

(c) ~~Five days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.~~

(5) ~~The secretary of state shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.~~

(6) ~~This section does not affect the right to serve process, notice, or demand in any other manner provided by law)) may be made in accordance with section 1411 of this act.~~

Sec. 5121. RCW 25.05.902 and 1998 c 103 s 1306 are each amended to read as follows:

~~((4)) Partnerships are subject to the applicable fees, charges, and penalties established by the secretary of state ((shall adopt rules establishing fees which shall be charged and collected for:~~

(a) ~~Filing of a statement;~~

(b) ~~Filing of a certified copy of a statement that is filed in an office in another state;~~

(c) ~~Filing amendments to any of the foregoing or any other certificate, statement, or report authorized or permitted to be filed; and~~

(d) ~~Copies, certified copies, certificates, and expedited filings or other special services.~~

(2) ~~In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations covered by Title 23B RCW. Fees for copies, certified copies, and certificates of record shall be as provided for in RCW 23B.01.220.~~

(3) ~~All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law)) under section 1213 of this act and RCW 43.07.120.~~

NEW SECTION. **Sec. 5122.** The following acts or parts of acts are each repealed:

(1) RCW 25.04.716 (Name—Reservation of exclusive right—Filing) and 1998 c 102 s 7; and

(2) RCW 25.05.570 (Action by attorney general) and 1998 c 103 s 1205.

PART VI

UNIFORM LIMITED PARTNERSHIP ACT REVISIONS

Sec. 6101. RCW 25.10.011 and 2009 c 188 s 102 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Certificate of limited partnership" means the certificate required by RCW 25.10.201, including the certificate as amended or restated.

(2) "Contribution," except in the term "right of contribution," means any benefit provided by a person to a limited partnership in order to become a partner or in the person's capacity as a partner.

(3) "Debtor in bankruptcy" means a person that is the subject of:

(a) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(b) A comparable order under federal, state, or foreign law governing insolvency.

(4) "Designated office" means(=

~~(a) With respect to a limited partnership, the office that the limited partnership is required to designate and maintain under RCW 25.10.121; and~~

~~(b) With respect to a foreign limited partnership, its principal office)) the principal office indicated in the limited partnership's most recent annual report, or if the principal office is not located within this state, the office of the limited partnership's registered agent.~~

(5) "Distribution" means a transfer of money or other property from a limited partnership to a partner in the partner's capacity as a partner or to a transferee on account of a transferable interest owned by the transferee.

(6) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the obligations of the foreign limited partnership under a provision similar to RCW 25.10.401(3).

(7) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. "Foreign limited partnership" includes a foreign limited liability limited partnership.

(8) "General partner" means:

(a) With respect to a limited partnership, a person that:

(i) Becomes a general partner under RCW 25.10.371; or

(ii) Was a general partner in a limited partnership when the limited partnership became subject to this chapter under RCW 25.10.911 (1) or (2); and

(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(9) "Limited liability limited partnership," except in the term "foreign limited liability limited partnership," means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(10) "Limited partner" means:

(a) With respect to a limited partnership, a person that:

(i) Becomes a limited partner under RCW 25.10.301; or

(ii) Was a limited partner in a limited partnership when the limited partnership became subject to this chapter under RCW 25.10.911 (1) or (2); and

(b) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(11) "Limited partnership," except in the terms "foreign limited partnership" and "foreign limited liability limited partnership," means an entity, having one or more general partners and one or more limited partners, that is formed under this chapter by two or more persons or becomes subject to this chapter under article

11 of this chapter or RCW 25.10.911 (1) or (2). "Limited partnership" includes a limited liability limited partnership.

(12) "Partner" means a limited partner or general partner.

(13) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. "Partnership agreement" includes the agreement as amended.

(14) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity.

(15) "Person dissociated as a general partner" means a person dissociated as a general partner of a limited partnership.

(16) "Principal office" means the office where the principal executive office of a limited partnership or foreign limited partnership is located, whether or not the office is located in this state.

(17) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(18) "Required information" means the information that a limited partnership is required to maintain under RCW 25.10.091.

(19) "Sign" means:

(a) To sign with respect to a written record;

(b) To electronically transmit along with sufficient information to determine the sender's identity with respect to an electronic transmission; or

(c) With respect to a record to be filed with the secretary of state, to comply with the standard for filing with the office of the secretary of state as prescribed by the secretary of state.

(20) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(21) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, mortgage, security interest, encumbrance, gift, and transfer by operation of law.

(22) "Transferable interest" means a partner's right to receive distributions.

(23) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

Sec. 6102. RCW 25.10.061 and 2009 c 188 s 108 are each amended to read as follows:

~~((1))~~ The name of a limited partnership ~~((may contain the name of any partner.~~

~~(2) The name of a limited partnership that is not a limited liability limited partnership must contain the term "limited partnership" or the abbreviation "LP" or "L.P." and may not contain the term "limited liability limited partnership" or the abbreviation "LLL" or "L.L.L.P."~~

~~(3) The name of a limited liability limited partnership must contain the term "limited liability limited partnership" or the abbreviation "LLL" or "L.L.L.P." and must not contain the abbreviation "LP" or "L.P."~~

~~(4) Unless authorized by subsection (5) of this section, the name of a limited partnership must be distinguishable in the records of the secretary of state from:~~

~~(a) The name of each person other than an individual incorporated, organized, or authorized to transact business in this state through a filing or registration with the secretary of state; and~~

~~(b) Each name reserved under RCW 25.10.071.~~

~~(5) A limited partnership may apply to the secretary of state for authorization to use a name that does not comply with subsection (4) of this section. The secretary of state shall authorize use of the name applied for if, as to each conflicting name:~~

~~(a) The present user, registrant, or owner of the conflicting name consents in a signed record to the use and submits an undertaking in a form satisfactory to the secretary of state to change the conflicting name to a name that complies with subsection (4) of this section and is distinguishable in the records of the secretary of state from the name applied for;~~

~~(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use in this state the name applied for; or~~

~~(c) The applicant delivers to the secretary of state proof satisfactory to the secretary of state that the present user, registrant, or owner of the conflicting name:~~

~~(i) Has merged into the applicant;~~

~~(ii) Has been converted into the applicant; or~~

~~(iii) Has transferred substantially all of its assets, including the conflicting name, to the applicant.~~

~~(6) Subject to RCW 25.10.661, this section applies to any foreign limited partnership transacting business in this state, having a certificate of authority to transact business in this state, or applying for a certificate of authority.~~

~~(7) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:~~

~~(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "limited," "partnership," "limited partnership," "limited liability limited partnership," "limited liability company," or "limited liability partnership," or the abbreviations "corp.," "inc.," "co.," "ltd.," "LP," "L.P.," "LLP," "L.L.P.," "LLLLP," "L.L.L.P.," "LLC," or "L.L.C.;"~~

~~(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;~~

~~(c) Punctuation, capitalization, or special characters or symbols in the same name; or~~

~~(d) Use of abbreviation or the plural form of a word in the same name.~~

~~(8) This chapter does not control the use of assumed business names or trade names)) must comply with the provisions of part I, Article 3 of this act.~~

Sec. 6103. RCW 25.10.071 and 2009 c 188 s 109 are each amended to read as follows:

~~((4)) A person may reserve the exclusive right to the use of a limited partnership name ((that complies with RCW 25.10.061 may be reserved by:~~

~~(a) A person intending to organize a limited partnership under this chapter and to adopt the name;~~

~~(b) A limited partnership or a foreign limited partnership authorized to transact business in this state intending to adopt the name;~~

~~(e) A foreign limited partnership intending to obtain a certificate of authority to transact business in this state and adopt the name;~~

~~(d) A person intending to organize a foreign limited partnership and intending to have it obtain a certificate of authority to transact business in this state and adopt the name;~~

~~(e) A foreign limited partnership formed under the name; or~~

~~(f) A foreign limited partnership formed under a name that does not comply with RCW 25.10.061 (2) or (3), but the name reserved under this subsection (1)(f) may differ from the foreign limited partnership's name only to the extent necessary to comply with RCW 25.10.061 (2) and (3).~~

~~(2) A person may apply to reserve a name under subsection (1) of this section by delivering to the secretary of state for filing an application that states the name to be reserved and the subsection of subsection (1) of this section that applies. If the secretary of state finds that the name is available for use by the applicant, the secretary of state shall file a statement of name reservation and thereby reserve the name for the exclusive use of the applicant for one hundred eighty days.~~

~~(3) An applicant that has reserved a name pursuant to subsection (2) of this section may reserve the same name for additional one hundred eighty-day periods. A person having a current reservation for a name may not apply for another one hundred eighty-day period for the same name until ninety days have elapsed in the current reservation.~~

~~(4) A person that has reserved a name under this section may deliver to the secretary of state for filing a notice of transfer that states the reserved name, the name and street and mailing address of some other person to which the reservation is to be transferred, and the subsection of subsection (1) of this section that applies to the other person. Subject to RCW 25.10.251(3), the transfer is effective when the secretary of state files the notice of transfer)) in accordance with section 1303 of this act.~~

Sec. 6104. RCW 25.10.121 and 2009 c 188 s 114 are each amended to read as follows:

~~((4))~~ A limited partnership or foreign limited partnership shall designate and continuously maintain in this state~~((:~~

~~(a) An office, which need not be a place of its activity in this state; and~~

~~(b) An agent for service of process.~~

~~(2) A foreign limited partnership shall designate and continuously maintain in this state an agent for service of process.~~

~~(3) An agent for service of process of a limited partnership or foreign limited partnership must be an individual who is a resident of this state or other person authorized to do business in this state)) a registered agent in accordance with part I, Article 4 of this act.~~

Sec. 6105. RCW 25.10.131 and 2009 c 188 s 115 are each amended to read as follows:

~~((1) In order to change its designated office, agent for service of process, or the address of its agent for service of process,)) A limited partnership or a foreign limited partnership ~~((must deliver))~~ may change its registered agent by delivering to the secretary of state for filing a statement of change ~~((containing:~~~~

~~(a) The name of the limited partnership or foreign limited partnership;~~

- (b) ~~The street and mailing address of its current designated office;~~
 (e) ~~If the current designated office is to be changed, the street and mailing address of the new designated office;~~
 (d) ~~The name and street and mailing address of its current agent for service of process; and~~
 (e) ~~If the current agent for service of process or an address of the agent is to be changed, the new information.~~
 (2) ~~Subject to RCW 25.10.251(3), a statement of change is effective when filed by the secretary of state))~~ in accordance with section 1407 of this act.

Sec. 6106. RCW 25.10.141 and 2009 c 188 s 116 are each amended to read as follows:

~~((1) In order to))~~ A registered agent may resign as an agent for service of process of a limited partnership or foreign limited partnership(~~(, the agent must deliver))~~ by delivering to the secretary of state for filing a statement of resignation (~~(containing the name of the limited partnership or foreign limited partnership.~~

(2) ~~After receiving a statement of resignation, the secretary of state shall file it and mail a copy to the designated office of the limited partnership or foreign limited partnership and another copy to the principal office if the address of the office appears in the records of the secretary of state and is different from the address of the designated office.~~

(3) ~~An agent for service of process is terminated on the thirty-first day after the secretary of state files the statement of resignation))~~ in accordance with section 1410 of this act.

Sec. 6107. RCW 25.10.151 and 2009 c 188 s 117 are each amended to read as follows:

~~((1) An agent for service of process appointed by a limited partnership or foreign limited partnership is an agent of the limited partnership or foreign limited partnership for))~~ Service of any process, notice, or demand required or permitted by law to be served upon the limited partnership or foreign limited partnership(

(2) ~~If a limited partnership or foreign limited partnership does not appoint or maintain an agent for service of process in this state or the agent for service of process cannot with reasonable diligence be found at the agent's address, the secretary of state is an agent of the limited partnership or foreign limited partnership upon whom process, notice, or demand may be served.~~

(3) ~~Service of any process, notice, or demand on the secretary of state may be made by delivering to and leaving with the secretary of state duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the secretary of state, the secretary of state shall forward one of the copies by registered or certified mail, return receipt requested, to the limited partnership or foreign limited partnership at its designated office.~~

- (4) ~~Service is effected under subsection (3) of this section at the earliest of:~~
 (a) ~~The date the limited partnership or foreign limited partnership receives the process, notice, or demand;~~
 (b) ~~The date shown on the return receipt, if signed on behalf of the limited partnership or foreign limited partnership; or~~

~~(e) Five days after the process, notice, or demand is deposited in the mail, if mailed postpaid and correctly addressed.~~

~~(5) The secretary of state shall keep a record of each process, notice, and demand served pursuant to this section and record the time of, and the action taken regarding, the service.~~

~~(6) This section does not affect the right to serve process, notice, or demand in any other manner provided by law)) may be made in accordance with section 1411 of this act.~~

Sec. 6108. RCW 25.10.201 and 2009 c 188 s 201 are each amended to read as follows:

(1) In order for a limited partnership to be formed, a certificate of limited partnership must be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. The certificate of limited partnership must state:

(a) The name of the limited partnership, which must comply with ~~((RCW 25.10.061))~~ part I, Article 3 of this act;

(b) The ~~((street and mailing address of the initial designated office and the))~~ name and street and mailing address of the initial agent for service of process;

(c) The name and the street and mailing address of each general partner;

(d) Whether the limited partnership is a limited liability limited partnership; and

(e) Any additional information required by article 11 of this chapter.

(2) A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in RCW 25.10.081(2) in a manner inconsistent with that section.

(3) If there has been substantial compliance with subsection (1) of this section, subject to ~~((RCW 25.10.251(3)))~~ section 1203 of this act, a limited partnership is formed when the secretary of state files the certificate of limited partnership.

(4) Subject to subsection (2) of this section, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership or with a filed statement of dissociation, termination, or change or filed articles of conversion or merger:

(a) The partnership agreement prevails as to partners and transferees; and

(b) The filed certificate of limited partnership, statement of dissociation, termination, or change or articles of conversion or merger prevails as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

Sec. 6109. RCW 25.10.211 and 2009 c 188 s 202 are each amended to read as follows:

(1) In order to amend its certificate of limited partnership, a limited partnership must deliver to the secretary of state for filing an amendment or, pursuant to article 11 of this chapter, articles of merger stating:

(a) The name of the limited partnership;

(b) The date of filing of its initial certificate of limited partnership; and

(c) The changes the amendment makes to the certificate of limited partnership as most recently amended or restated.

(2) A limited partnership shall promptly deliver to the secretary of state for filing an amendment to a certificate of limited partnership to reflect:

- (a) The admission of a new general partner;
- (b) The dissociation of a person as a general partner; or
- (c) The appointment of a person to wind up the limited partnership's activities under RCW 25.10.581 (3) or (4).

(3) A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

- (a) Cause the certificate of limited partnership to be amended; or
- (b) If appropriate, deliver to the secretary of state for filing a statement of change pursuant to ((~~RCW 25.10.131~~) section 1407 of this act) or a statement of correction pursuant to ((~~RCW 25.10.261~~) section 1205 of this act).

(4) A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

(5) A restated certificate of limited partnership may be delivered to the secretary of state for filing in the same manner as an amendment.

(6) ((~~Subject to RCW 25.10.251(3),~~) An amendment or restated certificate of limited partnership is effective when filed by the secretary of state as provided in section 1203 of this act, and may state a delayed effective date in accordance with section 1203 of this act.

Sec. 6110. RCW 25.10.231 and 2009 c 188 s 204 are each amended to read as follows:

(1) Each record delivered to the secretary of state for filing pursuant to ((~~this chapter~~) part I, Article 2 of this act) must be signed in the following manner:

(a) An initial certificate of limited partnership must be signed by all general partners listed in the certificate.

(b) An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership must be signed by all general partners listed in the certificate.

(c) An amendment designating as general partner a person admitted under RCW 25.10.571(3)(b) following the dissociation of a limited partnership's last general partner must be signed by that person.

(d) An amendment required by RCW 25.10.581(3) following the appointment of a person to wind up the dissolved limited partnership's activities must be signed by that person.

(e) Any other amendment must be signed by:

- (i) At least one general partner listed in the certificate of limited partnership;
- (ii) Each other person designated in the amendment as a new general partner; and

(iii) Each person that the amendment indicates has dissociated as a general partner, unless:

(A) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or

(B) The person has previously delivered to the secretary of state for filing a statement of dissociation.

(f) A restated certificate of limited partnership must be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other subsection of this subsection (1), the certificate must be signed in a manner that satisfies that subsection.

(g) A statement of termination must be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to RCW 25.10.581 (3) or (4) to wind up the dissolved limited partnership's activities.

(h) Articles of conversion must be signed by each general partner listed in the certificate of limited partnership.

(i) Articles of merger must be signed as provided in RCW 25.10.786(1).

(j) Any other record delivered on behalf of a limited partnership to the secretary of state for filing must be signed by at least one general partner listed in the certificate of limited partnership.

(k) A statement by a person pursuant to RCW 25.10.531(1)(d) stating that the person has dissociated as a general partner must be signed by that person.

(l) A statement of withdrawal by a person pursuant to RCW 25.10.351 must be signed by that person.

(m) A record delivered on behalf of a foreign limited partnership to the secretary of state for filing must be signed by at least one general partner of the foreign limited partnership.

(n) Any other record delivered on behalf of any person to the secretary of state for filing must be signed by that person.

(2) Any person may sign by an ~~((attorney-in-fact))~~ agent any record to be ~~((filed pursuant to this chapter))~~ delivered to the secretary of state for filing under part I, Article 2 of this act.

Sec. 6111. RCW 25.10.241 and 2009 c 188 s 205 are each amended to read as follows:

~~((1))~~ If a person required by this chapter to sign a record or deliver a record to the secretary of state for filing does not do so, any other person that is aggrieved may petition the appropriate court ~~((to order:~~

~~(a) The person to sign the record;~~

~~(b) Delivery of the record to the secretary of state for filing; or~~

~~(c) The secretary of state to file the record unsigned.~~

~~(2) If the person aggrieved under subsection (1) of this section is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (1) of this section may seek the remedies provided in subsection (1) of this section in the same action in combination or in the alternative.~~

~~(3) A record filed unsigned pursuant to this section is effective without being signed))~~ under section 1210 of this act to order the signing or delivery of the record.

Sec. 6112. RCW 25.10.251 and 2009 c 188 s 206 are each amended to read as follows:

(1) A record authorized or required to be delivered to the secretary of state for filing under this chapter must ~~((be captioned to describe the record's purpose, be in a medium permitted by the secretary of state, and be delivered to the secretary of state. Unless the secretary of state determines that a record does not comply with the filing requirements of this chapter, and if all filing fees have been paid.))~~ comply with the requirements of part I, Article 2 of this act. The secretary of state shall ~~((file the record and))~~:

- (a) For a statement of dissociation, send:
 - (i) A copy of the filed statement and a receipt for the fees to the person that the statement indicates has dissociated as a general partner; and
 - (ii) A copy of the filed statement and receipt to the limited partnership;
 - (b) For a statement of withdrawal, send:
 - (i) A copy of the filed statement and a receipt for the fees to the person on whose behalf the record was filed; and
 - (ii) If the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership; and
 - (c) For all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.
- ~~(2) ((Upon request and payment of a fee, the secretary of state shall send to the requester a certified copy of the requested record.~~
- ~~(3) Except as otherwise provided in RCW 25.10.141 and 25.10.261,))~~ A record delivered to the secretary of state for filing under this chapter may specify an effective time and a delayed effective date in accordance with section 1203 of this act. Except as otherwise provided in this chapter, a record filed by the secretary of state is effective(~~(:~~
- ~~(a) If the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the secretary of state's endorsement of the date and time on the record;~~
 - ~~(b) If the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;~~
 - ~~(c) If the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:~~
 - ~~(i) The specified date; or~~
 - ~~(ii) The ninetieth day after the record is filed; or~~
 - ~~(d) If the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:~~
 - ~~(i) The specified date; or~~
 - ~~(ii) The ninetieth day after the record is filed))~~ as provided in section 1203 of this act.

Sec. 6113. RCW 25.10.261 and 2009 c 188 s 207 are each amended to read as follows:

~~((4))~~ A limited partnership or foreign limited partnership may ~~((deliver to the secretary of state for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the secretary of state and filed by the secretary of state, if at the time of filing the record contained false or erroneous information or was defectively signed.~~

~~(2) A statement of correction may not state a delayed effective date and must:~~

~~(a) Describe the record to be corrected, including its filing date, or attach a copy of the record as filed;~~

~~(b) Specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and~~

~~(c) Correct the incorrect information or defective signature.~~

~~(3) When filed by the secretary of state, a statement of correction is effective retroactively as of the effective date of the record the statement corrects, but the statement is effective when filed:~~

(a) For the purposes of RCW 25.10.016 (3) and (4); and

(b) As to persons relying on the uncorrected record and adversely affected by the correction)) correct a record filed by the secretary of state in accordance with section 1205 of this act.

Sec. 6114. RCW 25.10.271 and 2009 c 188 s 208 are each amended to read as follows:

(1) If a record delivered to the secretary of state for filing under this chapter and filed by the secretary of state contains false information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(a) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be false at the time the record was signed; and

(b) A general partner that has notice that the information was false when the record was filed or has become false because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under RCW 25.10.211, file a petition under RCW 25.10.241, or deliver to the secretary of state for filing a statement of change under ((RCW 25.10.131)) section 1407 of this act or a statement of correction under ((RCW 25.10.261)) section 1205 of this act.

(2) A person who signs a record authorized or required to be filed under this chapter that such a person knows is false in any material respect with intent that the record be delivered to the secretary of state for filing is ((guilty of a gross misdemeanor punishable under chapter 9A.20 RCW)) subject to a criminal penalty under section 1209 of this act.

Sec. 6115. RCW 25.10.281 and 2009 c 188 s 209 are each amended to read as follows:

((4)) Any person may apply to the secretary of state under section 1208 of this act to furnish a certificate of existence for a domestic limited partnership or a certificate of ((authorization)) registration for a foreign limited partnership.

((2) A certificate of existence or authorization means that as of the date of its issuance:

(a) ~~The domestic limited partnership is duly formed under the laws of this state, or that the foreign limited partnership is authorized to transact business in this state;~~

(b) ~~All fees and penalties owed to this state under this chapter have been paid, if (i) payment is reflected in the records of the secretary of state, and (ii) nonpayment affects the existence or authorization of the domestic or foreign limited partnership;~~

(c) ~~The limited partnership's most recent annual report required by RCW 25.10.291 has been delivered to the secretary of state;~~

(d) ~~The partnership's certificate of limited partnership has not been amended to state that the limited partnership is dissolved; and~~

(e) ~~A statement of termination or an application for withdrawal has not been filed by the secretary of state.~~

(3) ~~A person may apply to the secretary of state to issue a certificate covering any fact of record.~~

~~(4) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign limited partnership is in existence or is authorized to transact business in the limited partnership form in this state.)~~

Sec. 6116. RCW 25.10.291 and 2009 c 188 s 210 are each amended to read as follows:

~~((4))~~ A limited partnership or a foreign limited partnership authorized to transact business in this state shall deliver to the secretary of state for filing an annual report ~~((that states:~~

~~(a) The name of the limited partnership or foreign limited partnership;~~

~~(b) The street and mailing address of its designated office and the name and street and mailing address of its agent for service of process in this state;~~

~~(c) In the case of a limited partnership, the street and mailing address of its principal office; and~~

~~(d) In the case of a foreign limited partnership, the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under RCW 25.10.661(1).~~

(2) Information in an annual report must be current as of the date the annual report is delivered to the secretary of state for filing.

~~(3) Annual reports must be delivered to the secretary of state on a date determined by the secretary of state, and at such additional times as the partnership elects.~~

~~(4) If an annual report does not contain the information required in subsection (1) of this section, the secretary of state shall promptly notify the reporting limited partnership or foreign limited partnership and return the report to it for correction. If the report is corrected to contain the information required in subsection (1) of this section and delivered to the secretary of state within thirty days after the effective date of the notice, it is timely delivered.~~

~~(5) If a filed annual report contains an address of a designated office or the name or address of an agent for service of process that differs from the information shown in the records of the secretary of state immediately before the filing, the differing information in the annual report is considered a statement of change under RCW 25.10.131) in accordance with section 1212 of this act.~~

Sec. 6117. RCW 25.10.571 and 2009 c 188 s 801 are each amended to read as follows:

Except as otherwise provided in RCW 25.10.576, a limited partnership is dissolved, and its activities must be wound up, only upon the occurrence of any of the following:

(1) The happening of an event specified in the partnership agreement;

(2) The consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

(3) The passage of ninety days after the dissociation of a person as a general partner if following such dissociation the limited partnership does not have a remaining general partner unless before the end of the period:

(a) Consent to continue the activities of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the

rights to receive distributions as limited partners at the time the consent is to be effective; and

(b) At least one person is admitted as a general partner in accordance with the consent;

(4) The passage of ninety days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner; or

(5) The signing and filing of a ~~((declaration))~~ statement of administrative dissolution by the secretary of state under ~~((RCW 25.10.611(3)))~~ section 1603 of this act.

Sec. 6118. RCW 25.10.611 and 2009 c 188 s 809 are each amended to read as follows:

~~((4))~~ The secretary of state may dissolve a limited partnership administratively ~~((if the limited partnership does not:~~

~~(a) Within sixty days after the due date:~~

~~(i) Pay any fee, tax, or penalty due to the secretary of state under this chapter or other law; or~~

~~(ii) Deliver its annual report to the secretary of state;~~

~~(b) Maintain a registered agent and registered office as required under RCW 25.10.121; or~~

~~(c) Notify the secretary of state that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued.~~

~~(2) If the secretary of state determines that grounds exist for administratively dissolving a limited partnership, the secretary of state shall send notice of the grounds for dissolution to the limited partnership by first class mail, postage prepaid.~~

~~(3) If within sixty days after service of the copy the limited partnership does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist, the secretary of state shall administratively dissolve the limited partnership. The secretary of state shall send the limited partnership a declaration of administrative dissolution stating the grounds for the dissolution.~~

~~(4) A limited partnership administratively dissolved continues its existence but may carry on only activities necessary to wind up its activities and liquidate its assets under RCW 25.10.581 and 25.10.621 and to notify claimants under RCW 25.10.596 and 25.10.601.~~

~~(5) The administrative dissolution of a limited partnership does not terminate the authority of its agent for service of process))~~ under the circumstances and procedures specified in part I, Article 6 of this act.

Sec. 6119. RCW 25.10.616 and 2009 c 188 s 810 are each amended to read as follows:

~~((4))~~ A limited partnership that has been administratively dissolved may apply to the secretary of state for reinstatement ~~((within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:~~

~~(a) The name of the limited partnership and the effective date of its administrative dissolution;~~

~~(b) That the grounds for dissolution either did not exist or have been eliminated; and~~

~~(c) That the limited partnership's name satisfies the requirements of RCW 25.10.061.~~

~~(2) If the secretary of state determines that an application contains the information required by subsection (1) of this section and that the information is correct, the secretary of state shall prepare a declaration of reinstatement that states this determination, sign and file the original of the declaration of reinstatement, and send a copy of the filed declaration to the limited partnership.~~

~~(3) When reinstatement becomes effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the limited partnership may resume its activities as if the administrative dissolution had never occurred)) in accordance with section 1604 of this act.~~

Sec. 6120. RCW 25.10.641 and 2009 c 188 s 901 are each amended to read as follows:

~~((1) The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern relations among the partners of the foreign limited partnership and between the partners and the foreign limited partnership and the liability of partners as partners for an obligation of the foreign limited partnership.~~

~~(2) A foreign limited partnership may not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this state.~~

~~(3) A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this state)) A foreign limited partnership that registers to transact business in this state is subject to section 1501 of this act relating to the effect of registration and the governing law for registered foreign limited partnerships.~~

Sec. 6121. RCW 25.10.646 and 2009 c 188 s 902 are each amended to read as follows:

~~((1)) Before transacting business in this state, a foreign limited partnership shall ((apply for a certificate of authority to transact business in this state by delivering an application to)) register with the secretary of state ((for filing. The application must state:~~

~~(a) The name of the foreign limited partnership and, if the name does not comply with RCW 25.10.061, an alternate name adopted pursuant to RCW 25.10.661(1);~~

~~(b) The name of the state or other jurisdiction under whose law the foreign limited partnership is organized;~~

~~(c) The street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office;~~

~~(d) The name and street and mailing address of the foreign limited partnership's initial agent for service of process in this state;~~

~~(e) The name and street and mailing address of each of the foreign limited partnership's general partners; and~~

~~(f) Whether the foreign limited partnership is a foreign limited liability limited partnership.~~

~~(2) A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the secretary of state or other official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized)) in accordance with part I, Article 5 of this act.~~

Sec. 6122. RCW 25.10.651 and 2009 c 188 s 903 are each amended to read as follows:

~~((+))~~ **A nonexhaustive list of activities of a foreign limited partnership that do not constitute transacting business in this state** ~~((within the meaning of this article include:~~

~~(a) Maintaining, defending, and settling an action or proceeding;~~

~~(b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;~~

~~(c) Maintaining accounts in financial institutions;~~

~~(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;~~

~~(e) Selling through independent contractors;~~

~~(f) Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts and the contracts do not involve any local performance other than delivery and installation;~~

~~(g) Making loans or creating or acquiring indebtedness, mortgages, or security interests in real or personal property;~~

~~(h) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;~~

~~(i) Owning, without more, real or personal property;~~

~~(j) Conducting an isolated transaction that is completed within thirty days and is not one in the course of similar transactions of a like manner;~~

~~(k) Owning a controlling interest in a domestic or foreign corporation, or participating as a limited partner of a domestic or foreign limited partnership, or participating as a member or a manager of a domestic or foreign limited liability company, that transacts business in this state; and~~

~~(1) Transacting business in interstate commerce.~~

~~(2) The list of activities in subsection (1) of this section is not exhaustive.~~

~~(3) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this state)) is provided in section 1505 of this act.~~

Sec. 6123. RCW 25.10.661 and 2009 c 188 s 905 are each amended to read as follows:

~~((1) A foreign limited partnership whose name does not comply with RCW 25.10.061 may not obtain a certificate of authority until it adopts, for the purpose of transacting business in this state, an alternate name that complies with RCW 25.10.061. A foreign limited partnership that adopts an alternate name under this subsection and then obtains a certificate of authority with the name need not comply with RCW 19.80.010. After obtaining a certificate of authority with an alternate name, a foreign limited partnership shall transact business in this state under the name unless the foreign limited partnership is authorized under RCW 19.80.010 to transact business in this state under another name.~~

~~(2) If a foreign limited partnership authorized to transact business in this state changes its name to one that does not comply with RCW 25.10.061, it may not thereafter transact business in this state until it complies with subsection (1) of this section and obtains an amended certificate of authority.)~~ The name of a foreign limited partnership registered in this state must comply with the provisions of section 1506 of this act and part I, Article 3 of this act.

Sec. 6124. RCW 25.10.666 and 2009 c 188 s 906 are each amended to read as follows:

~~((1) A certificate of authority of a foreign limited partnership to transact business in this state may be revoked by))~~ The secretary of state may terminate the registration of a registered foreign limited partnership in ~~((the manner provided in subsections (2) and (3) of this section if the foreign limited partnership does not:~~

~~(a) Pay, within sixty days after the due date, any fee, tax, or penalty due to the secretary of state under this chapter or other law;~~

~~(b) Deliver, within sixty days after the due date, its annual report required under RCW 25.10.291;~~

~~(c) Appoint and maintain an agent for service of process as required by RCW 25.10.121; or~~

~~(d) Deliver for filing a statement of a change under RCW 25.10.131 within thirty days after a change has occurred in the name or address of the agent.~~

~~(2) In order to revoke a certificate of authority, the secretary of state must prepare, sign, and file a notice of revocation and send a copy to the foreign limited partnership's agent for service of process in this state, or if the foreign limited partnership does not appoint and maintain a proper agent in this state, to the foreign limited partnership's designated office. The notice must state:~~

~~(a) The revocation's effective date, which must be at least sixty days after the date the secretary of state sends the copy; and~~

~~(b) The foreign limited partnership's failures to comply with subsection (1) of this section that are the reason for the revocation.~~

~~(3) The authority of the foreign limited partnership to transact business in this state ceases on the effective date of the notice of revocation unless before that date the foreign limited partnership cures each failure to comply with subsection (1) of this section stated in the notice. If the foreign limited partnership cures the failures, the secretary of state shall so indicate on the filed notice))~~ accordance with section 1511 of this act.

Sec. 6125. RCW 25.10.671 and 2009 c 188 s 907 are each amended to read as follows:

~~((4))~~ In order to ~~((cancel its certificate of authority to transact business in this state))~~ withdraw its registration, a foreign limited partnership must deliver to the secretary of state for filing a ~~((notice of cancellation. The certificate is canceled when the notice becomes effective under RCW 25.10.251.~~

~~(2) A foreign limited partnership transacting business in this state may not maintain an action or proceeding in this state unless it has a certificate of authority to transact business in this state.~~

~~(3) The failure of a foreign limited partnership to have a certificate of authority to transact business in this state does not impair the validity of a contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending an action or proceeding in this state.~~

~~(4) A partner of a foreign limited partnership is not liable for the obligations of the foreign limited partnership solely by reason of the foreign limited partnership's having transacted business in this state without a certificate of authority.~~

~~(5) If a foreign limited partnership transacts business in this state without a certificate of authority or cancels its certificate of authority, it appoints the secretary of state as its agent for service of process for rights of action arising out of the transaction of business in this state))~~ statement of withdrawal in accordance with section 1507 of this act.

Sec. 6126. RCW 25.10.766 and 2009 c 188 s 1104 are each amended to read as follows:

(1) After a plan of conversion is approved:

(a) A converting limited partnership shall deliver to the secretary of state for filing articles of conversion, which must include:

(i) A statement that the limited partnership has been converted into another organization;

(ii) The name and form of the organization and the jurisdiction of its governing statute;

(iii) The date the conversion is effective under the governing statute of the converted organization;

(iv) A statement that the conversion was approved as required by this chapter;

(v) A statement that the conversion was approved as required by the governing statute of the converted organization; and

(vi) If the converted organization is a foreign organization not ~~((authorized))~~ registered to transact business in this state, the street and mailing address of ~~((an office that the secretary of state may use for the purposes of RCW 25.10.771(3)))~~ the organization's principal office that may be used for service of process under section 1411 of this act; and

(b) If the converting organization is not a converting limited partnership, the converting organization shall deliver to the secretary of state for filing a certificate of limited partnership, which must include, in addition to the information required by RCW 25.10.201:

(i) A statement that the limited partnership was converted from another organization;

(ii) The name and form of the organization and the jurisdiction of its governing statute; and

(iii) A statement that the conversion was approved in a manner that complied with the organization's governing statute.

(2) A conversion becomes effective:

(a) If the converted organization is a limited partnership, when the certificate of limited partnership takes effect; and

(b) If the converted organization is not a limited partnership, as provided by the governing statute of the converted organization.

Sec. 6127. RCW 25.10.771 and 2009 c 188 s 1105 are each amended to read as follows:

(1) An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) All property owned by the converting organization remains vested in the converted organization;

(b) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;

(c) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

(e) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(f) Except as otherwise agreed, the conversion does not dissolve a converting limited partnership for the purposes of article 8 of this chapter.

(3) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited partnership, if before the conversion the converting limited partnership was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not ~~((authorized))~~ registered to transact business in this state ~~((appoints the secretary of state as its agent for service of))~~ may be served with process pursuant to section 1411 of this act for purposes of enforcing an obligation under this subsection. ~~((Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in RCW 25.10.151 (3) and (4).))~~

Sec. 6128. RCW 25.10.786 and 2009 c 188 s 1108 are each amended to read as follows:

(1) After each constituent organization has approved a merger, articles of merger must be signed on behalf of:

(a) Each constituent limited partnership, by each general partner listed in the certificate of limited partnership; and

(b) Each other constituent organization, by an authorized representative.

(2) The articles of merger must include:

(a) The name and form of each constituent organization and the jurisdiction of its governing statute;

(b) The name and form of the surviving organization and the jurisdiction of its governing statute;

(c) The date the merger is effective under the governing statute of the surviving organization;

(d) Any amendments provided for in the plan of merger for the organizational document that created the surviving organization;

(e) A statement as to each constituent organization that the merger was approved as required by the organization's governing statute;

(f) If the surviving organization is a foreign organization not ~~((authorized))~~ registered to transact business in this state, the street and mailing address of ~~((an office that the secretary of state may use for the purposes of RCW 25.10.791(2)))~~ the organization's principal office that may be used for service of process under section 1411 of this act; and

(g) Any additional information required by the governing statute of any constituent organization.

(3) Each constituent limited partnership shall deliver the articles of merger for filing in the office of the secretary of state.

(4) A merger becomes effective under this article:

(a) If the surviving organization is a limited partnership, upon the later of:

(i) Compliance with subsection (3) of this section; or

(ii) Subject to RCW 25.10.251~~((3))~~ (2), as specified in the articles of merger; or

(b) If the surviving organization is not a limited partnership, as provided by the governing statute of the surviving organization.

Sec. 6129. RCW 25.10.791 and 2009 c 188 s 1109 are each amended to read as follows:

(1) When a merger becomes effective:

(a) The surviving organization continues;

(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(c) All property owned by each constituent organization that ceases to exist vests in the surviving organization;

(d) All debts, liabilities, and other obligations of each constituent organization that ceases to exist continue as obligations of the surviving organization;

(e) An action or proceeding pending by or against any constituent organization that ceases to exist may be continued as if the merger had not occurred;

(f) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(h) Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger does not dissolve the limited partnership for the purposes of article 8 of this chapter; and

(i) Any amendments provided for in the articles of merger for the organizational document that created the surviving organization become effective.

(2) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a

constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not ~~((authorized))~~ registered to transact business in this state ~~((appoints the secretary of state as its agent for service of))~~ may be served with process pursuant to section 1411 of this act for the purposes of enforcing an obligation under this subsection. ~~((Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in RCW 25.10.151 (3) and (4).))~~

Sec. 6130. RCW 25.10.916 and 2009 c 188 s 1307 are each amended to read as follows:

~~((4))~~ Limited partnerships are subject to the applicable fees, charges, and penalties adopted by the secretary of state ~~((shall adopt rules establishing fees that shall be charged and collected for:~~

(a) ~~Filing of a certificate of limited partnership or an application for a certificate of authority of a foreign limited partnership;~~

(b) ~~Filing of an amendment or restatement of a certificate of domestic or foreign limited partnership;~~

(c) ~~Filing an application to reserve, register, or transfer a limited partnership name;~~

(d) ~~Filing any other certificate, statement, or report authorized or permitted to be filed; and~~

(e) ~~Copies, certified copies, certificates, service of process filings, and expedited filings or other special services.~~

(2) ~~In the establishment of a fee schedule, the secretary of state shall, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW.~~

(a) ~~Fees for copies, certified copies, certificates of record, and service of process filings are the same as in RCW 23B.01.220.~~

(b) ~~Fees for reinstatement of a foreign or domestic limited partnership are the same as in RCW 23B.01.560.~~

(c) ~~All fees collected by the secretary of state shall be deposited with the state treasurer pursuant to law))~~ under section 1213 of this act and RCW 43.07.120.

NEW SECTION. Sec. 6131. The following acts or parts of acts are each repealed:

(1) RCW 25.10.040 (Registered office and agent) and 2009 c 202 s 4, 1987 c 55 s 3, & 1981 c 51 s 4;

(2) RCW 25.10.171 (Standards for electronic filing rules) and 2009 c 188 s 119;

(3) RCW 25.10.656 (Filing of certificate of authority) and 2009 c 188 s 904; and

(4) RCW 25.10.676 (Action by attorney general) and 2009 c 188 s 908.

PART VII

LIMITED LIABILITY COMPANIES ACT REVISIONS

Sec. 7101. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 3 are each amended to read as follows:

~~((4))~~ The name of each limited liability company as set forth in its certificate of formation(~~:~~

~~(a) Must contain the words "Limited Liability Company," the words "Limited Liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC";~~

~~(b) Must not contain language stating or implying that the limited liability company is formed for a purpose other than those permitted by RCW 25.15.--- (section 8, chapter (Substitute Senate Bill No. 5030), Laws of 2015);~~

~~(c) Must not contain any of the words or phrases: "Cooperative," "partnership," "corporation," "incorporated," or the abbreviations "corp.," "Ltd.," or "inc.," or "LP," "L.P.," "LLP," "L.L.P.," "LLL," "L.L.L.P.," or any words or phrases prohibited by any statute of this state; and~~

~~(d) Unless authorized by subsection (2) of this section, must be distinguishable in the records of the secretary of state from (i) the name of each person incorporated, formed, or authorized to transact business in this state through a filing or registration with the secretary of state; and (ii) each name reserved under RCW 25.15.--- (section 4, chapter (Substitute Senate Bill No. 5030), Laws of 2015) or under other statutes of this state providing for the reservation of names with the secretary of state.~~

~~(2) A limited liability company may apply to the secretary of state for authorization to use any name which is not distinguishable upon the records of the secretary of state from one or more of the names described in subsection (1)(d) of this section. The secretary of state shall authorize use of the name applied for if the other person consents in writing to the use and files with the secretary of state records necessary to change its name or the name reserved to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.~~

~~(3) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:~~

~~(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "professional corporation," "professional service," "limited," "partnership," "limited partnership," "limited liability limited partnership," "limited liability company," "professional limited liability company," or "limited liability partnership," or their permitted abbreviations;~~

~~(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;~~

~~(c) Punctuation, capitalization, or special characters or symbols in the same name; or~~

~~(d) Use of abbreviation or the plural form of a word in the same name.~~

~~(4) This chapter does not control the use of assumed business names or "trade names."~~

~~(5) Violation of subsection (1)(c) of this section by a limited liability company whose certificate of formation or amendment thereto has been accepted for filing by the secretary of state shall not, in itself, invalidate the formation or existence of a limited liability company or render this chapter inapplicable to a limited liability company)) must comply with part I, Article 3 of this act.~~

Sec. 7102. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 4 are each amended to read as follows:

(1) Reserved Name—Domestic Limited Liability Company.

~~((a)) A person may reserve the exclusive use of a limited liability company name by delivering an application to the secretary of state for filing in accordance with section 1303 of this act. ~~((The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the limited liability company name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred eighty-day period.~~~~

~~(b) The owner of a reserved limited liability company name may transfer the reservation to another person by delivering to the secretary of state an executed notice of the transfer that states the name and address of the transferee.))~~

(2) Reserved Name—Foreign Limited Liability Company.

~~((a)) A foreign limited liability company may reserve its name ~~((if the name is distinguishable upon the records of the secretary of state from the names specified in RCW 25.15.--- (section 3, chapter (Substitute Senate Bill No. 5030), Laws of 2015).~~~~

~~(b) A foreign limited liability company reserves its name)) by delivering to the secretary of state for filing an application ~~((that:~~~~

~~(i) Sets forth its name and the state or country and date of its formation; and~~

~~(ii) Is accompanied by a certificate of existence, or a record of similar import, from the state or country of formation.~~

~~(c) The name is reserved for the applicant's exclusive use upon the effective date of the application and until the close of the calendar year in which the application for name reservation is filed.~~

~~(d) A foreign limited liability company whose name reservation is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of (b) of this subsection, between October 1st and December 31st of the preceding year. The renewal application when filed renews the name reservation for the following calendar year.~~

~~(e) A foreign limited liability company whose name reservation is effective may thereafter register as a foreign limited liability company under the reserved name, or consent in writing to the use of that name by a domestic limited liability company, domestic corporation, domestic limited partnership, or domestic limited liability partnership thereafter formed, or by another foreign limited liability company, foreign corporation, foreign limited partnership, or foreign limited liability partnership thereafter authorized to transact business in this state. The name reservation terminates when the domestic limited liability company is formed, the domestic corporation is incorporated, the domestic limited liability partnership is formed, or the domestic limited partnership is formed, or the foreign limited liability company registers or consents to the registration of another foreign limited liability company, corporation, limited partnership, or limited liability partnership under the reserved name)) in accordance with section 1304 of this act.~~

Sec. 7103. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 6 are each amended to read as follows:

(1) Each limited liability company shall continuously maintain in this state(~~(:~~

~~(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;~~

~~(b) A registered agent that may be:~~

~~(i) An individual residing in this state whose business office is identical with the limited liability company's registered office;~~

~~(ii) The limited liability company itself, whose business office is identical with such registered office;~~

~~(iii) A domestic corporation, partnership, limited partnership, or limited liability company whose business office is identical with such registered office;~~
or

~~(iv) A government, governmental subdivision, agency, or instrumentality, or a foreign corporation, partnership, limited partnership, or limited liability company authorized to do business in this state having a business office identical with such registered office; and~~

~~(e) A registered agent who shall not be appointed without having given prior consent in a record to the appointment. The consent shall be filed with the secretary of state in such form and at such time as the secretary may prescribe)) a registered agent in accordance with part I, Article 4 of this act.~~

(2) A limited liability company may change its ~~((registered office or))~~ registered agent by delivering to the secretary of state for filing a statement of change ~~((that sets forth:~~

~~(a) The name of the limited liability company;~~

~~(b) If the current registered office is to be changed, the street address of the new registered office in accordance with subsection (1) of this section;~~

~~(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's consent in a record, which shall be filed with the secretary of state in such form and at such time as the secretary of state may prescribe; and~~

~~(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical)) in accordance with section 1407 of this act.~~

(3) ~~((H)) A registered agent ~~((changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any limited liability company for which the agent is the registered agent by notifying the limited liability company of the change either~~ (a) in a written record, or (b) if the limited liability company has designated an address, location, or system to which the notices may be electronically transmitted and the registered agent electronically transmits the notice to the limited liability company at the designated address, location, or system in an~~

electronically transmitted record and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (2) of this section and recites that the limited liability company has been notified of the change)) may change its information on file with the secretary of state in accordance with section 1408 or 1409 of this act.

(4) A registered agent may resign as agent by executing and delivering to the secretary of state for filing a statement of resignation(~~(-The statement may include a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the limited liability company at its principal office. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty first day after the date on which the statement was filed))~~) in accordance with section 1410 of this act.

Sec. 7104. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 7 are each amended to read as follows:

~~((1) A limited liability company's registered agent is its agent for))~~ Service of process, notice, or demand required or permitted by law to be served on the limited liability company may be made in accordance with section 1411 of this act.

~~((2) The secretary of state shall be an agent of a limited liability company upon whom any such process, notice, or demand may be served if:~~

~~(a) The limited liability company fails to appoint or maintain a registered agent in this state; or~~

~~(b) The registered agent cannot with reasonable diligence be found at the registered office.~~

~~(3) Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by certified mail, addressed to the limited liability company at its principal office as it appears on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.~~

~~(4) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.~~

~~(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.)~~

Sec. 7105. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 13 are each amended to read as follows:

(1) A person or group of persons duly licensed or otherwise legally authorized to render the same professional services within this state may form and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service.

(2) A professional limited liability company is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation. A professional limited liability company's managers, members, agents, and employees are subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section and RCW 25.15.--- (section 14, chapter (Substitute Senate Bill No. 5030), Laws of 2015).

(3) If the limited liability company's members are required to be licensed to practice such profession, and the limited liability company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or a greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the limited liability company's members are personally liable to the extent that, had the insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(4) For purposes of applying chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" means manager, "shareholder" means member, "corporation" means professional limited liability company, "articles of incorporation" means certificate of formation, "shares" or "capital stock" means a limited liability company interest, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

(5) ~~The name of a professional limited liability company must ((contain either the words "Professional Limited Liability Company," or the words "Professional Limited Liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a professional limited liability company formed to render dental services must contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or "PLLC."))~~ comply with section 1302 of this act.

(6) Subject to Article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers, other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company; and

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services.

(7) Formation of a limited liability company under this section does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession

without being appropriately credentialed and persons practicing beyond the scope of their credential.

Sec. 7106. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 18 are each amended to read as follows:

(1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation must be ~~((filed in))~~ delivered to the office of the secretary of state for filing in accordance with part I, Article 2 of this act and set forth:

(a) The name of the limited liability company;

(b) The ~~((address of the registered office and the))~~ name and address of the registered agent for service of process required to be maintained by RCW 25.15.--- (section 6, chapter (Substitute Senate Bill No. 5030), Laws of 2015 and part I, Article 4 of this act;

(c) The address of the principal office of the limited liability company;

(d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;

(e) Any other matters the members decide to include; and

(f) The name and address of each person executing the certificate of formation.

(2)(a) Unless a delayed effective date is specified in accordance with section 1203 of this act, a limited liability company is formed when its certificate of formation is filed by the secretary of state. ~~((A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.))~~

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation.

(3) A limited liability company formed under this chapter is a separate legal entity and has a perpetual existence.

(4) Any person may apply to the secretary of state under section 1208 of this act to furnish a certificate of existence for a domestic limited liability company or a certificate of ~~((authorization))~~ registration for a foreign limited liability company.

~~((5) A certificate of existence or authorization means that as of the date of its issuance:~~

~~(a) The domestic limited liability company is duly formed under the laws of this state or that the foreign limited liability company is authorized to transact business in this state;~~

~~(b) All fees and penalties owed to this state under this title have been paid, if (i) payment is reflected in the records of the secretary of state, and (ii) nonpayment affects the existence or authorization of the domestic or foreign limited liability company;~~

~~(c) The limited liability company's initial report or its most recent annual report required by RCW 25.15.--- (section 24, chapter (Substitute Senate Bill No. 5030), Laws of 2015) has been delivered to the secretary of state;~~

~~(d) In the case of a domestic limited liability company, a certificate of dissolution has not been filed with the secretary of state, or a filed certificate of dissolution has been revoked in accordance with RCW 25.15.--- (section 57, chapter (Substitute Senate Bill No. 5030), Laws of 2015);~~

~~(e) In the case of a foreign limited liability company, a certificate of cancellation has not been filed with the secretary of state; and~~

~~(f) The limited liability company has not been administratively dissolved under RCW 25.15.--- (section 55, chapter (Substitute Senate Bill No. 5030), Laws of 2015) or, if administratively dissolved, has been reinstated under RCW 25.15.--- (section 56, chapter (Substitute Senate Bill No. 5030), Laws of 2015):~~

~~(6) A person may apply to the secretary of state to issue a certificate covering any fact of record:~~

~~(7) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in the limited liability company form in this state.))~~

Sec. 7107. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 19 are each amended to read as follows:

(1) A certificate of formation is amended by ~~((filing))~~ delivering a certificate of amendment ~~((thereto with))~~ to the secretary of state for filing. The certificate of amendment shall set forth:

- (a) The name of the limited liability company; and
- (b) The amendment to the certificate of formation.

(2) A manager or, if there is no manager, then any member who becomes aware that any statement in a certificate of formation was false when made, or that any matter described has changed making the certificate of formation false in any material respect, must promptly amend the certificate of formation.

(3) A certificate of formation may be amended at any time for any other proper purpose.

(4) ~~Unless ((otherwise provided in this chapter or unless a later)) a delayed effective date((, which is a date not later than the ninetieth day after the date it is filed,))~~ is provided for in the certificate of amendment in accordance with section 1203 of this act, a certificate of amendment is effective when filed by the secretary of state as provided in section 1203 of this act.

Sec. 7108. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 20 are each amended to read as follows:

(1) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of formation which are then in effect and operative as a result of there having been filed with the secretary of state one or more certificates or other instruments pursuant to any of the sections referred to in this chapter and it may at the same time also further amend its certificate of formation by ~~((filing))~~ delivering a restated certificate of formation to the secretary of state for filing in accordance with part I, Article 2 of this act.

(2) A restated certificate of formation must state, either in its heading or in an introductory paragraph, the limited liability company's name and, if it is not to be effective upon filing, the future effective date or time, which ~~((is a date not later than the ninetieth day after the date it is filed))~~ must comply with section 1203 of this act. If a restated certificate only restates and integrates and does not

further amend a limited liability company's certificate of formation as amended or supplemented, it must state that fact as well.

(3) Upon the filing of a restated certificate of formation (~~(with)~~) by the secretary of state, or upon the future effective date or time of a restated certificate of formation as provided for, the initial certificate of formation, as amended or supplemented, is superseded; and the restated certificate of formation, including any further amendment or changes made thereby, is thereafter the certificate of formation of the limited liability company, but the original effective date of formation remains unchanged.

(4) Any amendment or change effected in connection with the restatement of the certificate of formation is subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

Sec. 7109. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 21 are each amended to read as follows:

~~((1+))~~ Each record required or permitted by this chapter to be filed in the office of the secretary of state must comply with the requirements of part I, Article 2 of this act and must be executed in the following manner(~~(- or in compliance with the rules established to facilitate electronic filing under RCW 25.15.--- (section 2, chapter (Substitute Senate Bill No. 5030), Laws of 2015))~~):

~~((+))~~ (1) Each original certificate of formation must be executed by the person or persons forming the limited liability company;

~~((+))~~ (2) A reservation of name may be executed by any person;

~~((+))~~ (3) A transfer of reservation of name must be executed by, or on behalf of, the applicant for the reserved name;

~~((+))~~ (4) A registration of name must be executed by any member or manager of the foreign limited liability company;

~~((+))~~ (5) A certificate of amendment or restatement must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

~~((+))~~ (6) A certificate of dissolution must be executed by the person or persons authorized to wind up the limited liability company's affairs pursuant to RCW 25.15.---(3) (section 58, chapter (Substitute Senate Bill No. 5030), Laws of 2015);

~~((+))~~ (7) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, corporation, or other person, the articles of merger must be executed by a person authorized by such foreign limited liability company, limited partnership, corporation, or other person;

~~((+))~~ (8) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be executed by any member or manager of the foreign limited liability company; and

~~((+))~~ (9) If a converting limited liability company is filing articles of conversion, the articles of conversion must be executed by at least one manager,

or by a member if management of the limited liability company is reserved to the members.

~~((2) Any person may execute a certificate, articles of merger, articles of conversion, limited liability company agreement, or other record by an attorney-in-fact or other person acting in a valid representative capacity, so long as each record executed in such manner identifies the capacity in which the person is executing the record.~~

~~(3) The person executing the record must indicate, adjacent to or underneath the signature or, if the record is electronically transmitted, identifying information of the person executing the record, as applicable, the capacity in which the person executes the record. The record must meet such legibility or other standards as may be prescribed by the secretary of state.~~

~~(4) The execution of a certificate, articles of merger, or articles of conversion by any person constitutes an affirmation under the penalties of perjury that the facts stated are true.))~~

Sec. 7110. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 22 are each amended to read as follows:

(1) If a person required to execute a certificate required by this chapter fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the certificate under section 1210 of this act. ~~((If the court finds that the execution of the certificate is proper and that any person so designated has failed or refused to execute the certificate, it must order the secretary of state to record an appropriate certificate.))~~

(2) If a person required to execute a limited liability company agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the limited liability company agreement or amendment thereof. If the court finds that the limited liability company agreement or amendment thereof should be executed and that any person required to execute the limited liability company agreement or amendment thereof has failed or refused to do so, it shall enter an order granting appropriate relief.

Sec. 7111. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 23 are each amended to read as follows:

~~((1) The executed certificate of formation or any other record required to be filed pursuant to this chapter must be delivered to the secretary of state. If the secretary of state determines that the records conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:~~

~~(a) Endorse on each executed record the word "filed" and the date of its acceptance for filing;~~

~~(b) Retain the executed record in the secretary of state's files; and~~

~~(c) Return a copy to the person who filed it or the person's representative.~~

~~(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any records are delivered for filing, the records are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that the records as delivered conform to the filing provisions of this chapter.~~

~~(3) If the filing and determination requirements of this chapter are not satisfied completely, the records must not be filed.~~

~~(4) Upon the filing of a certificate of amendment, judicial decree of amendment, or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment, judicial decree thereof, or restated certificate, as provided for therein, the certificate of formation is amended or restated as set forth therein.)) Section 1206 of this act governs the secretary of state's duty to file records delivered to the secretary of state for filing, the manner and effect of filing, and procedures that apply when the secretary of state refuses to file a record.~~

Sec. 7112. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 24 are each amended to read as follows:

~~((4))~~ Each domestic limited liability company ~~((must deliver to the secretary of state for filing both initial and annual reports))~~, and each foreign limited liability company authorized to transact business in this state, must deliver to the secretary of state for filing initial and annual reports~~((, that set forth:~~

(a) The name of the limited liability company and the state, country, or other jurisdiction under whose law it is formed;

(b) The street address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office;

(d) The names and addresses of the limited liability company's members, or if the management of the limited liability company is vested in a manager or managers, then the name and address of its manager or managers; and

(e) A brief description of the nature of its business.

(2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the limited liability company.

(3) A limited liability company's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which a limited liability company's certificate of formation was filed. Subsequent annual reports must be delivered to the secretary of state on a date determined by the secretary of state, and at such additional times as the limited liability company elects.

(4) The secretary of state may allow a limited liability company to file an initial or annual report through electronic means. If allowed, the secretary of state shall adopt rules detailing the circumstances under which the electronic filing of such reports is permitted and how such reports may be filed.

(5) Each domestic limited liability company and foreign limited liability company authorized to transact business in this state must pay its annual license fee and any applicable penalty fees to the secretary of state at the time such limited liability company is required to file its initial or annual report with the secretary of state)) in accordance with section 1212 of this act.

Sec. 7113. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 51 are each amended to read as follows:

A limited liability company is dissolved and its affairs must be wound up upon the first to occur of the following:

(1) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is specified in the certificate of formation, the certificate of

formation may be amended and the date of dissolution of the limited liability company may be extended by vote of all the members;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Ninety days following an event of dissociation of the last remaining member, unless those having the rights of transferees in the limited liability company under RCW 25.15.---(1) (section 28, chapter (Substitute Senate Bill No. 5030), Laws of 2015) have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in RCW 25.15.---(1) (section 26, chapter (Substitute Senate Bill No. 5030), Laws of 2015);

(5) The entry of a decree of judicial dissolution under RCW 25.15.--- (section 53, chapter (Substitute Senate Bill No. 5030), Laws of 2015); or

(6) The administrative dissolution of the limited liability company by the secretary of state under (~~RCW 25.15.---(2) (section 55, chapter (Substitute Senate Bill No. 5030), Laws of 2015))~~ section 1603 of this act, unless the limited liability company is reinstated by the secretary of state under (~~RCW 25.15.--- (section 56, chapter (Substitute Senate Bill No. 5030), Laws of 2015))~~ section 1604 of this act.

Sec. 7114. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 54 are each amended to read as follows:

The secretary of state may commence a proceeding (~~under RCW 25.15.--- (section 55, chapter (Substitute Senate Bill No. 5030), Laws of 2015))~~ to administratively dissolve a limited liability company (~~if:~~

~~(1) The limited liability company does not pay any license fees or penalties imposed by this chapter when they become due;~~

~~(2) The limited liability company does not deliver its completed initial report or annual report to the secretary of state when it is due; or~~

~~(3) The limited liability company is without a registered agent or registered office in this state for sixty days or more))~~ under the circumstances and procedures provided in part I, Article 6 of this act.

Sec. 7115. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 56 are each amended to read as follows:

~~((4))~~ A limited liability company that has been administratively dissolved under (~~RCW 25.15.--- (section 55, chapter (Substitute Senate Bill No. 5030), Laws of 2015))~~ section 1603 of this act may apply to the secretary of state for reinstatement (~~within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:~~

~~(a) The name of the limited liability company and the effective date of its administrative dissolution;~~

~~(b) That the ground or grounds for dissolution either did not exist or have been eliminated; and~~

~~(e) That the limited liability company's name satisfies the requirements of RCW 25.15.--- (section 3, chapter (Substitute Senate Bill No. 5030), Laws of 2015).~~

~~(2) A limited liability company seeking reinstatement must pay the full amount of all license fees that would have been due for the years of the period of~~

~~administrative dissolution had the limited liability company not been dissolved, plus all penalties established by law or by the secretary of state by rule, and the license fee for the year of reinstatement.~~

~~(3) If the secretary of state determines that an application contains the information required by subsection (1) of this section and that the name is available, and that all fees and penalties required by subsection (2) of this section have been paid, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in RCW 25.15. (1) (section 55, chapter (Substitute Senate Bill No. 5030), Laws of 2015), of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.~~

~~(4) When reinstatement and revocation of any certificate of dissolution become effective, they relate back to and take effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its activities as if the administrative dissolution had never occurred)) in accordance with section 1604 of this act.~~

Sec. 7116. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 57 are each amended to read as follows:

(1) A limited liability company dissolved under RCW 25.15.--- (2) or (3) (section 51, chapter (Substitute Senate Bill No. 5030), Laws of 2015) may revoke its dissolution in accordance with this section at any time, except that a limited liability company that has filed a certificate of dissolution may not revoke its dissolution under this section more than one hundred twenty days after the filing of its certificate of dissolution.

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) A limited liability company that has filed a certificate of dissolution may, at any time after revocation of its dissolution has been approved but not more than one hundred twenty days after the filing of its certificate of dissolution, revoke the dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

(a) The name of the limited liability company and a statement that the name satisfies the requirements of ((RCW 25.15.--- (section 3, chapter (Substitute Senate Bill No. 5030), Laws of 2015))) part I, Article 3 of this act; if the name is not available, the limited liability company must ((file)) deliver to the secretary of state for filing a certificate of amendment changing its name with the certificate of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved; and

(d) A statement that the revocation was approved in the manner required by subsection (2) of this section.

(4) If a limited liability company has not filed a certificate of dissolution, revocation of dissolution becomes effective upon approval of the revocation as provided in subsection (2) of this section. If a limited liability company has filed a certificate of dissolution, revocation of dissolution becomes effective upon the filing of a certificate of revocation of dissolution. The filing of a certificate of revocation of dissolution automatically revokes any certificate of dissolution previously filed with respect to the limited liability company.

(5) Revocation of dissolution relates back to and takes effect as of the effective date of the dissolution and the limited liability company may resume carrying on its activities as if the dissolution had never occurred.

Sec. 7117. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 62 are each amended to read as follows:

~~((1) Subject to the Constitution of the state of Washington:~~

~~(a) The laws of the state, territory, possession, or other jurisdiction of country under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members and managers; and~~

~~(b) A foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of this state.~~

~~(2) A foreign limited liability company and its members and managers doing business in this state submit to personal jurisdiction of the courts of this state.)) A foreign limited liability company registered to do business in this state is subject to section 1501 of this act relating to the effect of registration and the governing law for registered foreign limited liability companies.~~

Sec. 7118. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 63 are each amended to read as follows:

Before doing business in this state, a foreign limited liability company must register with the secretary of state in accordance with part I, Article 5 of this act. ~~((In order to register, a foreign limited liability company must submit to the secretary of state an application for registration as a foreign limited liability company executed by any member or manager of the foreign limited liability company, setting forth:~~

~~(1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in this state;~~

~~(2) The state, territory, possession, or other jurisdiction or country where formed, the date of its formation, and a duly authenticated statement from the secretary of state or other official having custody of limited liability company records in the jurisdiction under whose law it was formed, that as of the date of filing the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation;~~

~~(3) The nature of the business or purposes to be conducted or promoted in this state;~~

~~(4) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by RCW 25.15.---(2) (section 65, chapter (Substitute Senate Bill No. 5030), Laws of 2015);~~

~~(5) The address of the principal office of the foreign limited liability company;~~

~~(6) The names and addresses of the foreign limited liability company's members, or if the management of the foreign limited liability company is vested in a manager or managers, then the name and address of its manager or managers;~~

~~(7) A statement that the secretary of state is appointed the agent of the foreign limited liability company for service of process under the circumstances set forth in RCW 25.15.--- (2) (section 71, chapter (Substitute Senate Bill No. 5030), Laws of 2015); and~~

~~(8) The date on which the foreign limited liability company first did, or intends to do, business in this state.)~~

Sec. 7119. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 65 are each amended to read as follows:

(1) A foreign limited liability company may register with the secretary of state under any name that ~~((includes the words "Limited Liability Company," the words "Limited Liability" and the abbreviation "Co.," or the abbreviation "L.L.C." or "LLC" and that could be registered by a domestic limited liability company. A foreign limited liability company may apply to the secretary of state for authorization to use a name which is not distinguishable upon the records of the office of the secretary of state from the names described in RCW 23B.04.010 and 25.10.061, and the names of any domestic or foreign limited liability company reserved, registered, or formed under the laws of this state. The secretary of state must authorize use of the name applied for if the other corporation, limited liability company, limited liability partnership, or limited partnership consents in writing to the use and files with the secretary of state documents necessary to change its name, or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying foreign limited liability company))~~ complies with section 1506 of this act and part I, Article 3 of this act.

(2) Each foreign limited liability company must continuously maintain in this state(=

~~(a) A registered office, which may but need not be a place of its business in this state. The registered office must be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the foreign limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;~~

~~(b) A registered agent for service of process on the foreign limited liability company, which agent may be either an individual resident of this state whose business office is identical with the foreign limited liability company's registered office, or a domestic corporation, a limited partnership, or limited liability company, or a foreign corporation authorized to do business in this state having a business office identical with such registered office; and~~

~~(c) A registered agent who must not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written~~

~~consent must be filed with or as a part of the document first appointing a registered agent. In the event any individual, limited liability company, limited partnership, or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name must be removed from the records of the secretary of state))~~ a registered agent in accordance with part I, Article 4 of this act.

(3) A foreign limited liability company may change its ~~((registered office or))~~ registered agent by delivering to the secretary of state for filing a statement of change ~~((that sets forth:~~

(a) ~~The name of the foreign limited liability company;~~

(b) ~~If the current registered office is to be changed, the street address of the new registered office in accordance with subsection (2)(a) of this section;~~

(c) ~~If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and~~

~~(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical))~~ in accordance with section 1407 of this act.

(4) ~~((If) A registered agent ((changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the foreign limited liability company in writing of the change and executing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (3) of this section and recites that the foreign limited liability company has been notified of the change))~~ of a foreign limited liability company may change its information on file with the secretary of state in accordance with section 1408 or 1409 of this act.

(5) A registered agent of any foreign limited liability company may resign as agent by executing and delivering to the secretary of state for filing a statement ~~((that the registered office is also discontinued. After filing the statement the secretary of state must mail a copy of the statement to the foreign limited liability company at its principal office shown in its application for certificate of registration if no annual report has been filed. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed))~~ of resignation in accordance with section 1410 of this act.

Sec. 7120. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 66 are each amended to read as follows:

~~((If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application false in any respect, the foreign limited liability company must promptly file in the office of the secretary of state a certificate, executed by any member or manager, correcting such statement.))~~ A registered foreign limited liability company must amend its foreign registration statement under the circumstances provided in section 1504 of this act.

Sec. 7121. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 67 are each amended to read as follows:

~~((1))~~ A foreign limited liability company may ~~((cancel))~~ withdraw its registration by ~~((filing with))~~ delivering to the secretary of state for filing a ~~((certificate of cancellation, executed by any member or manager. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in this state.~~

(2) The certificate of cancellation must set forth:

- (a) The name of the foreign limited liability company;
- (b) The date of filing of its certificate of registration;
- (c) The reason for filing the certificate of cancellation;
- (d) The future effective date, not later than the ninetieth day after the date it is filed, of cancellation if it is not to be effective upon filing of the certificate;
- (e) The address to which service of process may be forwarded; and
- (f) ~~Any other information the person filing the certificate of cancellation desires.~~) statement of withdrawal in accordance with section 1507 of this act.

Sec. 7122. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 68 are each amended to read as follows:

~~((1))~~ A foreign limited liability company doing business in this state ~~((may not maintain any action, suit, or proceeding in this state until it has registered in this state and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.~~

(2) Neither the failure of a foreign limited liability company to register in this state nor the issuance of a certificate of cancellation with respect to a foreign limited liability company's registration in this state impairs:

- (a) The validity of any contract or act of the foreign limited liability company;
- (b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or
- (c) The foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration)) without registering with the secretary of state is subject to section 1502 of this act.

Sec. 7123. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 69 are each amended to read as follows:

~~((The superior courts have jurisdiction to enjoin any foreign limited liability company, or any agent thereof, from doing any business in this state if such foreign limited liability company has failed to register under this article or if such foreign limited liability company has secured a certificate of registration from the secretary of state under RCW 25.15.--- (section 64, chapter (Substitute Senate Bill No. 5030), Laws of 2015) on the basis of false or misleading representations. The secretary of state must, upon the secretary's own motion or upon the relation of proper parties, proceed for this purpose by complaint in any county in which such foreign limited liability company is doing~~

~~or has done business.))~~ A foreign limited liability company may be enjoined from doing business in this state under section 1512 of this act.

Sec. 7124. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 70 are each amended to read as follows:

~~((1) The following activities, among others,))~~ A nonexhaustive list of activities that do not constitute transacting business ((within the meaning of this article:

~~(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;~~

~~(b) Holding meetings of the members, or managers if any, or carrying on other activities concerning internal limited liability company affairs;~~

~~(c) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;~~

~~(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability company's own securities or interests or maintaining trustees or depositaries with respect to those securities or interests;~~

~~(e) Selling through independent contractors;~~

~~(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;~~

~~(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same;~~

~~(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;~~

~~(i) Owning, without more, real or personal property;~~

~~(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature;~~

~~(k) Transacting business in interstate commerce;~~

~~(l) Owning a controlling interest in a corporation or a foreign corporation that transacts business within this state;~~

~~(m) Participating as a limited partner of a domestic or foreign limited partnership that transacts business within this state; or~~

~~(n) Participating as a member or a manager of a domestic or foreign limited liability company that transacts business within this state.~~

(2) The list of activities in subsection (1) of this section is not exhaustive)) in this state is provided in section 1505 of this act.

Sec. 7125. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 71 are each amended to read as follows:

~~((1) A foreign limited liability company's registered agent is its agent for))~~ Service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company may be made in accordance with section 1411 of this act.

~~((2) The secretary of state is an agent of a foreign limited liability company upon whom any such process, notice, or demand may be served if:~~

~~(a) The foreign limited liability company fails to appoint or maintain a registered agent in this state; or~~

~~(b) The registered agent cannot with reasonable diligence be found at the registered office.~~

~~(3) Service on the secretary of state of any such process, notice, or demand is made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state must immediately cause a copy thereof to be forwarded by certified mail, addressed to the foreign limited liability company at the address of its principal office as it appears on the records of the secretary of state. Any service so had on the secretary of state is returnable in not less than thirty days.~~

~~(4) The secretary of state must keep a record of all processes, notices, and demands served upon the secretary of state under this section, and must record the time of such service and the secretary of state's action with reference thereto.~~

~~(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign limited liability company in any other manner now or hereafter permitted by law.)~~

Sec. 7126. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 72 are each amended to read as follows:

~~((+)) Any foreign limited liability company which does business in this state without having registered under ((RCW 25.15.--- (section 63, chapter (Substitute Senate Bill No. 5030), Laws of 2015))) part I, Article 5 of this act has thereby ~~((appointed and constituted the secretary of state its agent for the acceptance))~~ consented to service of legal process in accordance with section 1411 of this act in any civil action, suit, or proceeding against it in any state or federal court in this state arising or growing out of any business done by it within this state. The doing of business in this state by such foreign limited liability company is a signification of the agreement of such foreign limited liability company that any such process when so served is of the same legal force and validity as if served upon a registered agent personally within this state.~~

~~((2) In the event of service upon the secretary of state in accordance with subsection (1) of this section, the secretary of state must notify the foreign limited liability company thereof by letter, certified mail, return receipt requested, directed to the foreign limited liability company at the address furnished to the secretary of state by the plaintiff in such action, suit, or proceeding. Such letter must enclose a copy of the process and any other papers served upon the secretary of state. It is the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate and to notify the secretary of state that service is being made pursuant to this subsection.))~~

Sec. 7127. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 73 are each amended to read as follows:

The secretary of state may ~~((commence a proceeding under RCW 25.15.--- (section 74, chapter (Substitute Senate Bill No. 5030), Laws of 2015) to revoke))~~ terminate the registration of a foreign limited liability company ~~((authorized to transact business))~~ registered in this state ~~((if:~~

~~(1) The foreign limited liability company does not pay any license fees or penalties imposed by this chapter when they become due;~~

~~(2) The foreign limited liability company does not deliver its completed annual report to the secretary of state when it is due;~~

~~(3) The foreign limited liability company is without a registered agent or registered office in this state for sixty days or more; or~~

~~(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability company records in the jurisdiction under which the foreign limited liability company was organized stating that the foreign limited liability company has been dissolved or its certificate or articles of formation canceled) under the circumstances and procedures specified in section 1511 of this act.~~

Sec. 7128. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 82 are each amended to read as follows:

(1) After each constituent organization has approved a merger, articles of merger must be executed on behalf of each constituent organization by an authorized representative.

(2) The articles of merger must include:

(a) The name and form of each constituent organization and the jurisdiction of its governing statute;

(b) The name and form of the surviving organization and the jurisdiction of its governing statute;

(c) The date the merger is effective under the governing statute of the surviving organization;

(d) Any amendments provided for in the plan of merger for the organizational document that created the surviving organization;

(e) A statement as to each constituent organization that the merger was approved as required by the organization's governing statute;

(f) If the surviving organization is a foreign organization not ~~((authorized))~~ registered to transact business in this state, the street and mailing address of ~~((an office that the secretary of state may use))~~ the surviving organization's principal office for the purposes of ~~((RCW 25.15.---(3) (section 83, chapter (Substitute Senate Bill No. 5030), Laws of 2015)))~~ service of process under section 1411 of this act; and

(g) Any additional information required by the governing statute of any constituent organization.

(3) The surviving organization must deliver the articles of merger for filing in the office of the secretary of state.

(4) The effective time of a merger is:

(a) If the surviving organization is a limited liability company, upon the later of:

(i) Filing of the articles of merger in the office of the secretary of state; or

(ii) Subject to subsection (5) of this section, as specified in the articles of merger; or

(b) If the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.

(5) If the articles of merger do not specify a delayed effective date, the articles of merger become effective upon filing as provided in section 1203 of this act. ~~((H))~~ The articles of merger may specify a delayed effective time and

~~date((, the articles of merger become effective at the time and date specified. If the articles of merger specify a delayed effective date but no time is specified, the articles of merger are effective at the close of business on that date. A delayed effective date for articles of merger may not be later than the ninetieth day after the date they are filed)) in accordance with section 1203 of this act.~~

Sec. 7129. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 83 are each amended to read as follows:

(1) When a merger becomes effective:

(a) The surviving organization continues;

(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(c) The title to all real estate and other property owned by each constituent organization is vested in the surviving organization without reversion or impairment;

(d) The surviving organization has all liabilities of each constituent organization;

(e) A proceeding pending by or against any constituent organization may be continued as if the merger did not occur or the surviving organization may be substituted in the proceeding for the constituent organization whose existence ceased;

(f) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(h) The organizational documents of the surviving organization are amended to the extent provided in the articles of merger; and

(i) The former holders of interests of every constituent limited liability company are entitled only to the rights provided in the plan of merger and to their rights under article XII of this chapter.

(2) A merger of a limited liability company, including a limited liability company which is not the surviving organization in the merger, does not require the limited liability company to wind up its affairs under RCW 25.15.--- (section 58, chapter (Substitute Senate Bill No. 5030), Laws of 2015) or pay its liabilities and distribute its assets under RCW 25.15.--- (section 60, chapter (Substitute Senate Bill No. 5030), Laws of 2015).

(3) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not ~~((authorized))~~ registered to transact business in this state ~~((appoints the secretary of state as its agent for service of))~~ may be served with process pursuant to section 1411 of this act for the purposes of enforcing an obligation under this subsection. ~~((Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in RCW 25.15.--- (3) (section 7, chapter (Substitute Senate Bill No. 5030), Laws of 2015).))~~

Sec. 7130. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 86 are each amended to read as follows:

(1) After a plan of conversion is approved, the converting organization must make one of the following filings to complete the conversion:

(a) A converting limited liability company must deliver to the secretary of state for filing articles of conversion, which must include:

(i) A statement that the limited liability company has been converted into another organization;

(ii) The name and form of the converted organization and the jurisdiction of its governing statute;

(iii) The date the conversion is effective under the governing statute of the converted organization;

(iv) A statement that the conversion was approved as required by this chapter;

(v) A statement that the conversion was approved as required by the governing statute of the converted organization; and

(vi) If the converted organization is a foreign organization not ~~((authorized))~~ registered to transact business in this state, the street and mailing address of ~~((an office that the secretary of state may use))~~ the converted organization's principal office for the purposes of ~~((RCW 25.15.---(3) (section 87, chapter (Substitute Senate Bill No. 5030), Laws of 2015)))~~ service of process under section 1411 of this act; or

(b) A converting organization that is not a limited liability company must deliver to the secretary of state for filing a certificate of formation, together with articles of conversion, which must include:

(i) A statement that the limited liability company was converted from another organization;

(ii) The name and form of the converting organization and the jurisdiction of its governing statute; and

(iii) A statement that the conversion was approved in a manner that complied with the converting organization's governing statute.

(2) The effective time of a conversion is either:

(a) If the converted organization is a limited liability company, when the certificate of formation takes effect; or

(b) If the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.

(3) If the certificate of formation filed pursuant to this section does not specify a delayed effective date, it becomes effective upon filing as provided in section 1203 of this act. ~~((H))~~ The certificate of formation ((specifies)) may specify a delayed effective time and date ~~((the certificate of formation becomes effective at the time and date specified. If the certificate of formation specifies a delayed effective date but no time is specified, the certificate of formation is effective at the close of business on that date. A delayed effective date for a certificate of formation may not be later than the ninetieth day after the date it is filed))~~ in accordance with section 1203 of this act.

Sec. 7131. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 87 are each amended to read as follows:

(1) An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) The title to all real estate and other property owned by the converting organization remains vested in the converted organization without reversion or impairment;

(b) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;

(c) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

(e) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(f) Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of article VIII of this chapter.

(3) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited liability company, if before the conversion the converting limited liability company was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not ~~((authorized))~~ registered to transact business in this state ~~((appoints the secretary of state as its agent for service of))~~ may be served with process in accordance with section 1411 of this act for purposes of enforcing an obligation under this subsection. ~~((Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in RCW 25.15.---(3) (section 7, chapter (Substitute Senate Bill No. 5030), Laws of 2015).))~~

Sec. 7132. RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 102 are each amended to read as follows:

~~((1) The secretary of state must adopt rules establishing fees which are charged and collected for:~~

~~(a) Filing of a certificate of formation, certificate of amendment, or restated certificate of formation for a domestic limited liability company;~~

~~(b) Filing of an application for registration, or a certificate correcting any statement in an application for registration, of a foreign limited liability company;~~

~~(c) Filing of articles of merger or articles of conversion for a domestic limited liability company;~~

~~(d) Filing of a certificate of dissolution for a domestic limited liability company;~~

~~(e) Filing of a certificate of revocation of dissolution for a domestic limited liability company;~~

~~(f) Filing of an application for reinstatement of a domestic limited liability company;~~

~~(g) Filing of a certificate of cancellation for a foreign limited liability company;~~

~~(h) Filing of an application to reserve, register, or transfer a foreign or domestic limited liability company name;~~

~~(i) Filing of any other certificate, statement, or report authorized or permitted to be filed;~~

~~(j) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services; and~~

~~(k) The initial and annual report for a limited liability company, or the annual report for a foreign limited liability company, and any related penalties.~~

~~(2) In the establishment of a fee schedule, the secretary of state must, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings must be as provided for in RCW 23B.01.220.~~

~~(3) All fees collected by the secretary of state must be deposited with the state treasurer pursuant to law.) Limited liability companies are subject to the applicable fees, charges, and penalties established by the secretary of state under section 1213 of this act and RCW 43.07.120.~~

NEW SECTION. Sec. 7133. The following acts or parts of acts are each repealed:

(1) RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 2;

(2) RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 55;

(3) RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 64; and

(4) RCW 25.15.--- and 2015 c (Substitute Senate Bill No. 5030) s 74.

PART VIII SECRETARY OF STATE REVISIONS

Sec. 8101. RCW 43.07.120 and 2010 1st sp.s. c 29 s 6 are each amended to read as follows:

(1) The secretary of state must establish by rule and collect the fees in this subsection:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;

(b) For any certificate under seal;

(c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 23.--- RCW (the new chapter created in section 1801 of this act), Title 23B RCW, chapter 18.100, 19.09, 19.34, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.04, 25.15, 25.10, 25.05, or 26.60 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic or facsimile transmittal of information from corporation records or copies of documents;

(d) The providing of information by micrographic or other reduced-format compilation;

(e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and

(f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court may be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law.

Sec. 8102. RCW 43.07.130 and 2010 1st sp.s. c 29 s 7 are each amended to read as follows:

There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which must be used by the office of the secretary of state to defray the costs of providing registration and information services authorized by law by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 11, 18, 19, 23, 23B, 24, 25, 26, ~~((30))~~ 30A, 30B, 42, 43, or 64 RCW.

The secretary of state is authorized to charge a fee for publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 19.09.305, 19.09.315, 19.09.440, ~~((23B.01.220 (1)(e), (6) and (7), 23B.18.050, 24.03.410, 24.06.455, 25.10.600(6), 25.10.916(1)(e)))~~ section 1213(1) (a)(ii) and (iii) and (d) of this act, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund must be placed in the secretary of state's revolving fund.

During the 2005-2007 fiscal biennium, the legislature may transfer from the secretary of state's revolving fund to the state general fund such amounts as reflect the excess fund balance of the fund.

PART IX

MISCELLANEOUS REVISIONS

Sec. 9101. RCW 23.78.020 and 1991 c 72 s 9 are each amended to read as follows:

Any corporation organized under the laws of this state may elect to be governed as an employee cooperative under the provisions of this chapter, by so stating in its articles of incorporation, or articles of amendment filed in accordance with Title 23B RCW and part I, Article 2 of this act.

A corporation so electing shall be governed by all provisions of Title 23B RCW, except RCW 23B.07.050, 23B.13.020, and chapter 23B.11 RCW, and except as otherwise provided in this chapter.

Sec. 9102. RCW 23.78.030 and 1991 c 72 s 10 are each amended to read as follows:

An employee cooperative may revoke its election under this chapter by a vote of two-thirds of the members and through articles of amendment ~~((filed~~

with)) delivered to the secretary of state for filing in accordance with RCW 23B.01.200 ~~((and)), 23B.10.060, and part I, Article 2 of this act.~~

Sec. 9103. RCW 23.86.030 and 1989 c 307 s 5 are each amended to read as follows:

(1) The name of any association subject to this chapter ~~((may contain the word "corporation," "incorporated," or "limited" or an abbreviation of any such word))~~ must comply with part I, Article 3 of this act.

(2) No corporation or association organized or doing business in this state shall be entitled to use the term "cooperative" as a part of its corporate or other business name or title, unless it: (a) Is subject to the provisions of this chapter, chapter 23.78, or 31.12 RCW; (b) is subject to the provisions of chapter 24.06 RCW and operating on a cooperative basis; (c) is, on July 23, 1989, an organization lawfully using the term "cooperative" as part of its corporate or other business name or title; or (d) is a nonprofit corporation or association the voting members of which are corporations or associations operating on a cooperative basis. Any corporation or association violating the provisions of this section may be enjoined from doing business under such name at the instance of any member or any association subject to this chapter.

(3) A member of the board of directors or an officer of any association subject to this chapter shall have the same immunity from liability as is granted in RCW 4.24.264.

Sec. 9104. RCW 23.86.055 and 1989 c 307 s 8 are each amended to read as follows:

(1) ~~((Duplicate originals of))~~ The articles of incorporation shall be signed by the incorporators ((shall be)) and delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. ((If the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall, when all required fees have been paid:

~~(a) Endorse each original with the word "filed" and the effective date of the filing;~~

~~(b) File one original in his or her office;~~

~~(c) Issue a certificate of incorporation with one original attached.))~~

~~(2) ((The certificate of incorporation, with an original of the articles of incorporation affixed by the secretary of state, shall be returned to the incorporators or their representatives and shall be retained by the association.~~

~~(3))~~ Upon the filing of the articles of incorporation, the corporate existence shall begin, and the certificate of incorporation shall, except as against the state in a proceeding to cancel or revoke the certificate of incorporation, be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter.

Sec. 9105. RCW 23.86.070 and 2010 1st sp.s. c 29 s 10 are each amended to read as follows:

~~((For filing articles of incorporation of an association organized under this chapter or filing application for a certificate of authority by a foreign corporation, there must be paid to the secretary of state a fee as established by the secretary by rule. Fees for filing an amendment to articles of incorporation must be established by the secretary of state by rule. For filing other documents~~

~~with the secretary of state and issuing certificates, fees are as prescribed in RCW 23B.01.220. Associations subject to this chapter are not subject to any incorporation license fees excepting the fees hereinabove enumerated.)~~
Associations organized under or subject to this chapter are subject to the applicable fees, charges, and penalties established by the secretary of state under section 1213 of this act and RCW 43.07.120.

Sec. 9106. RCW 23.86.095 and 1989 c 307 s 13 are each amended to read as follows:

Effective January 1, 1990, every association subject to this chapter shall have and maintain a ~~((registered office and a))~~ registered agent in this state in accordance with the requirements set forth in ~~((RCW 24.06.050))~~ part I, Article 4 of this act.

Sec. 9107. RCW 23.86.210 and 1991 c 72 s 18 are each amended to read as follows:

(1) A cooperative association may be converted to a domestic ordinary business corporation pursuant to the following procedures:

(a) The board of directors of the association shall, by affirmative vote of not less than two-thirds of all such directors, adopt a plan for such conversion setting forth:

(i) The reasons why such conversion is desirable and in the interests of the members of the association;

(ii) The proposed contents of articles of conversion with respect to items (ii) through (ix) of subparagraph (c) below; and

(iii) Such other information and matters as the board of directors may deem to be pertinent to the proposed plan.

(b) After adoption by the board of directors, the plan for conversion shall be submitted for approval or rejection to the members of the association at any regular meetings or at any special meetings called for that purpose, after notice of the proposed conversion has been given to all members entitled to vote thereon, in the manner provided by the bylaws. The notice of the meeting shall be accompanied by a full copy of the proposed plan for conversion or by a summary of its provisions. At the meeting members may vote upon the proposed conversion in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon shall be required for approval of the plan of conversion. If the total vote upon the proposed conversion shall be less than twenty-five percent of the total membership of the association, the conversion shall not be approved.

(c) Upon approval by the members of the association, the articles of conversion shall be executed in duplicate by the association by one of its officers and shall set forth:

(i) The dates and vote by which the plan for conversion was adopted by the board of directors and members respectively;

(ii) The corporate name of the converted organization. The name shall comply with requirements in part I, Article 3 of this act for names of business corporations formed under Title 23B RCW, and shall not contain the term "cooperative";

(iii) The purpose or purposes for which the converted corporation is to exist;

(iv) The duration of the converted corporation, which may be perpetual or for a stated term of years;

(v) The capitalization of the converted corporation and the class or classes of shares of stock into which divided, together with the par value, if any, of such shares, in accordance with statutory requirements applicable to ordinary business corporations, and the basis upon which outstanding shares of the association are converted into shares of the converted corporation;

(vi) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the converted corporation;

(vii) The address of the converted corporation's (~~initial registered office and its~~) initial registered agent (~~(at such address)~~);

(viii) The names and addresses of the persons who are to serve as directors of the converted corporation until the first annual meeting of shareholders of the converted corporation or until their successors are elected and qualify;

(ix) Any additional provisions, not inconsistent with law, provided for by the plan for conversion for the regulation of the internal affairs of the converted corporation, including any provision restricting the transfer of shares or which under Title 23B RCW is required or permitted to be set forth in bylaws.

(d) The (~~executed duplicate originals of the~~) articles of conversion shall be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. (~~If the secretary of state finds that the articles of conversion conform to law, the secretary of state shall, when all the fees have been paid as in this section prescribed:~~

(i) ~~Endorse on each of such originals the word "Filed", and the effective date of such filing;~~

(ii) ~~File one of such originals; and~~

(iii) ~~Issue a certificate of conversion to which one of such originals shall be affixed.)~~

(e) (~~The certificate of conversion, together with the original of the articles of conversion affixed thereto by the secretary of state, shall be returned to the converted corporation or its representative. The original affixed to the certificate of conversion shall be retained by the converted corporation.~~

(~~f~~) Upon (~~filing~~) delivering the articles of conversion to the secretary of state for filing, the converted corporation shall pay, and the secretary of state shall collect, the same filing and license fees as for filing articles of incorporation of a newly formed business corporation similarly capitalized.

(2) Upon filing by the secretary of state of the articles of conversion, the conversion of the cooperative association to an ordinary business corporation shall become effective as provided in section 1203 of this act; the articles of conversion shall thereafter constitute and be treated in like manner as articles of incorporation; and the converted corporation shall be subject to all laws applicable to corporations formed under Title 23B RCW, and shall not thereafter be subject to laws applying only to cooperative associations. The converted corporation shall constitute and be deemed to constitute a continuation of the corporate substance of the cooperative association and the conversion shall in no way derogate from the rights of creditors of the former association.

Sec. 9108. RCW 23.86.220 and 1991 c 72 s 19 are each amended to read as follows:

(1) A cooperative association may merge with one or more domestic cooperative associations, or with one or more domestic ordinary business corporations, in accordance with the procedures and subject to the conditions set forth or referred to in this section.

(2) If the merger is into another domestic cooperative association, the board of directors of each of the associations shall approve by vote of not less than two-thirds of all the directors, a plan of merger setting forth:

(a) The names of the associations proposing to merge;

(b) The name of the association which is to be the surviving association in the merger;

(c) The terms and conditions of the proposed merger;

(d) The manner and basis of converting the shares of each merging association into shares or other securities or obligations of the surviving association;

(e) A statement of any changes in the articles of incorporation of the surviving association to be effected by such merger; and

(f) Such other provisions with respect to the proposed merger as are deemed necessary or desirable.

(3) Following approval by the boards of directors, the plan of merger shall be submitted to a vote of the members of each of the associations at any regular meeting or at any special meetings called for that purpose, after notice of the proposed merger has been given to all members entitled to vote thereon, in the manner provided in the bylaws. The notice of the meeting shall be in writing stating the purpose or purposes of the meeting and include or be accompanied by a copy or summary of the plan of merger. At the meeting members may vote upon the proposed merger in person, or by written proxy, or by mailed ballot. The affirmative vote of two-thirds of the members voting thereon, by each association, shall be required for approval of the plan of merger. If the total vote of either association upon the proposed merger shall be less than twenty-five percent of the total membership of such association, the merger shall not be approved.

(4) Upon approval by the members of the associations proposing to merge, articles of merger shall be executed in duplicate by each association by an officer of each association, and shall set forth:

(a) The plan of merger;

(b) As to each association, the number of members and, if there is capital stock, the number of shares outstanding; and

(c) As to each association, the number of members who voted for and against such plan, respectively.

(5) ~~((Duplicate originals of))~~ The articles of merger shall be delivered to the secretary of state for filing in accordance with part I, Article 2 of this act. ~~((If the secretary of state finds that such articles conform to law, the secretary of state shall, when all fees have been paid as in this section prescribed:~~

~~(a) Endorse on each of such originals the word "Filed", and the effective date of such filing;~~

~~(b) File one of such originals; and~~

~~(c) Issue a certificate of merger to which one of such originals shall be affixed.)~~

(6) ~~((The certificate of merger, together with the duplicate original of the articles of merger affixed thereto by the secretary of state shall be returned to the surviving association or its representative.~~

(7)) For filing articles of merger hereunder the secretary of state shall charge and collect the same fees as apply to filing of articles of merger of ordinary business corporations.

~~((8))~~ (7) If the plan of merger is for merger of the cooperative association into a domestic ordinary business corporation, the association shall follow the same procedures as hereinabove provided for merger of domestic cooperative associations and the ordinary business corporation shall follow the applicable procedures set forth in RCW 23B.07.050 and chapter 23B.11 RCW.

~~((9))~~ (8) At any time prior to filing of the articles of merger, the merger may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger.

Sec. 9109. RCW 23.86.310 and 1989 c 307 s 15 are each amended to read as follows:

~~((Effective January 1, 1990,))~~ Every association subject to this chapter shall ((comply with the requirements set forth in RCW 24.06.440)) deliver an annual report to the secretary of state in accordance with section 1212 of this act.

Sec. 9110. RCW 23.86.330 and 1991 c 72 s 21 are each amended to read as follows:

The provisions of ~~((RCW 23B.14.200 and 23B.14.210))~~ part I, Article 6 of this act relating to administrative dissolution by the secretary of state shall apply to every association subject to this chapter formed on or after July 23, 1989.

Sec. 9111. RCW 23.86.370 and 1989 c 307 s 33 are each amended to read as follows:

The provisions of ~~((RCW 24.06.340 through 24.06.435))~~ part I, Article 5 of this act and RCW 24.06.367 and 24.06.369 shall apply to every foreign corporation which desires to conduct affairs in this state under the authority of this chapter.

Sec. 9112. RCW 23.90.040 and 1981 c 302 s 3 are each amended to read as follows:

(1) Any Massachusetts trust desiring to do business in this state shall file with the secretary of state, in accordance with part I, Article 2 of this act, a verified copy of the trust instrument creating such a trust and any amendment thereto, the assumed business name, if any, and the names and addresses of its trustees.

(2) Any person dealing with such Massachusetts trust shall be bound by the terms and conditions of the trust instrument and any amendments thereto so filed.

(3) Any Massachusetts trust created under this chapter or entering this state pursuant thereto shall pay such taxes and fees as are imposed by the laws, ordinances, and resolutions of the state of Washington and any counties and municipalities thereof on domestic and foreign corporations, respectively, on an identical basis therewith. In computing such taxes and fees, the shares of beneficial interest of such a trust shall have the character for tax purposes of shares of stock in private corporations.

(4) Any Massachusetts trust shall be subject to such applicable provisions of law, now or hereafter enacted, with respect to domestic and foreign corporations, respectively, as relate to the issuance of securities, filing of required statements or reports, service of process, general grants of power to act, right to sue and be sued, limitation of individual liability of shareholders, rights to acquire, mortgage, sell, lease, operate and otherwise to deal in real and personal property, and other applicable rights and duties existing under the common law and statutes of this state in a manner similar to those applicable to domestic and foreign corporations.

(5) The secretary of state, director of licensing, and the department of revenue of the state of Washington are each authorized and directed to prescribe binding rules and regulations applicable to said Massachusetts trusts consistent with this chapter.

Sec. 9113. RCW 24.12.045 and 2009 c 437 s 13 are each amended to read as follows:

(1) Each corporation sole registered in this state shall ~~((file, with a ten dollar filing fee and within the time prescribed by this chapter,))~~ deliver an annual report ~~((in the form prescribed by))~~ to the secretary of state in accordance with section 1212 of this act. The report shall ~~((set forth:~~

(a) ~~The name of the corporation sole and the state or country under the laws of which it is incorporated;~~

(b) ~~The address of the principal place of business of the corporation sole in this state including street and number;~~

(c) ~~The name and respective address of the bishop, overseer, or presiding elder of the corporation sole; and~~

(d) ~~The corporation sole's unified business identifier number.~~

~~(2)(a) The information shall be given as of the date of the execution of the report. It shall))~~ be executed by the corporation sole by an officer of the corporation sole or, if the corporation sole is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation sole by such receiver or trustee.

~~((b))~~ (2) The secretary of state may provide that correcting or updating information appearing on previous annual or biennial filings is sufficient to constitute the current filing.

(3) The secretary may administratively dissolve a corporation sole that does not comply with this section in accordance with section 1603 of this act. However, the secretary shall reinstate a corporation sole administratively dissolved under this subsection if the corporation sole complies with the requirements of RCW 24.12.055 within five years of the administrative dissolution.

Sec. 9114. RCW 24.12.051 and 2011 c 183 s 7 are each amended to read as follows:

~~((1) Not less than thirty days prior to a corporation sole's renewal date,))~~ The secretary of state shall send to each corporation sole~~((, by postal or electronic mail, as elected by the corporation sole, addressed to its registered office, or to an electronic address designated by the corporation sole, in a record retained by the secretary of state,))~~ a notice in accordance with section 1212 of this act that its annual report must be filed as required by this chapter~~((, and stating that if it fails to file its annual report it shall be dissolved or its certificate~~

~~of authority revoked, as the case may be. Failure of the secretary of state to send the notice does not relieve a corporation sole from its obligation to file the annual reports required by this chapter. The option to receive the notice provided under this section by electronic mail may be selected only when the secretary of state makes the option available.~~

~~(2)(a) The report of a corporation sole shall be delivered to the secretary of state on an annual renewal date as the secretary of state may establish. The secretary of state may adopt rules to establish biennial reporting dates and to stagger reporting dates.~~

~~(b) If the secretary of state finds that the report substantially conforms to the requirements of this chapter, the secretary of state shall file that report).~~

Sec. 9115. RCW 24.20.010 and 1981 c 302 s 11 are each amended to read as follows:

Any grand lodge, encampment, chapter or any subordinate lodge or body of Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias, or other fraternal society, desiring to incorporate, shall ~~((make))~~ deliver articles of incorporation ~~((in duplicate, and file one of such articles in the office of))~~ to the secretary of state for filing in accordance with part I, Article 2 of this act; such articles shall be signed by the presiding officer and the secretary of such lodge, chapter or encampment, and attested by the seal thereof, and shall specify:

(1) The name of such lodge or other society, and the place of holding its meetings;

(2) The name of the grand body from which it derives its rights and powers as such lodge or society; or if it be a grand lodge, the manner in which its powers as such grand lodge are derived;

(3) The names of the presiding officer and the secretary having the custody of the seal of such lodge or society;

(4) What officers shall join in the execution of any contract by such lodge or society to give it force and effect in accordance with the usages of such lodges or society.

Sec. 9116. RCW 24.20.020 and 1993 c 269 s 10 are each amended to read as follows:

The secretary of state shall file such articles of incorporation in the secretary of state's office and issue a certificate of incorporation to any such lodge or other society upon the payment of the ~~((sum of twenty dollars))~~ filing fee established by the secretary of state under section 1213 of this act.

Sec. 9117. RCW 24.24.010 and 1982 c 35 s 166 are each amended to read as follows:

Any ten or more residents of this state who are members of any chartered body or of different chartered bodies of any fraternal order or society who shall desire to incorporate for the purpose of owning real or personal property or both real and personal property for the purpose and for the benefit of such bodies, may make and execute articles of incorporation, which shall be executed in duplicate, and shall be subscribed by each of the persons so associating themselves together: PROVIDED, That no lodge shall be incorporated contrary to the provisions of the laws and regulations of the order or society of which it is a constituent part. Such articles, at the election of the incorporators, may either

provide for the issuing of capital stock or for incorporation as a society of corporation without shares of stock. One of such articles shall be filed in the office of the secretary of state in accordance with part I, Article 2 of this act, accompanied by a filing fee (~~(of twenty dollars)~~) established by the secretary of state under section 1213 of this act, and the other of such articles shall be preserved in the records of the corporation.

Sec. 9118. RCW 24.24.100 and 1993 c 269 s 11 are each amended to read as follows:

The secretary of state shall file such articles of incorporation or amendment thereto in the secretary of state's office and issue a certificate of incorporation or amendment, as the case may be, to such fraternal association upon the payment of a fee (~~(in the sum of twenty dollars)~~) established by the secretary of state under section 1213 of this act.

Sec. 9119. RCW 24.28.010 and 1981 c 302 s 13 are each amended to read as follows:

Any grange of the patrons of husbandry, desiring hereafter to incorporate, may incorporate and become bodies politic in this state, by filing in the office of the secretary of state of Washington in accordance with part I, Article 2 of this act, a certificate or article subscribed and acknowledged by not less than five members of such grange and by the master of the Washington state grange embodying:

(1) The name of such grange and the place of holding its meetings.

(2) What elective officers the said grange will have, when such officers shall be elected; how, and by whom, the business of the grange shall be conducted or managed, and what officers shall join in the execution of any contract by such grange to give force and effect in accordance with the usages of the order of the patrons of husbandry; such articles shall be subscribed by the master of such grange attested by the secretary, with the seal of the grange.

(3) A copy of the bylaws of such grange shall also be filed in the said office of the secretary of state.

(4) The names of all such officers at the time of filing the application, and the time for which they may be respectively elected. When such articles shall be filed, such grange shall be a body politic and corporate, with all the incidents of a corporation, subject nevertheless to the laws and parts of laws now in force or hereafter to be passed regulating corporations.

Sec. 9120. RCW 18.100.120 and 1993 c 290 s 1 are each amended to read as follows:

Corporations organized pursuant to this chapter shall render professional service and exercise its authorized powers under a name permitted by law and the professional ethics of the profession in which the corporation is so engaged. The corporate name of a professional service corporation must (~~contain either the words "professional service" or "professional corporation" or the abbreviation "P.S." or "P.C."~~) The corporate name may also contain either the words "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.") comply with the requirements of part I, Article 3 of this act. With the filing of its first annual report and any filings thereafter, a professional service corporation shall list its then shareholders(= PROVIDED, That notwithstanding the foregoing provisions of this section, the

~~corporate name of a corporation organized to render dental services shall contain the full names or surnames of all shareholders and no other word than "chartered" or the words "professional services" or the abbreviation "P.S." or "P.C.").~~

NEW SECTION. Sec. 9121. The following acts or parts of acts are each repealed:

(1) RCW 23.86.155 (Failure to appoint registered agent—Removal—Reinstatement) and 1989 c 307 s 35;

(2) RCW 23.86.300 (Application of RCW 24.06.055 and 24.06.060) and 1989 c 307 s 14;

(3) RCW 23.86.320 (Application of RCW 24.06.445) and 1989 c 307 s 16;

(4) RCW 23.86.335 (Application of RCW 23B.14.203—Name not distinguishable from name of governmental entity) and 1997 c 12 s 8;

(5) RCW 23.86.340 (Application of RCW 23B.14.220—Reinstatement) and 1991 c 72 s 22 & 1989 c 307 s 18;

(6) RCW 24.12.060 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 4;

(7) RCW 24.20.040 (Reincorporation) and 1903 c 80 s 4;

(8) RCW 24.20.050 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 5;

(9) RCW 24.24.130 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 6; and

(10) RCW 24.28.045 (Administrative dissolution or revocation of a certificate of authority—Corporation name not distinguishable from name of governmental entity—Application by governmental entity) and 1997 c 12 s 7.

Passed by the Senate April 21, 2015.

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CHAPTER 177

[Senate Bill 5468]

DEPARTMENT OF LABOR AND INDUSTRIES--SELF-INSURED EMPLOYER PROGRAM-- STAY AT WORK PROGRAM

AN ACT Relating to authorizing the use of nonappropriated funds on certain administrative costs and expenses of the stay-at-work and self-insured employer programs; and adding new sections to chapter 51.44 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 51.44 RCW to read as follows:

(1) Moneys used for administrative expenses to assist employers with developing a stay-at-work program and other related services that respond to employer needs or employee needs, or both, in the stay-at-work program as they

arise is subject to the allotment of all expenditures pursuant to chapter 43.88 RCW. However, an appropriation is not required for expenditures. Administrative expenses include, but are not limited to, the salaries and expenses of staff required to implement the services and travel, goods, and services necessary to conduct these activities. The department must use stay-at-work program premiums to pay for these services. The department must seek the advice of the workers' compensation advisory committee prior to accessing these funds.

(2) The director must appoint a stay-at-work advisory committee composed of six members: Three representing large and small employers and three representing labor. At least one member of the committee must be a small business owner as defined by RCW 34.05.110(9)(a) or must represent a group primarily made up of small businesses. Appointed members representing employers must have experience working directly with the stay-at-work program. Statewide business and labor organizations, representing large and small employers, must provide the director with recommendations for people to serve on the committee. The department must provide staff support for this committee.

(3) The members must serve three-year terms. Terms of the members representing employers and labor must be staggered such that the director must designate one member from each group initially appointed whose term must expire after one year and one member from each group whose term must expire after two years. The remainder of the initial group must be appointed for three-year terms. Thereafter, members must be appointed for three-year terms.

(4) The members must serve without compensation, but must be entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060. All expenses of this committee must be paid by the department.

(5) This committee must review department proposals, submitted by the director, to spend nonappropriated stay-at-work program premiums for administrative expenses as defined under subsection (1) of this section, and make recommendations to the workers' compensation advisory committee for their consideration.

NEW SECTION. Sec. 2. A new section is added to chapter 51.44 RCW to read as follows:

Moneys used for administrative costs for one-time projects requested by self-insured employers and that will support the self-insured employer program is subject to the allotment of all expenditures pursuant to chapter 43.88 RCW. However, an appropriation is not required for expenditures. Administrative costs include, but are not limited to, the salaries and expenses of staff required to implement the one-time projects and travel, goods, and services necessary to conduct these activities. The department must use self-insured employer administrative assessments to cover the costs of these services. The department must seek support from self-insured employers prior to accessing these funds.

Passed by the Senate March 3, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 178

[Engrossed Senate Bill 5510]

WORKERS' COMPENSATION BENEFITS--CALCULATIONS

AN ACT Relating to simplifying and adding certainty to the calculation of workers' compensation benefits; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. The department of labor and industries shall convene, no later than August 1, 2015, a benefit accuracy working group under the industrial insurance program. The director must appoint members to the working group as follows: Two members representing labor, two members representing employers, and at least two members representing the department of labor and industries. Members must serve without compensation but are entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060. All expenses of this working group must be paid by the department. The working group must focus on improving the accuracy, simplicity, fairness, and consistency of calculating and providing wage replacement benefits and shall not consider overall reductions in existing worker benefit levels. The working group must report back to the appropriate committees of the legislature by February 1, 2016, and September 1, 2016. This section expires December 31, 2016.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 6, 2015.

Filed in Office of Secretary of State May 6, 2015.

CHAPTER 179

[House Bill 1013]

COUNTY LEGISLATIVE AUTHORITIES--REGULAR MEETINGS--ALTERNATE LOCATIONS

AN ACT Relating to authorizing regular meetings of county legislative authorities to be held at alternate locations within the county; and amending RCW 36.32.080.

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

Sec. 1. RCW 36.32.080 and 1989 c 16 s 1 are each amended to read as follows:

(1) Except as provided otherwise by this section, the county legislative authority of each county shall hold regular meetings at the county seat to transact any business required or permitted by law.

(2) As an alternative option that may be exercised no more than once per calendar quarter, regular meetings may be held at a location outside of the county seat but within the county if the county legislative authority determines that holding a meeting at an alternate location would be in the interest of supporting greater citizen engagement in local government.

(3) The county legislative authority must give notice of any regular meeting held outside of the county seat. Notice must be given at least thirty days before the time of the meeting specified in the notice. At a minimum, notice must be:

(a) Posted on the county's web site;

(b) Published in a newspaper of general circulation in the county; and

(c) Sent via electronic transmission to any resident of the county who has chosen to receive the notice required under this section at an electronic mail address.

Passed by the House April 16, 2015.

Passed by the Senate April 9, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 180

[House Bill 1124]

BEER AND WINE--LICENSEES--ON-PREMISES SAMPLING

AN ACT Relating to permitting the sampling of beer and wine at locations licensed to serve beer and wine for on-premises consumption; and adding a new section to chapter 66.24 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 66.24 RCW to read as follows:

(1) Except as provided in RCW 66.24.170, 66.24.175, 66.24.363, and 66.24.371 any licensee authorized under this chapter to serve beer on tap or wine for consumption on the premises may provide samples of beer and wine free of charge for consumption on the premises.

(2) Each sample provided under this section must be two ounces or less. A licensee may provide a maximum of four ounces of samples per customer per day.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 181

[House Bill 1389]

EMERGENCIES--MOBILIZATION--FIRE SERVICE PERSONNEL

AN ACT Relating to the scope of state fire service mobilization and ensuring compliance with existing state and federal disaster response policies; amending RCW 43.43.960 and 43.43.961; adding a new section to chapter 43.43 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature recognizes the vital role that our state's fire service personnel play in responding not just to fires but to disasters of varying types and kinds. The legislature further recognizes that the fire service mobilization plan may be a more effective tool for use in all emergencies and disasters to which fire departments, fire districts, and regional fire protection service authorities typically respond. It is the intent of the legislature that state fire service mobilization be allowed in all incidents to which fire departments, fire districts, and regional fire protection service authorities typically respond, so long as the mobilization meets the requirements identified in the Washington

state fire service mobilization plan. It is the intent of the legislature to review the use of the fire mobilization plan for emergencies and disasters other than fire suppression to determine if this policy should continue or be modified.

Sec. 2. RCW 43.43.960 and 2003 c 405 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this subchapter.

(1) "Chief" means the chief of the Washington state patrol.

(2) "State fire marshal" means the director of fire protection in the Washington state patrol.

(3) "Fire chief" includes the chief officer of a statutorily authorized fire agency, or the fire chief's authorized representative. Also included are the department of natural resources fire control chief, and the department of natural resources regional managers.

(4) "Jurisdiction" means state, county, city, fire district, regional fire protection service authority, or port district (~~((firefighting))~~) units, or other units covered by this chapter.

(5) "Mobilization" means that (~~((firefighting))~~) all risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities beyond those available through existing agreements will be requested and, when available, sent in response to an emergency or disaster situation that has exceeded the capabilities of available local resources. During a large scale emergency, mobilization includes the redistribution of regional or statewide (~~((firefighting))~~) risk resources to either direct emergency incident assignments or to assignment in communities where (~~((firefighting))~~) resources are needed. Fire department resources may not be mobilized to assist law enforcement with police activities during a civil protest or demonstration, however, fire departments, fire districts, and regional fire protection service authorities are not restricted from providing medical care or aid and firefighting when mobilized for any purpose.

When mobilization is declared and authorized as provided in this chapter, all (~~((firefighting))~~) risk resources regularly provided by fire departments, fire districts, and regional fire protection service authorities including those of the host fire protection authorities, i.e. incident jurisdiction, shall be deemed as mobilized under this chapter, including those that responded earlier under existing mutual aid or other agreement. All nonhost fire protection authorities providing (~~((firefighting))~~) resources in response to a mobilization declaration shall be eligible for expense reimbursement as provided by this chapter from the time of the mobilization declaration.

This chapter shall not reduce or suspend the authority or responsibility of the department of natural resources under chapter 76.04 RCW.

(6) "Mutual aid" means emergency interagency assistance provided without compensation under an agreement between jurisdictions under chapter 39.34 RCW.

(7) "All risk resources" means those resources regularly provided by fire departments, fire districts, and regional fire protection service authorities required to respond to natural or man-made incidents, including but not limited to:

(a) Wild land fires:

- (b) Landslides;
- (c) Earthquakes;
- (d) Floods; and
- (e) Contagious diseases.

Sec. 3. RCW 43.43.961 and 2003 c 405 s 2 are each amended to read as follows:

Because of the possibility of the occurrence of disastrous fires or other disasters of unprecedented size and destructiveness, the need to insure that the state is adequately prepared to respond to such a fire or disaster, the need to establish a mechanism and a procedure to provide for reimbursement to state agencies and local ((~~firefighting~~)) agencies that respond to help others in time of need or to a host fire district that experiences expenses beyond the resources of the fire district, and generally to protect the public peace, health, safety, lives, and property of the people of Washington, it is hereby declared necessary to:

(1) Provide the policy and organizational structure for large scale mobilization of ((~~firefighting~~)) all risk resources in the state through creation of the Washington state fire services mobilization plan;

(2) Confer upon the chief the powers provided herein;

(3) Provide a means for reimbursement to state agencies and local fire jurisdictions that incur expenses when mobilized by the chief under the Washington state fire services mobilization plan; and

(4) Provide for reimbursement of the host fire department or fire protection district when it has: (a) Exhausted all of its resources; and (b) invoked its local mutual aid network and exhausted those resources. Upon implementation of state fire mobilization, the host district resources shall become state fire mobilization resources consistent with the fire mobilization plan.

It is the intent of the legislature that mutual aid and other interlocal agreements providing for enhanced emergency response be encouraged as essential to the public peace, safety, health, and welfare, and for the protection of the lives and property of the people of the state of Washington. If possible, mutual aid agreements should be without stated limitations as to resources available, time, or area. Nothing in this chapter shall be construed or interpreted to limit the eligibility of any nonhost fire protection authority for reimbursement of expenses incurred in providing ((~~firefighting~~)) all risk resources for mobilization provided that the mobilization must meet the requirements identified in the Washington state fire service mobilization plan.

NEW SECTION. **Sec. 4.** A new section is added to chapter 43.43 RCW to read as follows:

The chief of the Washington state patrol must report on an annual basis the following information for each emergency or disaster in which the Washington state fire service mobilization plan was used for purposes other than fire suppression, and reimbursement was made under RCW 43.43.961:

- (1) The type and nature of the disaster or emergency;
- (2) The reasons why the host jurisdiction and mutual aid resources were exhausted;
- (3) The additional risk resources provided under the mobilization plan;
- (4) The cost incurred by the state patrol;

(5) The amount of reimbursement made under RCW 43.43.961 to the host jurisdiction and to each nonhost jurisdiction providing all risk resources; and

(6) An assessment and any recommendations of actions that can be taken by the host jurisdiction and its mutual aid network to prevent future use of the fire mobilization plan for similar disasters or emergencies.

NEW SECTION. Sec. 5. This act expires July 1, 2019.

Passed by the House April 23, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 182

[Engrossed Substitute House Bill 2093]

WILDLAND FIRE SUPPRESSION

AN ACT Relating to wildland fire suppression; amending RCW 76.04.015; reenacting and amending RCW 76.04.005; adding a new section to chapter 43.30 RCW; adding new sections to chapter 76.04 RCW; creating a new section; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.30 RCW under the subchapter heading "organization" to read as follows:

(1) The commissioner must appoint a local wildland fire liaison that reports directly to the commissioner or the supervisor and generally represents the interests and concerns of landowners and the general public during any fire suppression activities of the department.

(2) The role of the local wildland fire liaison is to provide advice to the commissioner on issues such as access to land during fire suppression activities, the availability of local fire suppression assets, environmental concerns, and landowner interests.

(3) In appointing the local wildland fire liaison, the commissioner must consult with county legislative authorities either directly or through an organization that represents the interests of county legislative authorities.

(4) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. Sec. 2. (1) The local wildland fire liaison created in section 1 of this act must prepare a report to the commissioner of public lands by December 31, 2015, that provides recommendations regarding:

(a) Opportunities for the department of natural resources to increase training with local fire protection districts;

(b) The ability to quickly evaluate the availability of local fire district resources in a manner that allows the local resources to be more efficiently and effectively dispatched to wildland fires; and

(c) Opportunities to increase and maintain the viability of local fire suppression assets.

(2) The department of natural resources must issue a report to the legislature consistent with RCW 43.01.036 by October 31, 2016, that summarizes the recommendations of the local wildland fire liaison, details steps taken to

implement the recommendations, and offers an analyses of the results on the ground.

(3) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

(4) This section expires July 1, 2017.

NEW SECTION. Sec. 3. A new section is added to chapter 76.04 RCW under the subchapter heading "administration" to read as follows:

(1) The commissioner must appoint and maintain a wildland fire advisory committee to generally advise the commissioner on all matters related to wildland firefighting in the state. This includes, but is not limited to, developing recommendations regarding department capital budget requests related to wildland firefighting and developing strategies to enhance the safe and effective use of private and public wildland firefighting resources.

(2) The commissioner may appoint members to the wildland fire advisory committee as the commissioner determines is the most helpful in the discharge of the commissioner's duties. However, at a minimum, the commissioner must invite the following:

(a) Two county commissioners, one from east of the crest of the Cascade mountains and one from west of the crest of the Cascade mountains;

(b) Two owners of industrial land, one an owner of timberland and one an owner of rangeland;

(c) The state fire marshal or a representative of the state fire marshal's office;

(d) Two individuals with the title of fire chief, one from a community located east of the crest of the Cascade mountains and one from a community located west of the crest of the Cascade mountains;

(e) An individual with the title of fire commissioner whose authority is pursuant to chapter 52.14 RCW;

(f) A representative of a federal wildland firefighting agency;

(g) A representative of a tribal nation;

(h) A representative of a statewide environmental organization;

(i) A representative of a state land trust beneficiary; and

(j) A small forest landowner.

(3) The local wildland fire liaison serves as the administrative chair for the wildland fire advisory committee.

(4) The department must provide staff support for all committee meetings.

(5) The wildland fire advisory committee must meet at the call of the administrative chair for any purpose that directly relates to the duties set forth in subsection (1) of this section or as is otherwise requested by the commissioner or the administrative chair.

(6) Each member of the wildland fire advisory committee serves without compensation but may be reimbursed for travel expenses as authorized in RCW 43.03.050 and 43.03.060.

(7) The members of the wildland fire advisory committee, or individuals acting on their behalf, are immune from civil liability for official acts performed in the course of their duties.

(8) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

NEW SECTION. **Sec. 4.** A new section is added to chapter 76.04 RCW to read as follows:

(1)(a) An individual may, consistent with this section, enter privately owned or publicly owned land for the purposes of attempting to extinguish or control a wildland fire, regardless of whether the individual owns the land, when fighting the wildland fire in that particular time and location can be reasonably considered a public necessity due to an imminent danger.

(b) No civil or criminal liability may be imposed by any court on an individual acting pursuant to this section for any direct or proximate adverse impacts resulting from an individual's access to land for the purposes of attempting to extinguish or control a wildland fire when fighting the wildland fire in that particular time and location can be reasonably considered a public necessity, except upon proof of gross negligence or willful or wanton misconduct by the individual.

(c) An individual may enter land under this subsection (1) only if:

(i) There is an active fire on or in near proximity to the land;

(ii) The individual has a reasonable belief that the local fire conditions are creating an emergency situation and that there is an imminent danger of a fire growing or spreading to or from the parcel of land being entered;

(iii) The individual has a reasonable belief that preventive measures will extinguish or control the wildfire;

(iv) The individual has a reasonable belief that he or she is capable of taking preventive measures;

(v) The individual only undertakes measures that are reasonable and necessary until professional wildfire suppression personnel arrives;

(vi) The individual does not continue to take suppression actions after specific direction to cease from the landowner;

(vii) The individual takes preventive measures only for the period of time until efforts to control the wildfire have been assumed by professional wildfire suppression personnel, unless explicitly authorized by professional wildland firefighting personnel to remain engaged in suppressing the fire;

(viii) The individual follows the instructions of professional wildland firefighting personnel, including ceasing to engage in firefighting activities, when directed to do so by professional wildland firefighting personnel; and

(ix) The individual promptly notifies emergency personnel and the landowner, lessee, or occupant prior to entering the land or within a reasonable time after the individual attempts to extinguish or control the wildland fire.

(d) Nothing in this section authorizes any person to materially benefit from accessing land or retain any valuable materials that may be collected or harvested during the time the individual attempts to extinguish or control the wildland fire.

(e)(i) The authority to enter privately owned or publicly owned land under this subsection (1) is limited to the minimum necessary activities reasonably required to extinguish or control the wildland fire.

(ii) Activities that may be reasonable under this subsection (1) include, but are not limited to: Using hand tools to clear the ground of debris, operating readily available water hoses, clearing flammable materials from the vicinity of structures, unlocking or opening gates to assist firefighter access, and safely scouting and reporting fire behavior.

(iii) Activities that do not fall within the scope of this subsection (1)(e), due to the high potential for adverse consequences, include, but are not limited to: Lighting a fire in an attempt to stop the spread of another fire; using explosives as a firefighting technique; using aircraft for fire suppression; and directing other individuals to engage in firefighting.

(f) Nothing in this subsection (1) confers a legal or civil duty or obligation on a person to attempt to extinguish or control a wildfire.

(2)(a) No civil or criminal liability may be imposed by any court on the owner, lessee, or occupant of any land accessed as permitted under subsection (1) of this section for any direct or proximate adverse impacts resulting from the access to privately owned or publicly owned land allowed under subsection (1) of this section, except upon proof of willful or wanton misconduct by the owner, lessee, or occupant. The barriers to civil and criminal liability imposed by this subsection include, but are not limited to, impacts on:

(i) The individual accessing the privately owned or publicly owned land and the individual's personal property, including loss of life;

(ii) Any structures or land alterations constructed by individuals entering the privately owned or publicly owned land;

(iii) Other landholdings; and

(iv) Overall environmental resources.

(b) This subsection (2) does not apply in any case where liability for damages is provided under RCW 4.24.040.

(3) Nothing in this section limits or otherwise effects any other statutory or common law provisions relating to land access or the control of a conflagration.

Sec. 5. RCW 76.04.015 and 2012 c 38 s 1 are each amended to read as follows:

(1) The department may, at its discretion, appoint trained personnel possessing the necessary qualifications to carry out the duties and supporting functions of the department and may determine their respective salaries.

(2) The department shall have direct charge of and supervision of all matters pertaining to the forest fire service of the state.

(3) The department shall:

(a) Enforce all laws within this chapter;

(b) Be empowered to take charge of and direct the work of suppressing forest fires;

(c)(i) Investigate the origin and cause of all forest fires to determine whether either a criminal act or negligence by any person, firm, or corporation caused the starting, spreading, or existence of the fire. In conducting investigations, the department shall work cooperatively, to the extent possible, with utilities, property owners, and other interested parties to identify and preserve evidence. Except as provided otherwise in this subsection, the department in conducting investigations is authorized, without court order, to take possession or control of relevant evidence found in plain view and belonging to any person, firm, or corporation. To the extent possible, the department shall notify the person, firm, or corporation of its intent to take possession or control of the evidence. The person, firm, or corporation shall be afforded reasonable opportunity to view the evidence and, before the department takes possession or control of the evidence, also shall be afforded reasonable opportunity to examine, document, and photograph it. If the person, firm, or corporation objects in writing to the

department's taking possession or control of the evidence, the department must either return the evidence within seven days after the day on which the department is provided with the written objections or obtain a court order authorizing the continued possession or control.

(ii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of the owner of the evidence if the evidence is used by the owner in conducting a business or in providing an electric utility service and the department's taking possession or control of the evidence would substantially and materially interfere with the operation of the business or provision of electric utility service.

(iii) Absent a court order authorizing otherwise, the department may not take possession or control of evidence over the objection of an electric utility when the evidence is not owned by the utility but has caused damage to property owned by the utility. However, this subsection (3)(c)(iii) does not apply if the department has notified the utility of its intent to take possession or control of the evidence and provided the utility with reasonable time to examine, document, and photograph the evidence.

(iv) Only personnel qualified to work on electrical equipment may take possession or control of evidence owned or controlled by an electric utility;

(d) Furnish notices or information to the public calling attention to forest fire dangers and the penalties for violation of this chapter;

(e) Be familiar with all timbered and cut-over areas of the state; ~~((and))~~

(f) Maximize the effective utilization of local fire suppression assets consistent with section 6 of this act; and

(g) Regulate and control the official actions of its employees, the wardens, and the rangers.

(4) The department may:

(a) Authorize all needful and proper expenditures for forest protection;

(b) Adopt rules consistent with this section for the prevention, control, and suppression of forest fires as it considers necessary including but not limited to: Fire equipment and materials; use of personnel; and fire prevention standards and operating conditions including a provision for reducing these conditions where justified by local factors such as location and weather;

(c) Remove at will the commission of any ranger or suspend the authority of any warden;

(d) Inquire into:

(i) The extent, kind, value, and condition of all timber lands within the state;

(ii) The extent to which timber lands are being destroyed by fire and the damage thereon;

(e) Provide fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by the department or another state agency, but only to the extent that providing these services does not interfere with or detract from the obligations set forth in subsection (3) of this section. If the department provides fire detection, prevention, presuppression, or suppression services on nonforested public lands managed by another state agency, the department must be fully reimbursed for the work through a cooperative agreement as provided for in RCW 76.04.135(1).

(5) Any rules adopted under this section for the suppression of forest fires must include a mechanism by which a local fire mobilization radio frequency,

consistent with RCW 43.43.963, is identified and made available during the initial response to any forest fire that crosses jurisdictional lines so that all responders have access to communications during the response. Different initial response frequencies may be identified and used as appropriate in different geographic response areas. If the fire radio communication needs escalate beyond the capability of the identified local radio frequency, the use of other available designated interoperability radio frequencies may be used.

(6) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in forest firefighting and patrol.

NEW SECTION. Sec. 6. A new section is added to chapter 76.04 RCW to read as follows:

(1) To maximize the effective utilization of local fire suppression assets, the department is required to:

(a) Compile and annually update master lists of qualified wildland fire suppression contractors who have valid incident qualifications for the kind of contracted work to be performed. In order to be included on a master list of qualified wildland fire suppression contractors:

(i) Contractors providing fire engines, tenders, crews, or similar resources must have training and qualifications sufficient for federal wildland fire contractor eligibility, including possessing a valid incident qualification card, commonly called a red card; and

(ii) Contractors other than those identified in (a)(i) of this subsection must have training and qualifications evidenced by possession of a valid department qualification and safety document, commonly called a blue card, issued to people cooperating with the department pursuant to an agreement;

(b) Provide timely advance notification of the dates and locations of department blue card training to all potential wildland fire suppression contractors known to the department and make the training available in several locations that are reasonably convenient for contractors;

(c) Make the lists of qualified wildland fire suppression contractors available to county legislative authorities, emergency management departments, and local fire districts;

(d) Cooperate with federal wildland firefighting agencies to maximize, based on predicted need, the efficient use of local resources in close proximity to wildland fire incidents;

(e) Enter into preemptive agreements with landowners in possession of firefighting capability that may be utilized in wildland fire suppression efforts, including the use of bulldozers, fallers, fuel tenders, potable water tenders, water sprayers, wash trailers, refrigeration units, and buses; and

(f) Conduct outreach to provide basic incident command system and wildland fire safety training to landowners in possession of firefighting capability to help ensure that any wildland fire suppression actions taken by private landowners on their own land are accomplished safely and in coordination with any related incident command structure.

(2) Nothing in subsection (1) of this section prohibits the department from conducting condensed safety training on the site of a wildland fire in order to

utilize available contractors not included on a master list of qualified wildland fire suppression contractors.

(3) When entering into preemptive agreements with landowners under this section, the department must ensure that:

(a) All equipment and personnel satisfy department standards; and

(b) All contractors are, when engaged in fire suppression activities, under the supervision of recognized wildland fire personnel.

(4) No civil liability may be imposed by any court on the state or its officers and employees for any adverse impacts resulting from training provided by the department or preemptive agreements entered into by the department under the provisions of this section except upon proof of gross negligence or willful or wanton misconduct.

(5) All requirements in this section are subject to the availability of amounts appropriated for the specific purposes described.

Sec. 7. RCW 76.04.005 and 2014 c 90 s 1 are each reenacted and amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Additional fire hazard" means a condition existing on any land in the state:

(a) Covered wholly or in part by forest debris which is likely to further the spread of fire and thereby endanger life or property; or

(b) When, due to the effects of disturbance agents, broken, down, dead, or dying trees exist on forest land in sufficient quantity to be likely to further the spread of fire within areas covered by a forest health hazard warning or order issued by the commissioner of public lands under RCW 76.06.180. The term "additional fire hazard" does not include green trees or snags left standing in upland or riparian areas under the provisions of RCW 76.04.465 or chapter 76.09 RCW.

(2) "Closed season" means the period between April 15th and October 15th, unless the department designates different dates because of prevailing fire weather conditions.

(3) "Department" means the department of natural resources, or its authorized representatives, as defined in chapter 43.30 RCW.

(4) "Department protected lands" means all lands subject to the forest protection assessment under RCW 76.04.610 or covered under contract or agreement pursuant to RCW 76.04.135 by the department.

(5) "Disturbance agent" means those forces that damage or kill significant numbers of forest trees, such as insects, diseases, wind storms, ice storms, and fires.

(6) "Emergency fire costs" means those costs incurred or approved by the department for emergency forest fire suppression, including the employment of personnel, rental of equipment, and purchase of supplies over and above costs regularly budgeted and provided for nonemergency fire expenses for the biennium in which the costs occur.

(7) "Exploding target" means a device that is designed or marketed to ignite or explode when struck by firearm ammunition or other projectiles.

(8) "Forest debris" includes forest slash, chips, and any other vegetative residue resulting from activities on forest land.

(9) "Forest fire service" includes all wardens, rangers, and other persons employed especially for preventing or fighting forest fires.

(10) "Forest land" means any unimproved lands which have enough trees, standing or down, or flammable material, to constitute in the judgment of the department, a fire menace to life or property. Sagebrush and grass areas east of the summit of the Cascade mountains may be considered forest lands when such areas are adjacent to or intermingled with areas supporting tree growth. Forest land, for protection purposes, does not include structures.

(11) "Forest landowner," "owner of forest land," "landowner," or "owner" means the owner or the person in possession of any public or private forest land.

(12) "Forest material" means forest slash, chips, timber, standing or down, or other vegetation.

(13) "Incendiary ammunition" means ammunition that is designed to ignite or explode upon impact with or penetration of a target or designed to trace its course in the air with a trail of smoke, chemical incandescence, or fire.

(14) "Landowner operation" means every activity, and supporting activities, of a forest landowner and the landowner's agents, employees, or independent contractors or permittees in the management and use of forest land subject to the forest protection assessment under RCW 76.04.610 for the primary benefit of the owner. The term includes, but is not limited to, the growing and harvesting of forest products, the development of transportation systems, the utilization of minerals or other natural resources, and the clearing of land. The term does not include recreational and/or residential activities not associated with these enumerated activities.

(15) "Participating landowner" means an owner of forest land whose land is subject to the forest protection assessment under RCW 76.04.610.

(16) "Sky lantern" means an unmanned self-contained luminary device that uses heated air produced by an open flame or produced by another source to become or remain airborne.

(17) "Slash" means organic forest debris such as tree tops, limbs, brush, and other dead flammable material remaining on forest land as a result of a landowner operation.

(18) "Slash burning" means the planned and controlled burning of forest debris on forest lands by broadcast burning, underburning, pile burning, or other means, for the purposes of silviculture, hazard abatement, or reduction and prevention or elimination of a fire hazard.

(19) "Suppression" means all activities involved in the containment and control of forest fires, including the patrolling thereof until such fires are extinguished or considered by the department to pose no further threat to life or property.

(20) "Unimproved lands" means those lands that will support grass, brush and tree growth, or other flammable material when such lands are not cleared or cultivated and, in the opinion of the department, are a fire menace to life and property.

(21) "Commissioner" means the commissioner of public lands.

(22) "Local fire suppression assets" means firefighting equipment that is located in close proximity to the wildland fire and that meets department standards and requirements.

(23) "Local wildland fire liaison" means the person appointed by the commissioner to serve as the local wildland fire liaison as provided in section 1 of this act.

Passed by the House April 23, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 183

[House Bill 1392]

RECREATION AND CONSERVATION FUNDING BOARD--GRANT PROGRAMS--
ADMINISTRATION

AN ACT Relating to the administrative rate the recreation and conservation funding board may retain to administer the grant programs established in chapter 79A.15 RCW; and amending RCW 79A.15.030.

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

Sec. 1. RCW 79A.15.030 and 2009 c 341 s 2 are each amended to read as follows:

(1) Moneys appropriated for this chapter shall be divided as follows:

(a) Appropriations for a biennium of forty million dollars or less must be allocated equally between the habitat conservation account and the outdoor recreation account.

(b) If appropriations for a biennium total more than forty million dollars, the money must be allocated as follows: (i) Twenty million dollars to the habitat conservation account and twenty million dollars to the outdoor recreation account; (ii) any amount over forty million dollars up to fifty million dollars shall be allocated as follows: (A) Ten percent to the habitat conservation account; (B) ten percent to the outdoor recreation account; (C) forty percent to the riparian protection account; and (D) forty percent to the farmlands preservation account; and (iii) any amounts over fifty million dollars must be allocated as follows: (A) Thirty percent to the habitat conservation account; (B) thirty percent to the outdoor recreation account; (C) thirty percent to the riparian protection account; and (D) ten percent to the farmlands preservation account.

(2) Except as otherwise provided in chapter 303, Laws of 2005, moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(3) All moneys deposited in the habitat conservation, outdoor recreation, riparian protection, and farmlands preservation accounts shall be allocated as provided under RCW 79A.15.040, 79A.15.050, 79A.15.120, and 79A.15.130 as grants to state or local agencies or nonprofit nature conservancy organizations or associations for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The board may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter. Moneys appropriated to these accounts that are not obligated to a specific project may be used to fund projects from lists of alternate

projects from the same account in biennia succeeding the biennium in which the moneys were originally appropriated.

(4) Projects receiving grants under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public.

(5) The board may make grants to an eligible project from the habitat conservation, outdoor recreation, riparian protection, and farmlands preservation accounts and any one or more of the applicable categories under such accounts described in RCW 79A.15.040, 79A.15.050, 79A.15.120, and 79A.15.130.

(6) The board may accept private donations to the habitat conservation account, the outdoor recreation account, the riparian protection account, and the farmlands preservation account for the purposes specified in this chapter.

(7) The board may (~~apply up to three percent~~) retain a portion of the funds appropriated for this chapter for its office for the administration of the programs and purposes specified in this chapter. The portion of the funds retained for administration may not exceed: (a) The actual administration costs averaged over the previous five biennia as a percentage of the legislature's new appropriation for this chapter; or (b) the amount specified in the appropriation, if any. Each biennium the percentage specified under (a) of this subsection must be approved by the office of financial management and submitted along with the prioritized lists of projects to be funded in RCW 79A.15.060(6), 79A.15.070(7), 79A.15.120(10), and 79A.15.130(11).

(8) Habitat and recreation land and facilities acquired or developed with moneys appropriated for this chapter may not, without prior approval of the board, be converted to a use other than that for which funds were originally approved. The board shall adopt rules and procedures governing the approval of such a conversion.

Passed by the House April 21, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 184

[Substitute House Bill 1527]

DEPARTMENT OF AGRICULTURE--PESTICIDE CONTROL ACT--RE-CERTIFICATION REQUIREMENTS

AN ACT Relating to requiring the Washington state department of agriculture to approve the comparable recertification standards of private entities for the purposes of waiving the recertification requirements under the Washington pesticide control act; and amending RCW 15.58.233.

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

Sec. 1. RCW 15.58.233 and 2003 c 212 s 7 are each amended to read as follows:

(1) The director may renew any license issued under this chapter subject to the recertification standards identified in subsection (2) of this section or an examination requiring new knowledge that may be required to perform in those areas licensed.

(2) Except as provided in subsection (3) of this section, all individuals licensed under this chapter shall meet the recertification standards identified in

(a) or (b) of this subsection, every five years, in order to qualify for continuing licensure.

(a) Individuals licensed under this chapter may qualify for continued licensure through accumulation of recertification credits. Individuals licensed under this chapter shall accumulate a minimum of forty department-approved credits every five years with no more than fifteen credits allowed per year.

(b) Individuals licensed under this chapter may qualify for continued licensure through meeting the examination requirements necessary to become licensed in those areas in which the licensee operates.

(3) At the termination of a licensee's five-year recertification period, the director ~~((may))~~ shall waive the recertification requirements if the licensee can demonstrate that he or she is meeting comparable recertification standards through:

~~(a) Another state or jurisdiction ((or through a federal environmental protection agency approved government agency plan));~~

~~(b) A government agency plan that has been approved by the federal environmental protection agency; or~~

~~(c) A private entity that has been approved by the department. The department shall confer with private entities offering continuing education programs that include pest management credit accreditation and accumulation to develop an effective and efficient system to coordinate pest management credit accounting. The pest management credit accounting system must accord with the goals and other requirements of the department's pesticide license recertification program and this chapter. If the department and the private entity or entities agree on the substantive provisions of the system, the department shall develop an implementation strategy for private entities pursuing pesticide credit reciprocity. The department shall submit a report to the legislature on its collaborative efforts, pest management credit accounting system, and implementation strategy by December 31, 2015.~~

Passed by the House April 16, 2015.

Passed by the Senate April 8, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 185

[Substitute House Bill 1619]

TAXES--BUSINESS AND OCCUPATION--EXEMPTION--ENVIRONMENTAL HANDLING CHARGES

AN ACT Relating to providing a business and occupation tax exemption for environmental handling charges; adding a new section to chapter 82.04 RCW; and creating a new section.

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

NEW SECTION. **Sec. 1.** The legislature finds that Engrossed Substitute House Bill No. 2246, enacted in 2014, created an environmental handling charge. However, the 2014 legislature did not intend for business and occupation taxes to be imposed on top of such charge. Therefore, the legislature intends to clarify that environmental handling charges are not subject to business and occupation taxation.

NEW SECTION. **Sec. 2.** A new section is added to chapter 82.04 RCW to read as follows:

(1) An exemption from the taxes imposed in this chapter is provided for:

(a) Producers, with respect to environmental handling charges added to the purchase price of mercury-containing lights either by the producer or a retailer pursuant to an agreement with the producer;

(b) Retailers, with respect to environmental handling charges added to the purchase price of mercury-containing lights sold at retail, including the portion of environmental handling charges retained as reimbursement for any costs associated with the collection and remittance of the charges; and

(c) Stewardship organizations, with respect to environmental handling charges received from producers and retailers.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808.

(3) For purposes of this section, the definitions in RCW 70.275.020 apply.

Passed by the House March 3, 2015.

Passed by the Senate April 24, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 186

[Engrossed Second Substitute House Bill 1807]

SPIRITS--SALE--SMALL BUSINESSES

AN ACT Relating to assisting small businesses licensed to sell spirits in Washington state; amending RCW 66.24.630; and adding a new section to chapter 66.28 RCW.

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

Sec. 1. RCW 66.24.630 and 2012 2nd sp.s. c 6 s 401 are each amended to read as follows:

(1) There is a spirits retail license to: Sell spirits in original containers to consumers for consumption off the licensed premises and to permit holders; sell spirits in original containers to retailers licensed to sell spirits for consumption on the premises, for resale at their licensed premises according to the terms of their licenses, although no single sale may exceed twenty-four liters, unless the sale is by a licensee that was a contract liquor store manager of a contract liquor store at the location of its spirits retail licensed premises from which it makes such sales; and export spirits.

(2) For the purposes of this title, a spirits retail license is a retail license, and a sale by a spirits retailer is a retail sale only if not for resale. Nothing in this title authorizes sales by on-sale licensees to other retail licensees. The board must establish by rule an obligation of on-sale spirits retailers to:

(a) Maintain a schedule by stock-keeping unit of all their purchases of spirits from spirits retail licensees, indicating the identity of the seller and the quantities purchased; and

(b) Provide, not more frequently than quarterly, a report for each scheduled item containing the identity of the purchasing on-premises (~~on-premises~~) licensee and the quantities of that scheduled item purchased since any preceding report to:

(i) A distributor authorized by the distiller to distribute a scheduled item in the on-sale licensee's geographic area; or

(ii) A distiller acting as distributor of the scheduled item in the area.

(3)(a) Except as otherwise provided in (c) of this subsection, the board may issue spirits retail licenses only for premises comprising at least ten thousand square feet of fully enclosed retail space within a single structure, including storerooms and other interior auxiliary areas but excluding covered or fenced exterior areas, whether or not attached to the structure, and only to applicants that the board determines will maintain systems for inventory management, employee training, employee supervision, and physical security of the product substantially as effective as those of stores currently operated by the board with respect to preventing sales to or pilferage by underage or inebriated persons.

(b) License issuances and renewals are subject to RCW 66.24.010 and the regulations promulgated thereunder, including without limitation rights of cities, towns, county legislative authorities, the public, churches, schools, and public institutions to object to or prevent issuance of local liquor licenses. However, existing grocery premises licensed to sell beer and/or wine are deemed to be premises "now licensed" under RCW 66.24.010(9)(a) for the purpose of processing applications for spirits retail licenses.

(c) The board may not deny a spirits retail license to an otherwise qualified contract liquor store at its contract location or to the holder of former state liquor store operating rights sold at auction under RCW 66.24.620 on the grounds of location, nature, or size of the premises to be licensed. The board may not deny a spirits retail license to applicants that are not contract liquor stores or operating rights holders on the grounds of the size of the premises to be licensed, if such applicant is otherwise qualified and the board determines that:

(i) There is no ((~~retail~~)) spirits retail license holder in the trade area that the applicant proposes to serve;

(ii) The applicant meets, or upon licensure will meet, the operational requirements established by the board by rule; and

(iii) The licensee has not committed more than one public safety violation within the three years preceding application.

(d) A retailer authorized to sell spirits for consumption on or off the licensed premises may accept delivery of spirits at its licensed premises, at another licensed premises as designated by the retailer, or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which the retailer may deliver to its own licensed premises and, pursuant to sales permitted under subsection (1) of this section:

(i) To other retailer premises licensed to sell spirits for consumption on the licensed premises;

(ii) To other registered facilities; or

(iii) To lawful purchasers outside the state. The facilities may be registered and utilized by associations, cooperatives, or comparable groups of retailers, including at least one retailer licensed to sell spirits.

(e) For purposes of negotiating volume discounts, a group of individual retailers authorized to sell spirits for consumption off the licensed premises may accept delivery of spirits at their individual licensed premises or at any one of

the individual licensee's premises, or at a warehouse facility registered with the board.

(4)(a) Except as otherwise provided in RCW 66.24.632, or in (b) of this subsection, each spirits retail licensee must pay to the board, for deposit into the liquor revolving fund, a license issuance fee equivalent to seventeen percent of all spirits sales revenues under the license, exclusive of taxes collected by the licensee and of sales of items on which a license fee payable under this section has otherwise been incurred. The board must establish rules setting forth the timing of such payments and reporting of sales dollar volume by the licensee, with payments required quarterly in arrears. The first payment is due October 1, 2012.

(b) This subsection (4) does not apply to craft distilleries.

(5) In addition to the payment required under subsection (4) of this section, each licensee must pay an annual license renewal fee of one hundred sixty-six dollars. The board must periodically review and adjust the renewal fee as may be required to maintain it as comparable to annual license renewal fees for licenses to sell beer and wine not for consumption on the licensed premises. If required by law at the time, any increase of the annual renewal fee becomes effective only upon ratification by the legislature.

(6) As a condition to receiving and renewing a (~~retail~~) spirits retail license the licensee must provide training as prescribed by the board by rule for individuals who sell spirits or who manage others who sell spirits regarding compliance with laws and regulations regarding sale of spirits, including without limitation the prohibitions against sale of spirits to individuals who are underage or visibly intoxicated. The training must be provided before the individual first engages in the sale of spirits and must be renewed at least every five years. The licensee must maintain records documenting the nature and frequency of the training provided. An employee training program is presumptively sufficient if it incorporates a "responsible vendor program" promulgated by the board.

(7) The maximum penalties prescribed by the board in WAC 314-29-020 through 314-29-040 relating to fines and suspensions are doubled for violations relating to the sale of spirits by (~~retail~~) spirits retail licensees.

(8)(a) The board must promulgate regulations concerning the adoption and administration of a compliance training program for spirits retail licensees, to be known as a "responsible vendor program," to reduce underage drinking, encourage licensees to adopt specific best practices to prevent sales to minors, and provide licensees with an incentive to give their employees ongoing training in responsible alcohol sales and service.

(b) Licensees who join the responsible vendor program under this section and maintain all of the program's requirements are not subject to the doubling of penalties provided in this section for a single violation in any period of twelve calendar months.

(c) The responsible vendor program must be free, voluntary, and self-monitoring.

(d) To participate in the responsible vendor program, licensees must submit an application form to the board. If the application establishes that the licensee meets the qualifications to join the program, the board must send the licensee a membership certificate.

(e) A licensee participating in the responsible vendor program must at a minimum:

- (i) Provide ongoing training to employees;
- (ii) Accept only certain forms of identification for alcohol sales;
- (iii) Adopt policies on alcohol sales and checking identification;
- (iv) Post specific signs in the business; and
- (v) Keep records verifying compliance with the program's requirements.

NEW SECTION. Sec. 2. A new section is added to chapter 66.28 RCW to read as follows:

If a licensee subject to the license issuance fee requirements of RCW 66.24.630(4) fails to submit its quarterly reports or payment to the board, the board may assess a penalty at a rate no higher than one percent per month on the balance of the unpaid license issuance fee.

Passed by the House April 24, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 187

[Engrossed House Bill 1989]

MUNICIPALITIES--WATER STORAGE ASSET MANAGEMENT SERVICES

AN ACT Relating to water storage asset management services; and adding a new section to chapter 35.21 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 35.21 RCW to read as follows:

(1) Any municipality may elect to contract for asset management service of its water storage assets in accordance with this section. If a municipality elects to contract under this subsection for all, some, or one component of water storage asset management services for its water storage assets, each municipality shall publish notice of its requirements to procure asset management service of its water storage assets. The announcement must concisely state the scope and nature of the water storage asset management service for which a contract is required and encourage firms to submit proposals to meet these requirements. If a municipality chooses to negotiate a water storage asset management service contract under this section, no otherwise applicable statutory procurement requirement applies.

(2) The municipality may negotiate a fair and reasonable water storage asset management service contract with the firm that submits the best proposal based on criteria that is established by the municipality.

(3) If the municipality is unable to negotiate a satisfactory water storage asset management service contract with the firm that submits the best proposal, negotiations with that firm must formally be terminated and the municipality may select another firm in accordance with this section and continue negotiation until a water storage asset management service contract is reached or the selection process is terminated.

(4) For the purposes of this section:

(a) "Water storage asset management services" means the financing, designing, improving, operating, maintaining, repairing, testing, inspecting, cleaning, administering, or managing, or any combination thereof, of a water storage asset.

(b) "Water storage asset" means water storage structures and associated distribution systems, such as the water tank, tower, well, meter, or water filter.

Passed by the House April 16, 2015.

Passed by the Senate March 25, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 188

[Substitute Senate Bill 5030]

LIMITED LIABILITY COMPANIES

AN ACT Relating to the limited liability company act; amending RCW 23B.11.080, 23B.11.090, 23B.11.110, 25.05.375, 25.05.380, 25.05.385, 25.05.390, 25.05.425, 25.10.781, 30A.08.025, 32.08.025, and 82.32.145; adding new sections to chapter 25.15 RCW; repealing RCW 25.15.005, 25.15.007, 25.15.010, 25.15.015, 25.15.020, 25.15.025, 25.15.030, 25.15.035, 25.15.040, 25.15.045, 25.15.050, 25.15.055, 25.15.060, 25.15.070, 25.15.075, 25.15.085, 25.15.090, 25.15.095, 25.15.100, 25.15.105, 25.15.115, 25.15.120, 25.15.125, 25.15.130, 25.15.135, 25.15.140, 25.15.150, 25.15.155, 25.15.160, 25.15.165, 25.15.170, 25.15.175, 25.15.180, 25.15.185, 25.15.190, 25.15.195, 25.15.200, 25.15.205, 25.15.215, 25.15.220, 25.15.225, 25.15.230, 25.15.235, 25.15.245, 25.15.250, 25.15.255, 25.15.260, 25.15.270, 25.15.273, 25.15.275, 25.15.280, 25.15.285, 25.15.290, 25.15.293, 25.15.295, 25.15.298, 25.15.300, 25.15.303, 25.15.310, 25.15.315, 25.15.320, 25.15.325, 25.15.330, 25.15.335, 25.15.340, 25.15.345, 25.15.350, 25.15.355, 25.15.360, 25.15.365, 25.15.366, 25.15.370, 25.15.375, 25.15.380, 25.15.385, 25.15.390, 25.15.395, 25.15.400, 25.15.405, 25.15.410, 25.15.415, 25.15.417, 25.15.419, 25.15.420, 25.15.422, 25.15.423, 25.15.425, 25.15.430, 25.15.435, 25.15.440, 25.15.445, 25.15.450, 25.15.455, 25.15.460, 25.15.465, 25.15.470, 25.15.475, 25.15.480, 25.15.800, 25.15.805, 25.15.810, 25.15.900, 25.15.901, and 25.15.902; and providing an effective date.

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

ARTICLE I. GENERAL PROVISIONS

NEW SECTION. **Sec. 1.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agreed value" means the value of the contributions made by a member to the limited liability company. Such value shall equal the amount agreed upon in a limited liability company agreement or, if no value is agreed upon, the value shall be determined based on the records of the limited liability company.

(2) "Certificate of formation" means the certificate of formation required by section 18 of this act and such certificate as amended or restated.

(3) "Distribution" means a transfer of money or other property from a limited liability company to a member in the member's capacity as a member or to a transferee on account of a transferable interest owned by the transferee.

(4) "Execute," "executes," or "executed" means, with respect to a record, either (a) signed with respect to a written record or (b) electronically transmitted along with sufficient information to determine the sender's identity with respect to an electronic transmission.

(5) "Foreign limited liability company" means an unincorporated entity formed under the law of a jurisdiction other than this state and denominated by that law as a limited liability company.

(6) "Limited liability company" or "domestic limited liability company" means a limited liability company having one or more members or transferees that is formed under this chapter.

(7) "Limited liability company agreement" means the agreement, including the agreement as amended or restated, whether oral, implied, in a record, or in any combination, of the member or members of a limited liability company concerning the affairs of the limited liability company and the conduct of its business.

(8) "Manager" means a person, or a board, committee, or other group of persons, named as a manager of a limited liability company in, or designated as a manager of a limited liability company pursuant to, a limited liability company agreement.

(9) "Manager-managed" means, with respect to a limited liability company, that the limited liability company agreement vests management of the limited liability company in one or more managers.

(10) "Member" means a person who has been admitted to a limited liability company as a member as provided in section 25 of this act and who has not been dissociated from the limited liability company.

(11) "Member-managed" means, with respect to a limited liability company, that the limited liability company is not manager-managed.

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality or any other legal or commercial entity.

(13) "Principal office" means the office, in or out of this state, so designated in the annual report, where the principal executive offices of a domestic or foreign limited liability company are located.

(14) "Professional limited liability company" means a limited liability company that is formed in accordance with section 13 of this act for the purpose of rendering professional service.

(15) "Professional service" means the same as defined under RCW 18.100.030.

(16) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) "Transfer" includes an assignment, conveyance, deed, bill of sale, lease, gift, and transfer by operation of law, except as otherwise provided in section 49(6) of this act.

(19) "Transferable interest" means a member's or transferee's right to receive distributions of the limited liability company's assets.

(20) "Transferee" means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

NEW SECTION. Sec. 2. The secretary of state may adopt rules to facilitate electronic filing. The rules must detail the circumstances under which the electronic filing of records is permitted, how the records must be filed, and how the secretary of state returns filed records. The rules may also impose additional

requirements related to implementation of electronic filing processes, including but not limited to file formats, signature technologies, delivery, and the types of entities or records permitted.

NEW SECTION. Sec. 3. (1) The name of each limited liability company as set forth in its certificate of formation:

(a) Must contain the words "Limited Liability Company," the words "Limited Liability" and abbreviation "Co.," or the abbreviation "L.L.C." or "LLC";

(b) Must not contain language stating or implying that the limited liability company is formed for a purpose other than those permitted by section 8 of this act;

(c) Must not contain any of the words or phrases: "Cooperative," "partnership," "corporation," "incorporated," or the abbreviations "corp.," "Ltd.," or "inc.," or "LP," "L.P.," "LLP," "L.L.P.," "LLLP," "L.L.L.P.," or any words or phrases prohibited by any statute of this state; and

(d) Unless authorized by subsection (2) of this section, must be distinguishable in the records of the secretary of state from (i) the name of each person incorporated, formed, or authorized to transact business in this state through a filing or registration with the secretary of state; and (ii) each name reserved under section 4 of this act or under other statutes of this state providing for the reservation of names with the secretary of state.

(2) A limited liability company may apply to the secretary of state for authorization to use any name which is not distinguishable upon the records of the secretary of state from one or more of the names described in subsection (1)(d) of this section. The secretary of state shall authorize use of the name applied for if the other person consents in writing to the use and files with the secretary of state records necessary to change its name or the name reserved to a name that is distinguishable upon the records of the secretary of state from the name of the applying limited liability company.

(3) A name shall not be considered distinguishable upon the records of the secretary of state by virtue of:

(a) A variation in any of the following designations for the same name: "Corporation," "incorporated," "company," "professional corporation," "professional service," "limited," "partnership," "limited partnership," "limited liability limited partnership," "limited liability company," "professional limited liability company," or "limited liability partnership," or their permitted abbreviations;

(b) The addition or deletion of an article or conjunction such as "the" or "and" from the same name;

(c) Punctuation, capitalization, or special characters or symbols in the same name; or

(d) Use of abbreviation or the plural form of a word in the same name.

(4) This chapter does not control the use of assumed business names or "trade names."

(5) Violation of subsection (1)(c) of this section by a limited liability company whose certificate of formation or amendment thereto has been accepted for filing by the secretary of state shall not, in itself, invalidate the formation or existence of a limited liability company or render this chapter inapplicable to a limited liability company.

NEW SECTION. **Sec. 4.** (1) Reserved Name--Domestic Limited Liability Company.

(a) A person may reserve the exclusive use of a limited liability company name by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the secretary of state finds that the limited liability company name applied for is available, the secretary of state shall reserve the name for the applicant's exclusive use for a nonrenewable one hundred eighty-day period.

(b) The owner of a reserved limited liability company name may transfer the reservation to another person by delivering to the secretary of state an executed notice of the transfer that states the name and address of the transferee.

(2) Reserved Name--Foreign Limited Liability Company.

(a) A foreign limited liability company may reserve its name if the name is distinguishable upon the records of the secretary of state from the names specified in section 3 of this act.

(b) A foreign limited liability company reserves its name by delivering to the secretary of state for filing an application that:

(i) Sets forth its name and the state or country and date of its formation; and

(ii) Is accompanied by a certificate of existence, or a record of similar import, from the state or country of formation.

(c) The name is reserved for the applicant's exclusive use upon the effective date of the application and until the close of the calendar year in which the application for name reservation is filed.

(d) A foreign limited liability company whose name reservation is effective may renew it for successive years by delivering to the secretary of state for filing a renewal application, which complies with the requirements of (b) of this subsection, between October 1st and December 31st of the preceding year. The renewal application when filed renews the name reservation for the following calendar year.

(e) A foreign limited liability company whose name reservation is effective may thereafter register as a foreign limited liability company under the reserved name, or consent in writing to the use of that name by a domestic limited liability company, domestic corporation, domestic limited partnership, or domestic limited liability partnership thereafter formed, or by another foreign limited liability company, foreign corporation, foreign limited partnership, or foreign limited liability partnership thereafter authorized to transact business in this state. The name reservation terminates when the domestic limited liability company is formed, the domestic corporation is incorporated, the domestic limited liability partnership is formed, or the domestic limited partnership is formed, or the foreign limited liability company registers or consents to the registration of another foreign limited liability company, corporation, limited partnership, or limited liability partnership under the reserved name.

NEW SECTION. **Sec. 5.** (1) Except as otherwise provided in subsections (2) and (3) of this section, the limited liability company agreement governs:

(a) Relations among the members as members and between the members and the limited liability company; and

(b) The rights and duties under this chapter of a person in the capacity of manager.

(2) To the extent the limited liability company agreement does not otherwise provide for a matter described in subsection (1) of this section, this chapter governs the matter.

(3) A limited liability company agreement may not:

(a) Vary a limited liability company's power under section 8 of this act to sue, be sued, and defend in its own name;

(b) Vary the law applicable to a limited liability company under section 9 of this act;

(c) Eliminate or limit the duties of a member or manager in a manner prohibited by section 11(6) of this act;

(d) Eliminate or limit the liability of a member or manager in a manner prohibited by section 11(7) of this act;

(e) Indemnify a member or manager in a manner prohibited by section 12 of this act;

(f) Vary the requirements of section 21 of this act;

(g) Vary the records required under section 29(1) of this act or unreasonably restrict the right to records or information under section 29 of this act;

(h) Vary the power of a manager to resign under section 37 of this act;

(i) Vary the requirements of section 46 of this act;

(j) Eliminate or limit the liability of a member, manager, or transferee under section 47 of this act;

(k) Vary the power of a court to decree dissolution in the circumstances specified in section 53 of this act;

(l) Vary the requirement to wind up the limited liability company's business as specified in section 58 (1), (2), (4), and (5) of this act;

(m) Unreasonably restrict the right to maintain an action under Article X of this chapter;

(n) Restrict the right of a member that will have personal liability with respect to a surviving or converted organization to approve a merger or conversion under section 88 of this act; or

(o) Restrict the rights under this chapter of a person other than a member, a transferee, or a manager.

NEW SECTION. Sec. 6. (1) Each limited liability company shall continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office shall be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent that may be:

(i) An individual residing in this state whose business office is identical with the limited liability company's registered office;

(ii) The limited liability company itself, whose business office is identical with such registered office;

(iii) A domestic corporation, partnership, limited partnership, or limited liability company whose business office is identical with such registered office; or

(iv) A government, governmental subdivision, agency, or instrumentality, or a foreign corporation, partnership, limited partnership, or limited liability company authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who shall not be appointed without having given prior consent in a record to the appointment. The consent shall be filed with the secretary of state in such form and at such time as the secretary may prescribe.

(2) A limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accordance with subsection (1) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's consent in a record, which shall be filed with the secretary of state in such form and at such time as the secretary of state may prescribe; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(3) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any limited liability company for which the agent is the registered agent by notifying the limited liability company of the change either (a) in a written record, or (b) if the limited liability company has designated an address, location, or system to which the notices may be electronically transmitted and the registered agent electronically transmits the notice to the limited liability company at the designated address, location, or system in an electronically transmitted record and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (2) of this section and recites that the limited liability company has been notified of the change.

(4) A registered agent may resign as agent by executing and delivering to the secretary of state for filing a statement of resignation. The statement may include a statement that the registered office is also discontinued. After filing the statement the secretary of state shall mail a copy of the statement to the limited liability company at its principal office. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

NEW SECTION. Sec. 7. (1) A limited liability company's registered agent is its agent for service of process, notice, or demand required or permitted by law to be served on the limited liability company.

(2) The secretary of state shall be an agent of a limited liability company upon whom any such process, notice, or demand may be served if:

(a) The limited liability company fails to appoint or maintain a registered agent in this state; or

(b) The registered agent cannot with reasonable diligence be found at the registered office.

(3) Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state shall immediately cause a copy thereof to be forwarded by certified mail, addressed to the limited liability company at its principal office as it appears on the records of the secretary of state. Any service so had on the secretary of state shall be returnable in not less than thirty days.

(4) The secretary of state shall keep a record of all processes, notices, and demands served upon the secretary of state under this section, and shall record therein the time of such service and the secretary of state's action with reference thereto.

(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.

NEW SECTION. Sec. 8. (1) A limited liability company may be formed under this chapter for any lawful purpose, regardless of whether for profit.

(2) Unless this chapter, its certificate of formation, or its limited liability company agreement provides otherwise, a limited liability company has the same powers as an individual to do all things necessary or convenient to carry on its activities.

NEW SECTION. Sec. 9. The law of this state governs:

(1) The internal affairs of a limited liability company; and

(2) The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

NEW SECTION. Sec. 10. A member or manager may lend money to and transact other business with a limited liability company and, subject to other applicable law, has the same rights and obligations with respect to the loan or other transaction as a person who is not a member or manager.

NEW SECTION. Sec. 11. (1)(a) The only fiduciary duties that a member in a member-managed limited liability company or a manager has to the limited liability company and its members are the duties of loyalty and care under subsections (2) and (3) of this section.

(b) If a manager is a board, committee, or other group of persons, this section applies to each person included in such board, committee, or other group of persons as if such person were a manager.

(2) The duty of loyalty is limited to the following:

(a) To account to the limited liability company and hold as trustee for it any property, profit, or benefit derived by such manager or member in the conduct and winding up of the limited liability company's activities or derived from a use by such manager or member of limited liability company property, including the appropriation of a limited liability company opportunity;

(b) To refrain from dealing with the limited liability company as or on behalf of a party having an interest adverse to the limited liability company; and

(c) To refrain from competing with the limited liability company in the conduct or winding up of the limited liability company's activities.

(3)(a) The duty of care is limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law in the conduct and winding up of the limited liability company's activities.

(b) A member or manager is not in violation of the duty of care as set forth in (a) of this subsection if, in discharging such duty, the member or manager relies in good faith upon the records of the limited liability company and upon such opinions, reports, or statements presented to the limited liability company by any person, including any manager, member, officer, or employee of the limited liability company, as to matters which the member or manager reasonably believes are within such other person's professional or expert competence and who has been selected with reasonable care by or on behalf of the limited liability company, including opinions, reports, or statements as to the value and amount of the assets, liabilities, profits, or losses of the limited liability company or any other facts pertinent to the existence and amount of assets from which distributions to members might properly be paid.

(4) A manager or member does not violate a duty under this chapter or under the limited liability company agreement merely because the manager's or member's conduct furthers the manager's or member's own interest.

(5) A manager or member is not liable to the limited liability company or its members for the manager's or member's good faith reliance on the limited liability company agreement.

(6) To the extent that, at law or in equity, a member or manager has duties (including fiduciary duties) to a limited liability company or to another member, manager, or other person bound by a limited liability company agreement, the member's or manager's duties may be modified, expanded, restricted, or eliminated by the provisions of a limited liability company agreement; provided that such provisions are not inconsistent with law and do not eliminate or limit:

(a) The duty of a member or manager to avoid intentional misconduct and knowing violations of law, or violations of section 46 of this act; or

(b) The implied contractual duty of good faith and fair dealing.

(7) A limited liability company agreement may contain provisions not inconsistent with law that eliminate or limit the personal liability of a member or manager to the limited liability company or its members or other persons bound by a limited liability company agreement for conduct as a member or manager, provided that such provisions do not eliminate or limit the liability of a member or manager for acts or omissions that involve intentional misconduct or a knowing violation of law by a member or manager, for conduct of the member or manager violating section 46 of this act, or for any act or omission that constitutes a violation of the implied contractual duty of good faith and fair dealing.

NEW SECTION. Sec. 12. (1) A limited liability company may indemnify any member or manager from and against any judgments, settlements, penalties, fines, or expenses incurred in a proceeding or obligate itself to advance or reimburse expenses incurred in a proceeding to which a person is a party because such person is, or was, a member or a manager, provided that no such indemnity shall indemnify a member or a manager from or on account of acts or omissions of the member or manager finally adjudged to be intentional misconduct or a knowing violation of law by the member or manager, or conduct of the member or manager adjudged to be in violation of section 46 of this act.

(2) A limited liability company may indemnify and advance expenses under subsection (1) of this section to an officer, employee, or agent of the limited liability company who is not a member or manager to the same extent as to a member or manager.

(3) For purposes of this section:

(a) "Expenses" include counsel fees.

(b) "Party" includes a person who was, is, or is threatened to be made a named defendant or respondent in a proceeding.

(c) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative and whether formal or informal.

NEW SECTION. Sec. 13. (1) A person or group of persons duly licensed or otherwise legally authorized to render the same professional services within this state may form and become a member or members of a professional limited liability company under the provisions of this chapter for the purposes of rendering professional service.

(2) A professional limited liability company is subject to all the provisions of chapter 18.100 RCW that apply to a professional corporation. A professional limited liability company's managers, members, agents, and employees are subject to all the provisions of chapter 18.100 RCW that apply to the directors, officers, shareholders, agents, or employees of a professional corporation, except as provided otherwise in this section and section 14 of this act.

(3) If the limited liability company's members are required to be licensed to practice such profession, and the limited liability company fails to maintain for itself and for its members practicing in this state a policy of professional liability insurance, bond, or other evidence of financial responsibility of a kind designated by rule by the state insurance commissioner and in the amount of at least one million dollars or a greater amount as the state insurance commissioner may establish by rule for a licensed profession or for any specialty within a profession, taking into account the nature and size of the business, then the limited liability company's members are personally liable to the extent that, had the insurance, bond, or other evidence of responsibility been maintained, it would have covered the liability in question.

(4) For purposes of applying chapter 18.100 RCW to a professional limited liability company, the terms "director" or "officer" means manager, "shareholder" means member, "corporation" means professional limited liability company, "articles of incorporation" means certificate of formation, "shares" or "capital stock" means a limited liability company interest, "incorporator" means the person who executes the certificate of formation, and "bylaws" means the limited liability company agreement.

(5) The name of a professional limited liability company must contain either the words "Professional Limited Liability Company," or the words "Professional Limited Liability" and the abbreviation "Co.," or the abbreviation "P.L.L.C." or "PLLC" provided that the name of a professional limited liability company formed to render dental services must contain the full names or surnames of all members and no other word than "chartered" or the words "professional services" or the abbreviation "P.L.L.C." or "PLLC."

(6) Subject to Article VII of this chapter, the following may be a member of a professional limited liability company and may be the transferee of the interest

of an ineligible person or deceased member of the professional limited liability company:

(a) A professional corporation, if its shareholders, directors, and its officers, other than the secretary and the treasurer, are licensed or otherwise legally authorized to render the same specific professional services as the professional limited liability company; and

(b) Another professional limited liability company, if the managers and members of both professional limited liability companies are licensed or otherwise legally authorized to render the same specific professional services.

(7) Formation of a limited liability company under this section does not restrict the application of the uniform disciplinary act under chapter 18.130 RCW, or any applicable health care professional statutes under Title 18 RCW, including but not limited to restrictions on persons practicing a health profession without being appropriately credentialed and persons practicing beyond the scope of their credential.

NEW SECTION. Sec. 14. (1) No limited liability company formed under this chapter may render professional services except through a person or persons who are duly licensed or otherwise legally authorized to render such professional services within this state. However, this chapter does not:

(a) Prohibit a person duly licensed or otherwise legally authorized to render professional services in any jurisdiction other than this state from becoming a member of a professional limited liability company formed in this state for the purpose of rendering the same professional services; or

(b) Prohibit a professional limited liability company from rendering services outside this state through individuals who are not duly licensed or otherwise legally authorized to render professional services within this state.

(2) Persons engaged in a profession and otherwise meeting the requirements of this chapter may operate under this chapter as a professional limited liability company so long as each member personally engaged in the practice of the profession in this state is duly licensed or otherwise legally authorized to practice the profession in this state and:

(a) At least one manager of the limited liability company is duly licensed or otherwise legally authorized to practice the profession in this state; or

(b) A member is in charge of each office of the limited liability company in this state and that member is duly licensed or otherwise legally authorized to practice the profession in this state.

NEW SECTION. Sec. 15. A foreign professional limited liability company may render professional services in this state so long as it complies with Article IX of this chapter and each individual rendering professional services in this state is duly licensed or otherwise legally authorized to render such professional services within this state.

NEW SECTION. Sec. 16. This chapter does not require a limited liability company to restrict membership to persons residing in or engaging in business in this state.

NEW SECTION. Sec. 17. Members of a limited liability company are personally liable for any act, debt, obligation, or liability of the limited liability company to the extent that shareholders of a Washington business corporation would be liable in analogous circumstances. In this regard, the court may

consider the factors and policies set forth in established case law with regard to piercing the corporate veil, except that the failure to hold meetings of members or managers or the failure to observe formalities pertaining to the calling or conduct of meetings is not a factor tending to establish that the members have personal liability for any act, debt, obligation, or liability of the limited liability company if the certificate of formation and limited liability company agreement do not expressly require the holding of meetings of members or managers.

ARTICLE II. FORMATION: CERTIFICATE OF FORMATION,
AMENDMENT, FILING, AND EXECUTION

NEW SECTION. Sec. 18. (1) In order to form a limited liability company, one or more persons must execute a certificate of formation. The certificate of formation must be filed in the office of the secretary of state and set forth:

- (a) The name of the limited liability company;
- (b) The address of the registered office and the name of the registered agent for service of process required to be maintained by section 6 of this act;
- (c) The address of the principal office of the limited liability company;
- (d) If the limited liability company is to have a specific date of dissolution, the latest date on which the limited liability company is to dissolve;
- (e) Any other matters the members decide to include; and
- (f) The name and address of each person executing the certificate of formation.

(2)(a) Unless a delayed effective date is specified, a limited liability company is formed when its certificate of formation is filed by the secretary of state. A delayed effective date for a certificate of formation may be no later than the ninetieth day after the date it is filed.

(b) The secretary of state's filing of the certificate of formation is conclusive proof that the persons executing the certificate satisfied all conditions precedent to the formation.

(3) A limited liability company formed under this chapter is a separate legal entity and has a perpetual existence.

(4) Any person may apply to the secretary of state to furnish a certificate of existence for a domestic limited liability company or a certificate of authorization for a foreign limited liability company.

(5) A certificate of existence or authorization means that as of the date of its issuance:

(a) The domestic limited liability company is duly formed under the laws of this state or that the foreign limited liability company is authorized to transact business in this state;

(b) All fees and penalties owed to this state under this title have been paid, if (i) payment is reflected in the records of the secretary of state, and (ii) nonpayment affects the existence or authorization of the domestic or foreign limited liability company;

(c) The limited liability company's initial report or its most recent annual report required by section 24 of this act has been delivered to the secretary of state;

(d) In the case of a domestic limited liability company, a certificate of dissolution has not been filed with the secretary of state, or a filed certificate of dissolution has been revoked in accordance with section 57 of this act;

(e) In the case of a foreign limited liability company, a certificate of cancellation has not been filed with the secretary of state; and

(f) The limited liability company has not been administratively dissolved under section 55 of this act or, if administratively dissolved, has been reinstated under section 56 of this act.

(6) A person may apply to the secretary of state to issue a certificate covering any fact of record.

(7) Subject to any qualification stated in the certificate, a certificate of existence or authorization issued by the secretary of state may be relied upon as conclusive evidence that the domestic or foreign limited liability company is in existence or is authorized to transact business in the limited liability company form in this state.

NEW SECTION. Sec. 19. (1) A certificate of formation is amended by filing a certificate of amendment thereto with the secretary of state. The certificate of amendment shall set forth:

(a) The name of the limited liability company; and

(b) The amendment to the certificate of formation.

(2) A manager or, if there is no manager, then any member who becomes aware that any statement in a certificate of formation was false when made, or that any matter described has changed making the certificate of formation false in any material respect, must promptly amend the certificate of formation.

(3) A certificate of formation may be amended at any time for any other proper purpose.

(4) Unless otherwise provided in this chapter or unless a later effective date, which is a date not later than the ninetieth day after the date it is filed, is provided for in the certificate of amendment, a certificate of amendment is effective when filed by the secretary of state.

NEW SECTION. Sec. 20. (1) A limited liability company may, whenever desired, integrate into a single instrument all of the provisions of its certificate of formation which are then in effect and operative as a result of there having been filed with the secretary of state one or more certificates or other instruments pursuant to any of the sections referred to in this chapter and it may at the same time also further amend its certificate of formation by filing a restated certificate of formation.

(2) A restated certificate of formation must state, either in its heading or in an introductory paragraph, the limited liability company's name and, if it is not to be effective upon filing, the future effective date or time, which is a date not later than the ninetieth day after the date it is filed. If a restated certificate only restates and integrates and does not further amend a limited liability company's certificate of formation as amended or supplemented, it must state that fact as well.

(3) Upon the filing of a restated certificate of formation with the secretary of state, or upon the future effective date or time of a restated certificate of formation as provided for, the initial certificate of formation, as amended or supplemented, is superseded; and the restated certificate of formation, including

any further amendment or changes made thereby, is thereafter the certificate of formation of the limited liability company, but the original effective date of formation remains unchanged.

(4) Any amendment or change effected in connection with the restatement of the certificate of formation is subject to any other provision of this chapter, not inconsistent with this section, which would apply if a separate certificate of amendment were filed to effect such amendment or change.

NEW SECTION. **Sec. 21.** (1) Each record required by this chapter to be filed in the office of the secretary of state must be executed in the following manner, or in compliance with the rules established to facilitate electronic filing under section 2 of this act:

(a) Each original certificate of formation must be executed by the person or persons forming the limited liability company;

(b) A reservation of name may be executed by any person;

(c) A transfer of reservation of name must be executed by, or on behalf of, the applicant for the reserved name;

(d) A registration of name must be executed by any member or manager of the foreign limited liability company;

(e) A certificate of amendment or restatement must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members;

(f) A certificate of dissolution must be executed by the person or persons authorized to wind up the limited liability company's affairs pursuant to section 58(3) of this act;

(g) If a surviving domestic limited liability company is filing articles of merger, the articles of merger must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members, or if the articles of merger are being filed by a surviving foreign limited liability company, limited partnership, corporation, or other person, the articles of merger must be executed by a person authorized by such foreign limited liability company, limited partnership, corporation, or other person;

(h) A foreign limited liability company's application for registration as a foreign limited liability company doing business within the state must be executed by any member or manager of the foreign limited liability company; and

(i) If a converting limited liability company is filing articles of conversion, the articles of conversion must be executed by at least one manager, or by a member if management of the limited liability company is reserved to the members.

(2) Any person may execute a certificate, articles of merger, articles of conversion, limited liability company agreement, or other record by an attorney-in-fact or other person acting in a valid representative capacity, so long as each record executed in such manner identifies the capacity in which the person is executing the record.

(3) The person executing the record must indicate, adjacent to or underneath the signature or, if the record is electronically transmitted, identifying information of the person executing the record, as applicable, the capacity in which the person executes the record. The record must meet such legibility or other standards as may be prescribed by the secretary of state.

(4) The execution of a certificate, articles of merger, or articles of conversion by any person constitutes an affirmation under the penalties of perjury that the facts stated are true.

NEW SECTION. Sec. 22. (1) If a person required to execute a certificate required by this chapter fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the certificate. If the court finds that the execution of the certificate is proper and that any person so designated has failed or refused to execute the certificate, it must order the secretary of state to record an appropriate certificate.

(2) If a person required to execute a limited liability company agreement or amendment thereof fails or refuses to do so, any other person who is adversely affected by the failure or refusal may petition the superior courts to direct the execution of the limited liability company agreement or amendment thereof. If the court finds that the limited liability company agreement or amendment thereof should be executed and that any person required to execute the limited liability company agreement or amendment thereof has failed or refused to do so, it shall enter an order granting appropriate relief.

NEW SECTION. Sec. 23. (1) The executed certificate of formation or any other record required to be filed pursuant to this chapter must be delivered to the secretary of state. If the secretary of state determines that the records conform to the filing provisions of this chapter, he or she shall, when all required filing fees have been paid:

(a) Endorse on each executed record the word "filed" and the date of its acceptance for filing;

(b) Retain the executed record in the secretary of state's files; and

(c) Return a copy to the person who filed it or the person's representative.

(2) If the secretary of state is unable to make the determination required for filing by subsection (1) of this section at the time any records are delivered for filing, the records are deemed to have been filed at the time of delivery if the secretary of state subsequently determines that the records as delivered conform to the filing provisions of this chapter.

(3) If the filing and determination requirements of this chapter are not satisfied completely, the records must not be filed.

(4) Upon the filing of a certificate of amendment, judicial decree of amendment, or restated certificate in the office of the secretary of state, or upon the future effective date or time of a certificate of amendment, judicial decree thereof, or restated certificate, as provided for therein, the certificate of formation is amended or restated as set forth therein.

NEW SECTION. Sec. 24. (1) Each domestic limited liability company must deliver to the secretary of state for filing both initial and annual reports, and each foreign limited liability company authorized to transact business in this state must deliver to the secretary of state for filing annual reports, that set forth:

(a) The name of the limited liability company and the state, country, or other jurisdiction under whose law it is formed;

(b) The street address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office;

(d) The names and addresses of the limited liability company's members, or if the management of the limited liability company is vested in a manager or managers, then the name and address of its manager or managers; and

(e) A brief description of the nature of its business.

(2) Information in an initial report or an annual report must be current as of the date the report is executed on behalf of the limited liability company.

(3) A limited liability company's initial report must be delivered to the secretary of state within one hundred twenty days of the date on which a limited liability company's certificate of formation was filed. Subsequent annual reports must be delivered to the secretary of state on a date determined by the secretary of state, and at such additional times as the limited liability company elects.

(4) The secretary of state may allow a limited liability company to file an initial or annual report through electronic means. If allowed, the secretary of state shall adopt rules detailing the circumstances under which the electronic filing of such reports is permitted and how such reports may be filed.

(5) Each domestic limited liability company and foreign limited liability company authorized to transact business in this state must pay its annual license fee and any applicable penalty fees to the secretary of state at the time such limited liability company is required to file its initial or annual report with the secretary of state.

ARTICLE III. MEMBERS

NEW SECTION. Sec. 25. (1) In connection with the admission of the initial member or members of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company upon the later to occur of:

(a) The formation of the limited liability company; or

(b) The time provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, when the person's admission is reflected in the records of the limited liability company.

(2) After the admission of the initial member or members of a limited liability company, a person acquiring a limited liability company interest is admitted as a member of the limited liability company:

(a) In the case of a person acquiring a limited liability company interest directly from the limited liability company, at the time provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company;

(b) In the case of a transferee of a limited liability company interest, upon compliance with any procedure for admission provided in the limited liability company agreement or, if the limited liability company agreement does not so provide or does not exist, upon the consent of all members and when the person's admission is reflected in the records of the limited liability company agreement; or

(c) In the case of a person being admitted as a member of a surviving or resulting limited liability company pursuant to a merger or conversion approved in accordance with this chapter, as provided in the limited liability company agreement of the surviving or resulting limited liability company or in the agreement of merger or plan of merger or conversion, and in the event of any

inconsistency, the terms of the agreement of merger or plan of merger or conversion control; and in the case of a person being admitted as a member of a limited liability company pursuant to a merger or conversion in which such limited liability company is not the surviving or resulting limited liability company in the merger or conversion, as provided in the limited liability company agreement of such limited liability company.

NEW SECTION. Sec. 26. (1) Except as otherwise provided by this chapter, the affirmative vote, approval, or consent of a majority of the members is necessary for actions requiring member approval.

(2) The affirmative vote, approval, or consent of all members is required to:

(a) Amend the certificate of formation, except as provided in section 19(2) of this act;

(b) Amend the limited liability company agreement;

(c) Authorize a manager, member, or other person to do any act on behalf of the limited liability company that contravenes the limited liability company agreement, including any provision that expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof;

(d) Admit as a member of the limited liability company a person acquiring a limited liability company interest directly from the limited liability company as provided in section 25(2)(a) of this act;

(e) Admit as a member of the limited liability company a transferee of a limited liability company interest as provided in section 25(2)(b) of this act;

(f) Authorize a member's removal as a member of the limited liability company as provided in section 28(1)(e) of this act;

(g) Waive a member's dissociation as a member of the limited liability company as provided in section 28(1) (f), (g), or (h) of this act;

(h) Authorize the withdrawal of a member from the limited liability company as provided in section 28(2) of this act;

(i) Compromise any member's obligation to make a contribution or return cash or other property paid or distributed to the member in violation of this chapter as provided in section 40(2) of this act;

(j) Amend the certificate of formation and extend the date of dissolution, if a dissolution date is specified in the certificate of formation, as provided in section 51(1) of this act;

(k) Dissolve the limited liability company as provided in section 51(3) of this act;

(l) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited liability company's property, other than in the ordinary course of the limited liability company's activities or activities of the kind carried on by the limited liability company; or

(m) Undertake any other act outside the ordinary course of the limited liability company's activities.

(3) A limited liability company agreement may provide for classes or groups of members having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of members having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of members. A

limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any member or class or group of members, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding. A limited liability company agreement may provide that any member or class or group of members do not have voting rights.

(4) A limited liability company agreement may grant to all or certain identified members or a specified class or group of the members the right to vote separately or with all or any class or group of the members or managers, on any matter. If the limited liability company agreement so provides, voting by members may be on a per capita, profit share, class, group, or any other basis.

(5) A limited liability company agreement may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any members, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

NEW SECTION. Sec. 27. (1) Except as otherwise provided by this chapter, the debts, obligations, and liabilities of a limited liability company, whether arising in contract, tort or otherwise, are solely the debts, obligations, and liabilities of the limited liability company; and no member or manager of a limited liability company is obligated personally for any such debt, obligation, or liability of the limited liability company solely by reason of being or acting as a member or manager respectively of the limited liability company.

(2) Notwithstanding subsection (1) of this section, under a limited liability company agreement or under another agreement, a member or manager may agree to be obligated personally for any or all of the debts, obligations, and liabilities of the limited liability company.

(3) A member or manager of a limited liability company is personally liable for such person's own torts.

NEW SECTION. Sec. 28. (1) A person is dissociated as a member of a limited liability company upon the occurrence of one or more of the following events:

(a) The member dies or withdraws by voluntary act from the limited liability company as provided in subsection (2) of this section;

(b) The transfer of all of the member's transferable interest in the limited liability company;

(c) The member is removed as a member in accordance with the limited liability company agreement;

(d) The occurrence of an event upon which the member ceases to be a member under the limited liability company agreement;

(e) The person is a corporation, limited liability company, general partnership, or limited partnership, and the person is removed as a member by the unanimous consent of the other members, which may be done under this subsection (1)(e) only if:

(i) The person has filed articles of dissolution, a certificate of dissolution or the equivalent, or the person has been administratively or judicially dissolved, or

its right to conduct business has been suspended or revoked by the jurisdiction of its incorporation, or the person has otherwise been dissolved; and

(ii) The dissolution has not been revoked or the person or its right to conduct business has not been reinstated within ninety days after the limited liability company notifies the person that it will be removed as a member for any reason identified in (e)(i) of this subsection;

(f) Unless all other members otherwise agree at the time, the member (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) becomes the subject of an order for relief in bankruptcy proceedings; (iv) files a petition or answer seeking for the member any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the member in any proceeding of the nature described in (f)(i) through (iv) of this subsection; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties;

(g) Unless all other members otherwise agree at the time, if within one hundred twenty days after the commencement of any proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without his or her consent or acquiescence of a trustee, receiver, or liquidator of the member or of all or any substantial part of the member's properties, the appointment is not vacated or stayed, or within ninety days after the expiration of any stay, the appointment is not vacated; or

(h) Unless all other members otherwise agree at the time, in the case of a member who is an individual, the entry of an order by a court of competent jurisdiction adjudicating the member incapacitated, as used and defined under chapter 11.88 RCW, as to his or her estate.

(2) A member may withdraw from a limited liability company at the time or upon the happening of events specified in and in accordance with the limited liability company agreement. If the limited liability company agreement does not specify the time or the events upon the happening of which a member may withdraw, a member may not withdraw from the limited liability company without the written consent of all other members.

(3) When a person is dissociated as a member of a limited liability company:

(a) The person's right to participate as a member in the management and conduct of the limited liability company's activities terminates;

(b) If the limited liability company is member-managed, the person's fiduciary duties as a member end with regard to matters arising and events occurring after the person's dissociation; and

(c) Subject to subsection (5) of this section, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(4) A person's dissociation as a member of a limited liability company does not of itself discharge the person from any debt, obligation, or other liability to

the limited liability company or the other members which the person incurred while a member.

(5) If a member dies, the deceased member's personal representative or other legal representative may exercise the rights of a transferee provided in section 49 of this act and, for the purposes of settling the estate, the rights of a current member under section 29 of this act.

NEW SECTION. Sec. 29. (1) A limited liability company must keep at its principal office the following:

- (a) A copy of its certificate of formation and all amendments thereto;
- (b) A copy of any limited liability company agreement made in a record and any amendments made in a record to a limited liability company agreement;
- (c) Unless contained in its certificate of formation, a statement in a record of:

- (i) The amount of cash and a description and statement of the agreed value of the other benefits contributed and agreed to be contributed by each member;

- (ii) The times at which or events on the happening of which any additional contributions agreed to be made by each member are to be made;

- (iii) Any right of any member to receive distributions which include a return of all or any part of the member's contribution; and

- (iv) Any events upon the happening of which the limited liability company is to be dissolved and its activities wound up;

- (d) A copy of the limited liability company's federal, state, and local tax returns and reports, if any, for the three most recent years;

- (e) A copy of any financial statements of the limited liability company for the three most recent years;

- (f) A copy of any record made by the limited liability company during the past three years of any consent given by or vote taken of any member pursuant to this chapter or the limited liability company agreement;

- (g) A copy of the three most recent annual reports delivered by the limited liability company to the secretary of state pursuant to section 24 of this act;

- (h) A copy of any filed articles of conversion or merger; and

- (i) A copy of any certificate of dissolution or certificate of revocation of dissolution.

(2) On ten days' demand, made in a record received by the limited liability company, a member may inspect and copy, during regular business hours at the limited liability company's principal office, the records required by subsection (1) of this section to be kept by a limited liability company. The member need not have any particular purpose for seeking the records. However, if the records contain information specified in subsection (3)(a) of this section, the limited liability company may substitute copies of the records that are redacted to protect information specified in subsection (3)(a) of this section, unless the member meets the requirements of subsection (4) of this section.

(3) During regular business hours and at a reasonable location specified by the limited liability company, a member may inspect and copy the following records of the limited liability company if the member meets the requirements of subsection (4) of this section:

- (a) A current and a past list, setting forth the full name and last known mailing address of each member and manager, if any;

(b) Excerpts from any meeting of the managers or members, and records of limited liability company action approved by the members or manager without a meeting; and

(c) Accounting records of the limited liability company.

(4) A member may inspect and copy the records described in subsection (3) of this section if:

(a) The member seeks the records for a purpose reasonably related to the member's interest in the limited liability company;

(b) The member makes a demand in a record received by the limited liability company, describing with reasonable particularity the records sought and the purpose for seeking the records; and

(c) The records sought are directly connected to the member's purpose.

(5) Within ten days after receiving a demand pursuant to subsection (4) of this section, the limited liability company in a record must inform the member that made the demand:

(a) What records the limited liability company will provide in response to the demand;

(b) When and where the limited liability company will provide the records; and

(c) If the limited liability company declines to provide any demanded records, the limited liability company's reasons for declining.

(6) A person dissociated as a member may inspect and copy the records required by subsection (1) of this section during regular business hours in the limited liability company's principal office if:

(a) The records pertain to the period during which the person was a member or transferee;

(b) The person seeks the records in good faith; and

(c) The person meets the requirements of subsection (4) of this section.

(7) The limited liability company must respond to a demand made pursuant to subsection (6) of this section in the same manner as provided in subsection (5) of this section.

(8) The limited liability company may impose reasonable restrictions on the use of records and information obtained under this section.

(9) A limited liability company may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(10) A member, or a person dissociated as a member, may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (8) of this section or by the limited liability company agreement applies both to the attorney or other agent and to the member or person dissociated as a member.

(11) The rights stated in this section do not extend to a person as transferee, but the rights under subsections (2) and (3) of this section may be exercised by a deceased member's personal representative for purposes of settling the estate, or by the legal representative of an individual under legal disability who is dissociated as a member pursuant to section 28(1)(f) of this act.

(12) Each manager, or each member of the manager if the manager is a board, committee, or other group of persons, without having any particular

purpose for seeking the information, may inspect and copy during regular business hours:

(a) At the limited liability company's principal office, the records required by subsection (1) of this section; and

(b) At a reasonable location specified by the limited liability company, any other records maintained by the limited liability company regarding the limited liability company's activities and financial condition, or that otherwise relate to the management of the limited liability company.

(13) Any action to enforce any right arising under this section must be brought in the superior courts.

NEW SECTION. Sec. 30. A limited liability company agreement may provide that (1) a member who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement is subject to specified remedies or specified consequences, and (2) at the time or upon the happening of events specified in the limited liability company agreement, a member is subject to specified remedies or specified consequences. Such specified remedies or specified consequences may include and take the form of any remedy or consequence set forth in section 40(3) of this act.

ARTICLE IV. MANAGEMENT AND MANAGERS

NEW SECTION. Sec. 31. (1) If the limited liability company is member-managed:

(a) Management of the activities of the limited liability company is vested in the members; and

(b) A difference arising as to a matter in the ordinary course of the activities of the limited liability company may be decided by the vote, approval, or consent of a majority of the members, except as otherwise provided in section 26 of this act or otherwise in this chapter.

(2) If the limited liability company is member-managed, each member is an agent of the limited liability company and has the authority to bind the limited liability company with regard to matters in the ordinary course of its activities.

NEW SECTION. Sec. 32. (1) If the limited liability company is manager-managed:

(a) Management of the activities of the limited liability company is vested in one or more managers; and

(b) Each manager of the limited liability company:

(i) Is designated, appointed, elected, removed, or replaced by a vote, approval, or consent of a majority of the members;

(ii) Need not be a member of the limited liability company or a natural person; and

(iii) Unless the manager has been earlier removed or has earlier resigned, holds office until a successor has been elected.

(2) If the limited liability company is manager-managed:

(a) Each manager is an agent of the limited liability company and has the authority to bind the limited liability company with regard to matters in the ordinary course of its activities; and

(b) No member, acting solely in its capacity as a member, is an agent of the limited liability company.

(3) If the manager is a board, committee, or other group of persons:

(a) Subsection (1)(b) of this section applies to each person included in such board, committee, or other group of persons; and

(b) No person acting solely in such person's capacity as a participant in such board, committee, or other group of persons is an agent of the limited liability company.

NEW SECTION. Sec. 33. A member or manager of a limited liability company has the power and authority to delegate to one or more other persons the member's or manager's rights and powers to manage and control the business and affairs of the limited liability company, including to delegate to agents, officers, and employees of a member or manager or the limited liability company, and to delegate by a management agreement or another agreement with, or otherwise to, other persons. Such delegation by a member or manager of a limited liability company does not cause the member or manager to cease to be a member or manager of the limited liability company or cause the person to whom any such rights and powers have been delegated to be a member or manager of the limited liability company.

NEW SECTION. Sec. 34. A person who is both a manager and a member has the rights and powers, and is subject to the restrictions and liabilities, of a manager and also has the rights and powers, and is subject to the restrictions and liabilities, of a member to the extent of such person's participation in the limited liability company as a member.

NEW SECTION. Sec. 35. (1) In a manager-managed limited liability company:

(a) A difference arising as to a matter in the ordinary course of the activities of the limited liability company may be decided by the vote, approval, or consent of a majority of the managers; and

(b) No manager consent, approval, or recommendation is required for any act approved by the members as provided in section 26(2) of this act, for a conversion approved as provided in section 85 of this act, or for a merger approved as provided in section 81 of this act.

(2) A limited liability company agreement may provide for classes or groups of managers having such relative rights, powers, and duties as the limited liability company agreement may provide, and may make provision for the future creation in the manner provided in the limited liability company agreement of additional classes or groups of managers having such relative rights, powers, and duties as may from time to time be established, including rights, powers, and duties senior to existing classes and groups of managers. A limited liability company agreement may provide for the taking of an action, including the amendment of the limited liability company agreement, without the vote or approval of any manager or class or group of managers, including an action to create under the provisions of the limited liability company agreement a class or group of limited liability company interests that was not previously outstanding.

(3) A limited liability company agreement may grant to all or certain identified managers or a specified class or group of the managers the right to vote, separately or with all or any class or group of managers or members, on

any matter. If the limited liability company agreement so provides, voting by managers may be on a financial interest, class, group, or any other basis.

(4) A limited liability company agreement which contains provisions related to voting rights of managers may set forth provisions relating to notice of the time, place, or purpose of any meeting at which any matter is to be voted on by any manager or class or group of managers, waiver of any such notice, action by consent without a meeting, the establishment of a record date, quorum requirements, voting in person or by proxy, or any other matter with respect to the exercise of any such right to vote.

NEW SECTION. Sec. 36. A limited liability company agreement may provide that (1) a manager who fails to perform in accordance with, or to comply with the terms and conditions of, the limited liability company agreement is subject to specified penalties or specified consequences, and (2) at the time or upon the happening of events specified in the limited liability company agreement, a manager is subject to specified penalties or specified consequences.

NEW SECTION. Sec. 37. A manager may resign as a manager of a limited liability company at the time or upon the happening of events specified in a limited liability company agreement and in accordance with the limited liability company agreement. A limited liability company agreement may provide that a manager does not have the right to resign as a manager of a limited liability company. Notwithstanding that a limited liability company agreement provides that a manager does not have the right to resign as a manager of a limited liability company, a manager may resign as a manager of a limited liability company at any time by giving written notice to the members and other managers. If the resignation of a manager violates a limited liability company agreement, in addition to any remedies otherwise available under applicable law, a limited liability company may recover from the resigning manager damages for breach of the limited liability company agreement and offset the damages against any amount otherwise due to the resigning manager pursuant to the limited liability company agreement.

NEW SECTION. Sec. 38. In the event of the death, resignation, or removal of the sole remaining manager, or if one of the events described in section 28(1) (e) through (h) of this act occurs with regard to the sole remaining manager, the limited liability company shall become member-managed unless one or more managers are appointed by a majority of the members within ninety days after the occurrence of such an event.

ARTICLE V. CONTRIBUTIONS

NEW SECTION. Sec. 39. The contribution of a member to a limited liability company may consist of tangible or intangible property or other benefits to the limited liability company, including money, services performed, promissory notes, other agreements to contribute cash or property, or contracts for services to be performed.

NEW SECTION. Sec. 40. (1) A member is obligated to a limited liability company to perform any promise to contribute cash or property or to perform services, even if the member is unable to perform because of death, disability, or any other reason. If a member does not make the required contribution of

property or services, the member is obligated at the option of the limited liability company to contribute cash equal to that portion of the agreed value of the contribution that has not been made. This option is in addition to, and not in lieu of, any other rights, including the right to specific performance, that the limited liability company may have against such member under the limited liability company agreement or applicable law.

(2) The obligation of a member to make a contribution or return money or other property paid or distributed in violation of this chapter may be compromised only by consent of all the members. Notwithstanding the compromise, a creditor of a limited liability company who extends credit, after either the certificate of formation, limited liability company agreement or an amendment thereto, or records of the limited liability company reflect the obligation, and before the amendment of any thereof to reflect the compromise, may enforce the original obligation to the extent that, in extending credit, the creditor reasonably relied on the obligation of a member to make a contribution or return money or other property to the limited liability company. A conditional obligation of a member to make a contribution or return money or other property to a limited liability company may not be enforced unless the conditions of the obligation have been satisfied or waived as to or by such member. Conditional obligations include contributions payable upon a discretionary call of a limited liability company prior to the time the call occurs.

(3) A limited liability company agreement may provide that the interest of any member who fails to make any contribution that the member is obligated to make is subject to specified penalties for, or specified consequences of, such failure. Such penalty or consequence may take the form of reducing or eliminating the defaulting member's proportionate interest in a limited liability company, subordinating the member's limited liability company interest to that of nondefaulting members, a forced sale of the member's limited liability company interest, forfeiture of the member's limited liability company interest, the lending by other members of the amount necessary to meet the member's commitment, a fixing of the value of the member's limited liability company interest by appraisal or by formula and redemption or sale of the member's limited liability company interest at such value, or other penalty or consequence.

ARTICLE VI. DISTRIBUTIONS

NEW SECTION. **Sec. 41.** Distributions of a limited liability company are made to the members, and to classes or groups of members, in the manner provided in a limited liability company agreement. If the limited liability company agreement does not so provide, distributions are made in proportion to the agreed value of the contributions made and any contributions required to be made, but not yet made, by each member.

NEW SECTION. **Sec. 42.** A member does not have a right to any distributions before the dissolution and winding up of the limited liability company unless the limited liability company decides to make an interim distribution.

NEW SECTION. **Sec. 43.** A member does not have a right to receive a distribution on account of dissociation.

NEW SECTION. Sec. 44. A member, regardless of the nature of the member's contribution, has no right to receive any distribution from a limited liability company in any form other than money. A limited liability company may distribute an asset in kind to the extent that each member receives a percentage of the asset equal to the member's percentage share of distributions.

NEW SECTION. Sec. 45. Subject to sections 46 and 60 of this act, at the time a member becomes entitled to receive a distribution, that member has the status of, and is entitled to all remedies available to, a creditor of a limited liability company with respect to the distribution. A limited liability company agreement may provide for the establishment of a record date with respect to allocations and distributions by a limited liability company. The limited liability company's obligation to make a distribution is subject to offset for any amount due and payable to the limited liability company by the person on whose account the distribution is made.

NEW SECTION. Sec. 46. (1) A limited liability company must not make a distribution in violation of the limited liability company agreement.

(2) A limited liability company must not make a distribution to the extent that at the time of the distribution, after giving effect to the distribution (a) the limited liability company would not be able to pay its debts as they became due in the usual course of its activities, or (b) all liabilities of the limited liability company, other than liabilities to members on account of their limited liability company interests and liabilities for which the recourse of creditors is limited to specified property of the limited liability company, exceed the fair value of the assets of the limited liability company, except that the fair value of property that is subject to a liability for which the recourse of creditors is limited is included in the assets of the limited liability company only to the extent that the fair value of that property exceeds that liability.

(3) A limited liability company may base a determination that a distribution is not prohibited under subsection (2) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(4) Except as otherwise provided in subsection (7) of this section, the effect of a distribution under subsection (2) of this section is measured:

(a) In the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited liability company, as of the date money or other property is transferred or debt incurred by the limited liability company; and

(b) In all other cases, as of the date:

(i) The distribution is authorized, if the payment occurs within one hundred twenty days after that date; or

(ii) The payment is made, if payment occurs more than one hundred twenty days after the distribution is authorized.

(5) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general, unsecured creditors.

(6) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability

for purposes of subsection (2) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to members under this section.

(7) The effect of a distribution of indebtedness under subsection (2) of this section is measured:

(a) In the case of a distribution of indebtedness described in subsection (6) of this section, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made; and

(b) In the case of a distribution of any other indebtedness, the effect of the distribution is measured as of the date the indebtedness is distributed.

NEW SECTION. Sec. 47. (1) Except as otherwise provided in subsection (2) of this section, a member of a member-managed limited liability company or manager of a manager-managed limited liability company that consents to a distribution made in violation of section 46 of this act is personally liable to the limited liability company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of section 46 of this act if it is established that in consenting to the distribution the members or managers failed to comply with the duty of care.

(2) To the extent the limited liability company agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability provided in subsection (1) of this section applies to the other members and not the member that the limited liability company agreement relieves of authority and responsibility.

(3) A member or transferee that received a distribution knowing that the distribution to that member or transferee was made in violation of section 46 of this act is personally liable to the limited liability company but only to the extent that the distribution received by the member or transferee exceeded the amount that could have been properly paid under section 46 of this act.

(4) A member or manager against which an action is commenced under subsection (1) of this section may:

(a) Implead in the action any other person that is liable under subsection (1) of this section and compel contribution from the person; and

(b) Implead in the action any person that received a distribution in violation of subsection (3) of this section and compel contribution from the person in the amount the person received in violation of subsection (3) of this section.

(5) An action under this section is barred if it is not commenced within two years after the distribution.

ARTICLE VII. ASSIGNMENT OF LIMITED LIABILITY COMPANY INTERESTS

NEW SECTION. Sec. 48. (1) The only interest of a member that is transferable is the member's transferable interest. A transferable interest is personal property. A member has no interest in specific limited liability company property.

(2) A limited liability company agreement may provide that a transferable interest may be evidenced by a certificate of limited liability company interest issued by the limited liability company and may also provide for the transfer of

any transferable interest represented by such a certificate and make other provisions with respect to such certificate.

NEW SECTION. Sec. 49. (1) A transfer, in whole or in part, of a transferable interest:

(a) Is permissible; and

(b) Does not, as against the members or the limited liability company, entitle the transferee to participate in the management of the limited liability company's activities, to require access to information concerning the limited liability company's transactions except as provided in subsection (5) of this section or in section 29(11) of this act, or to obtain access to information to which a member is otherwise entitled pursuant to section 29 of this act or the limited liability company's other records.

(2) A transfer of a transferable interest entitles the transferee to receive distributions to which the transferor would otherwise be entitled, to the extent transferred.

(3) Upon transfer of less than the transferor's entire transferable interest in the limited liability company, the transferor retains the rights, duties, and obligations of the transferor immediately prior to the transfer other than the transferable interest transferred.

(4) Except as otherwise provided in (b) of this subsection, a transferee that becomes a member with respect to a transferable interest is liable for the transferor's obligations with respect to the transferable interest. Except to the extent such liabilities are assumed by agreement:

(a) Until a transferee of a transferable interest becomes a member with respect to the transferable interest, the transferee has no liability as a member solely as a result of the transfer; and

(b) A transferee is not obligated for liabilities associated with a transferable interest that are unknown to the transferee at the time the transferee becomes a member.

(5) In a dissolution and winding up, a transferee is entitled to an account of the limited liability company's transactions only from the date of dissolution.

(6) For the purposes of this chapter:

(a) The pledge of, or granting of a security interest, lien, or other encumbrance in or against, any or all of a transferable interest is not a transfer of the transferable interest, but a foreclosure or execution sale or exercise of similar rights with respect to any or all of transferable interest is a transfer of the transferable interest to the transferee pursuant to such foreclosure or execution sale or exercise of similar rights.

(b) Where a transferable interest is held in a trust or estate, or is held by a trustee, personal representative, or other fiduciary, the transfer of the transferable interest, whether to a beneficiary of the trust or estate or otherwise, is a transfer of such transferable interest, but the mere substitution or replacement of the trustee, personal representative, or other fiduciary does not constitute a transfer of such transferable interest.

NEW SECTION. Sec. 50. (1) On application to a court of competent jurisdiction by any judgment creditor of a member or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the

judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment creditor in respect of the limited liability company and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or that the circumstances of the case may require to give effect to the charging order.

(2) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the transferable interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(3) At any time before foreclosure, a transferable interest charged may be redeemed:

(a) By the judgment debtor;

(b) With property other than limited liability company property, by one or more of the other members; or

(c) With limited liability company property, by the limited liability company with the consent of all members whose interests are not so charged.

(4) This chapter does not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

(5) This section provides the exclusive remedy by which a judgment creditor of a member or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

ARTICLE VIII. DISSOLUTION

NEW SECTION. Sec. 51. A limited liability company is dissolved and its affairs must be wound up upon the first to occur of the following:

(1) The dissolution date, if any, specified in the certificate of formation. If a dissolution date is specified in the certificate of formation, the certificate of formation may be amended and the date of dissolution of the limited liability company may be extended by vote of all the members;

(2) The happening of events specified in a limited liability company agreement;

(3) The written consent of all members;

(4) Ninety days following an event of dissociation of the last remaining member, unless those having the rights of transferees in the limited liability company under section 28(1) of this act have, by the ninetieth day, voted to admit one or more members, voting as though they were members, and in the manner set forth in section 26(1) of this act;

(5) The entry of a decree of judicial dissolution under section 53 of this act; or

(6) The administrative dissolution of the limited liability company by the secretary of state under section 55(2) of this act, unless the limited liability company is reinstated by the secretary of state under section 56 of this act.

NEW SECTION. Sec. 52. (1) After dissolution occurs under section 51 of this act, the limited liability company may deliver to the secretary of state for filing a certificate of dissolution.

(2) A certificate of dissolution filed under subsection (1) of this section must set forth:

- (a) The name of the limited liability company; and
- (b) A statement that the limited liability company is dissolved under section 51 of this act.

NEW SECTION. Sec. 53. On application by a member or manager the superior courts may order dissolution of a limited liability company whenever: (1) It is not reasonably practicable to carry on the limited liability company's activities in conformity with the certificate of formation and the limited liability company agreement; or (2) other circumstances render dissolution equitable.

NEW SECTION. Sec. 54. The secretary of state may commence a proceeding under section 55 of this act to administratively dissolve a limited liability company if:

- (1) The limited liability company does not pay any license fees or penalties imposed by this chapter when they become due;
- (2) The limited liability company does not deliver its completed initial report or annual report to the secretary of state when it is due; or
- (3) The limited liability company is without a registered agent or registered office in this state for sixty days or more.

NEW SECTION. Sec. 55. (1) If the secretary of state determines that one or more grounds exist under section 54 of this act for dissolving a limited liability company, the secretary of state must give the limited liability company written notice of the determination by first-class mail, reciting the grounds therefor. Notice must be sent to the registered agent at the address of the registered office of the limited liability company as it appears in the records of the secretary of state.

(2) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is sent, the limited liability company is then dissolved. The secretary of state must give the limited liability company written notice of the dissolution that recites the ground or grounds therefor and its effective date.

(3) A limited liability company administratively dissolved continues its existence but may not carry on any business except as necessary to wind up and liquidate its business and affairs.

(4) The administrative dissolution of a limited liability company does not terminate the authority of its registered agent.

NEW SECTION. Sec. 56. (1) A limited liability company that has been administratively dissolved under section 55 of this act may apply to the secretary of state for reinstatement within five years after the effective date of dissolution. The application must be delivered to the secretary of state for filing and state:

(a) The name of the limited liability company and the effective date of its administrative dissolution;

(b) That the ground or grounds for dissolution either did not exist or have been eliminated; and

(c) That the limited liability company's name satisfies the requirements of section 3 of this act.

(2) A limited liability company seeking reinstatement must pay the full amount of all license fees that would have been due for the years of the period of administrative dissolution had the limited liability company not been dissolved,

plus all penalties established by law or by the secretary of state by rule, and the license fee for the year of reinstatement.

(3) If the secretary of state determines that an application contains the information required by subsection (1) of this section and that the name is available, and that all fees and penalties required by subsection (2) of this section have been paid, the secretary of state shall reinstate the limited liability company and give the limited liability company written notice, as provided in section 55(1) of this act, of the reinstatement that recites the effective date of reinstatement. If the name is not available, the limited liability company must file with its application for reinstatement an amendment to its certificate of formation reflecting a change of name.

(4) When reinstatement and revocation of any certificate of dissolution become effective, they relate back to and take effect as of the effective date of the administrative dissolution and the limited liability company may resume carrying on its activities as if the administrative dissolution had never occurred.

NEW SECTION. Sec. 57. (1) A limited liability company dissolved under section 51 (2) or (3) of this act may revoke its dissolution in accordance with this section at any time, except that a limited liability company that has filed a certificate of dissolution may not revoke its dissolution under this section more than one hundred twenty days after the filing of its certificate of dissolution.

(2)(a) Except as provided in (b) of this subsection, revocation of dissolution must be approved in the same manner as the dissolution was approved unless that approval permitted revocation in some other manner, in which event the dissolution may be revoked in the manner permitted.

(b) If dissolution occurred upon the happening of events specified in the limited liability company agreement, revocation of dissolution must be approved in the manner necessary to amend the provisions of the limited liability company agreement specifying the events of dissolution.

(3) A limited liability company that has filed a certificate of dissolution may, at any time after revocation of its dissolution has been approved but not more than one hundred twenty days after the filing of its certificate of dissolution, revoke the dissolution by delivering to the secretary of state for filing a certificate of revocation of dissolution that sets forth:

(a) The name of the limited liability company and a statement that the name satisfies the requirements of section 3 of this act; if the name is not available, the limited liability company must file a certificate of amendment changing its name with the certificate of revocation of dissolution;

(b) The effective date of the dissolution that was revoked;

(c) The date that the revocation of dissolution was approved; and

(d) A statement that the revocation was approved in the manner required by subsection (2) of this section.

(4) If a limited liability company has not filed a certificate of dissolution, revocation of dissolution becomes effective upon approval of the revocation as provided in subsection (2) of this section. If a limited liability company has filed a certificate of dissolution, revocation of dissolution becomes effective upon the filing of a certificate of revocation of dissolution. The filing of a certificate of revocation of dissolution automatically revokes any certificate of dissolution previously filed with respect to the limited liability company.

(5) Revocation of dissolution relates back to and takes effect as of the effective date of the dissolution and the limited liability company may resume carrying on its activities as if the dissolution had never occurred.

NEW SECTION. Sec. 58. (1) A limited liability company continues after dissolution only for the purpose of winding up its activities.

(2) In winding up its activities, the limited liability company:

(a) May file a certificate of dissolution with the secretary of state to provide notice that the limited liability company is dissolved; preserve the limited liability company's business or property as a going concern for a reasonable time; prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited liability company's property; settle disputes; and perform other necessary acts; and

(b) Shall discharge the limited liability company's liabilities, settle and close the limited liability company's activities, and marshal and distribute the assets of the limited liability company.

(3) The persons responsible for managing the business and affairs of a limited liability company under section 31 or 32 of this act are responsible for winding up the activities of a dissolved limited liability company. If a dissolved limited liability company does not have any managers or members, the legal representative of the last person to have been a member may wind up the activities of the dissolved limited liability company, in which event the legal representative is a manager for the purposes of section 11 of this act.

(4) If the persons responsible for winding up the activities of a dissolved limited liability company under subsection (3) of this section decline or fail to wind up the limited liability company's activities, a person to wind up the dissolved limited liability company's activities may be appointed by the consent of a majority of the transferees. A person appointed under this subsection:

(a) Is a manager for the purposes of section 11 of this act; and

(b) Shall promptly amend the certificate of formation to state:

(i) The name of the person who has been appointed to wind up the limited liability company; and

(ii) The street and mailing address of the person.

(5) The superior court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited liability company's activities, if:

(a) On application of a member, the applicant establishes good cause; or

(b) On application of a transferee, a limited liability company does not have any managers or members and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (3) or (4) of this section.

NEW SECTION. Sec. 59. (1) A dissolved limited liability company that has filed a certificate of dissolution with the secretary of state may dispose of the known claims against it by following the procedure described in subsection (2) of this section.

(2) A dissolved limited liability company may notify its known claimants of the dissolution in a record. The notice must:

(a) Specify the information required to be included in a known claim;

(b) Provide a mailing address to which the known claim must be sent;

(c) State the deadline for receipt of the known claim, which may not be fewer than one hundred twenty days after the date the notice is received by the claimant; and

(d) State that the known claim will be barred if not received by the deadline.

(3) A known claim against a dissolved limited liability company is barred if the requirements of subsection (2) of this section are met and:

(a) The known claim is not received by the specified deadline; or

(b) In the case of a known claim that is timely received but rejected by the dissolved limited liability company, the claimant does not commence an action to enforce the known claim against the limited liability company within ninety days after the receipt of the notice of rejection.

(4) For purposes of this section, "known claim" means any claim or liability that either:

(a)(i) Has matured sufficiently, before or after the effective date of the dissolution, to be legally capable of assertion against the dissolved limited liability company, whether or not the amount of the claim or liability is known or determinable; or (ii) is unmatured, conditional, or otherwise contingent but may subsequently arise under any executory contract to which the dissolved limited liability company is a party, other than under an implied or statutory warranty as to any product manufactured, sold, distributed, or handled by the dissolved limited liability company; and

(b) As to which the dissolved limited liability company has knowledge of the identity and the mailing address of the holder of the claim or liability and, in the case of a matured and legally assertable claim or liability, actual knowledge of existing facts that either (i) could be asserted to give rise to, or (ii) indicate an intention by the holder to assert, such a matured claim or liability.

NEW SECTION. Sec. 60. (1) Upon the winding up of a limited liability company, the assets are distributed as follows:

(a) To creditors, including members and managers who are creditors, to the extent otherwise permitted by law, in satisfaction of liabilities of the limited liability company, whether by payment or the making of reasonable provision for payment thereof, other than liabilities for which reasonable provision for payment has been made and liabilities for distributions to members under section 42 or 45 of this act;

(b) To members and former members in satisfaction of liabilities for distributions under section 42 or 45 of this act; and

(c) To members first for the return of their contributions and second respecting their limited liability company interests, in the proportions in which the members share in distributions.

(2) A limited liability company that has dissolved must pay or make reasonable provision to pay all claims and obligations, including all contingent, conditional, or unmatured claims and obligations, known to the limited liability company and all claims and obligations which are known to the limited liability company but for which the identity of the claimant is unknown. A limited liability company shall not be required to make provision to pay claims that are or later become barred under section 59 or 61 of this act or other applicable law. If there are sufficient assets, such claims and obligations must be paid in full and any such provision for payment made must be made in full. If there are insufficient assets, such claims and obligations must be paid or provided for

according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available therefor. Any remaining assets must be distributed as provided in this chapter. Any person winding up a limited liability company's affairs who has complied with this section is not personally liable to the claimants of the dissolved limited liability company by reason of such person's actions in winding up the limited liability company.

NEW SECTION. Sec. 61. (1) A claim against a dissolved limited liability company is barred if the limited liability company has filed a certificate of dissolution under section 52 of this act that has not been revoked under section 57 of this act, and an action or other proceeding thereon is not commenced within three years after the filing of the certificate of dissolution.

(2) The dissolution of a limited liability company does not take away or impair any remedy available to or, except as provided in subsection (1) of this section or section 59 of this act, against that limited liability company, its managers, or its members for any right or claim existing, or any liability incurred at any time, whether prior to or after dissolution. Such an action or proceeding by or against the limited liability company may be prosecuted or defended by the limited liability company in its own name.

ARTICLE IX. FOREIGN LIMITED LIABILITY COMPANIES

NEW SECTION. Sec. 62. (1) Subject to the Constitution of the state of Washington:

(a) The laws of the state, territory, possession, or other jurisdiction or country under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members and managers; and

(b) A foreign limited liability company may not be denied registration by reason of any difference between those laws and the laws of this state.

(2) A foreign limited liability company and its members and managers doing business in this state submit to personal jurisdiction of the courts of this state.

NEW SECTION. Sec. 63. Before doing business in this state, a foreign limited liability company must register with the secretary of state. In order to register, a foreign limited liability company must submit to the secretary of state an application for registration as a foreign limited liability company executed by any member or manager of the foreign limited liability company, setting forth:

(1) The name of the foreign limited liability company and, if different, the name under which it proposes to register and do business in this state;

(2) The state, territory, possession, or other jurisdiction or country where formed, the date of its formation, and a duly authenticated statement from the secretary of state or other official having custody of limited liability company records in the jurisdiction under whose law it was formed, that as of the date of filing the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its formation;

(3) The nature of the business or purposes to be conducted or promoted in this state;

(4) The address of the registered office and the name and address of the registered agent for service of process required to be maintained by section 65(2) of this act;

(5) The address of the principal office of the foreign limited liability company;

(6) The names and addresses of the foreign limited liability company's members, or if the management of the foreign limited liability company is vested in a manager or managers, then the name and address of its manager or managers;

(7) A statement that the secretary of state is appointed the agent of the foreign limited liability company for service of process under the circumstances set forth in section 71(2) of this act; and

(8) The date on which the foreign limited liability company first did, or intends to do, business in this state.

NEW SECTION. Sec. 64. (1) If the secretary of state finds that an application for registration conforms to law and all requisite fees have been paid, the secretary must:

(a) Certify that the application has been filed in his or her office by endorsing upon the original application the word "Filed," and the date of the filing. This endorsement is conclusive of the date of its filing in the absence of actual fraud; and

(b) File the endorsed application.

(2) A conformed copy of the application must be returned to the person who filed the application or that person's representative.

NEW SECTION. Sec. 65. (1) A foreign limited liability company may register with the secretary of state under any name that includes the words "Limited Liability Company," the words "Limited Liability" and the abbreviation "Co.," or the abbreviation "L.L.C." or "LLC" and that could be registered by a domestic limited liability company. A foreign limited liability company may apply to the secretary of state for authorization to use a name which is not distinguishable upon the records of the office of the secretary of state from the names described in RCW 23B.04.010 and 25.10.061, and the names of any domestic or foreign limited liability company reserved, registered, or formed under the laws of this state. The secretary of state must authorize use of the name applied for if the other corporation, limited liability company, limited liability partnership, or limited partnership consents in writing to the use and files with the secretary of state documents necessary to change its name, or the name reserved or registered to a name that is distinguishable upon the records of the secretary of state from the name of the applying foreign limited liability company.

(2) Each foreign limited liability company must continuously maintain in this state:

(a) A registered office, which may but need not be a place of its business in this state. The registered office must be at a specific geographic location in this state, and be identified by number, if any, and street, or building address or rural route, or, if a commonly known street or rural route address does not exist, by legal description. A registered office may not be identified by post office box number or other nongeographic address. For purposes of communicating by

mail, the secretary of state may permit the use of a post office address in conjunction with the registered office address if the foreign limited liability company also maintains on file the specific geographic address of the registered office where personal service of process may be made;

(b) A registered agent for service of process on the foreign limited liability company, which agent may be either an individual resident of this state whose business office is identical with the foreign limited liability company's registered office, or a domestic corporation, a limited partnership, or limited liability company, or a foreign corporation authorized to do business in this state having a business office identical with such registered office; and

(c) A registered agent who must not be appointed without having given prior written consent to the appointment. The written consent shall be filed with the secretary of state in such form as the secretary may prescribe. The written consent must be filed with or as a part of the document first appointing a registered agent. In the event any individual, limited liability company, limited partnership, or corporation has been appointed agent without consent, that person or corporation may file a notarized statement attesting to that fact, and the name must be removed from the records of the secretary of state.

(3) A foreign limited liability company may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(a) The name of the foreign limited liability company;

(b) If the current registered office is to be changed, the street address of the new registered office in accordance with subsection (2)(a) of this section;

(c) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and

(d) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(4) If a registered agent changes the street address of the agent's business office, the registered agent may change the street address of the registered office of any foreign limited liability company for which the agent is the registered agent by notifying the foreign limited liability company in writing of the change and executing, either manually or in facsimile, and delivering to the secretary of state for filing a statement that complies with the requirements of subsection (3) of this section and recites that the foreign limited liability company has been notified of the change.

(5) A registered agent of any foreign limited liability company may resign as agent by executing and delivering to the secretary of state for filing a statement that the registered office is also discontinued. After filing the statement the secretary of state must mail a copy of the statement to the foreign limited liability company at its principal office shown in its application for certificate of registration if no annual report has been filed. The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

NEW SECTION. Sec. 66. If any statement in the application for registration of a foreign limited liability company was false when made or any arrangements or other facts described have changed, making the application false in any respect, the foreign limited liability company must promptly file in

the office of the secretary of state a certificate, executed by any member or manager, correcting such statement.

NEW SECTION. Sec. 67. (1) A foreign limited liability company may cancel its registration by filing with the secretary of state a certificate of cancellation, executed by any member or manager. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of the doing of business in this state.

(2) The certificate of cancellation must set forth:

- (a) The name of the foreign limited liability company;
- (b) The date of filing of its certificate of registration;
- (c) The reason for filing the certificate of cancellation;
- (d) The future effective date, not later than the ninetieth day after the date it is filed, of cancellation if it is not to be effective upon filing of the certificate;
- (e) The address to which service of process may be forwarded; and
- (f) Any other information the person filing the certificate of cancellation desires.

NEW SECTION. Sec. 68. (1) A foreign limited liability company doing business in this state may not maintain any action, suit, or proceeding in this state until it has registered in this state and has paid to this state all fees and penalties for the years or parts thereof, during which it did business in this state without having registered.

(2) Neither the failure of a foreign limited liability company to register in this state nor the issuance of a certificate of cancellation with respect to a foreign limited liability company's registration in this state impairs:

- (a) The validity of any contract or act of the foreign limited liability company;
- (b) The right of any other party to the contract to maintain any action, suit, or proceeding on the contract; or
- (c) The foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

(3) A member or a manager of a foreign limited liability company is not liable for the obligations of the foreign limited liability company solely by reason of the limited liability company's having done business in this state without registration.

NEW SECTION. Sec. 69. The superior courts have jurisdiction to enjoin any foreign limited liability company, or any agent thereof, from doing any business in this state if such foreign limited liability company has failed to register under this article or if such foreign limited liability company has secured a certificate of registration from the secretary of state under section 64 of this act on the basis of false or misleading representations. The secretary of state must, upon the secretary's own motion or upon the relation of proper parties, proceed for this purpose by complaint in any county in which such foreign limited liability company is doing or has done business.

NEW SECTION. Sec. 70. (1) The following activities, among others, do not constitute transacting business within the meaning of this article:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;

(b) Holding meetings of the members, or managers if any, or carrying on other activities concerning internal limited liability company affairs;

(c) Maintaining bank accounts, share accounts in savings and loan associations, custodian or agency arrangements with a bank or trust company, or stock or bond brokerage accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability company's own securities or interests or maintaining trustees or depositories with respect to those securities or interests;

(e) Selling through independent contractors;

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where the orders require acceptance outside this state before becoming binding contracts and where the contracts do not involve any local performance other than delivery and installation;

(g) Making loans or creating or acquiring evidences of debt, mortgages, or liens on real or personal property, or recording same;

(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(i) Owning, without more, real or personal property;

(j) Conducting an isolated transaction that is completed within thirty days and that is not one in the course of repeated transactions of a like nature;

(k) Transacting business in interstate commerce;

(l) Owning a controlling interest in a corporation or a foreign corporation that transacts business within this state;

(m) Participating as a limited partner of a domestic or foreign limited partnership that transacts business within this state; or

(n) Participating as a member or a manager of a domestic or foreign limited liability company that transacts business within this state.

(2) The list of activities in subsection (1) of this section is not exhaustive.

NEW SECTION. Sec. 71. (1) A foreign limited liability company's registered agent is its agent for service of process, notice, or demand required or permitted by law to be served on the foreign limited liability company.

(2) The secretary of state is an agent of a foreign limited liability company upon whom any such process, notice, or demand may be served if:

(a) The foreign limited liability company fails to appoint or maintain a registered agent in this state; or

(b) The registered agent cannot with reasonable diligence be found at the registered office.

(3) Service on the secretary of state of any such process, notice, or demand is made by delivering to and leaving with the secretary of state, or with any duly authorized clerk of the secretary of state's office, the process, notice, or demand. In the event any such process, notice, or demand is served on the secretary of state, the secretary of state must immediately cause a copy thereof to be forwarded by certified mail, addressed to the foreign limited liability company at the address of its principal office as it appears on the records of the secretary of

state. Any service so had on the secretary of state is returnable in not less than thirty days.

(4) The secretary of state must keep a record of all processes, notices, and demands served upon the secretary of state under this section, and must record the time of such service and the secretary of state's action with reference thereto.

(5) This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a foreign limited liability company in any other manner now or hereafter permitted by law.

NEW SECTION. Sec. 72. (1) Any foreign limited liability company which does business in this state without having registered under section 63 of this act has thereby appointed and constituted the secretary of state its agent for the acceptance of legal process in any civil action, suit, or proceeding against it in any state or federal court in this state arising or growing out of any business done by it within this state. The doing of business in this state by such foreign limited liability company is a signification of the agreement of such foreign limited liability company that any such process when so served is of the same legal force and validity as if served upon a registered agent personally within this state.

(2) In the event of service upon the secretary of state in accordance with subsection (1) of this section, the secretary of state must notify the foreign limited liability company thereof by letter, certified mail, return receipt requested, directed to the foreign limited liability company at the address furnished to the secretary of state by the plaintiff in such action, suit, or proceeding. Such letter must enclose a copy of the process and any other papers served upon the secretary of state. It is the duty of the plaintiff in the event of such service to serve process and any other papers in duplicate and to notify the secretary of state that service is being made pursuant to this subsection.

NEW SECTION. Sec. 73. The secretary of state may commence a proceeding under section 74 of this act to revoke registration of a foreign limited liability company authorized to transact business in this state if:

(1) The foreign limited liability company does not pay any license fees or penalties imposed by this chapter when they become due;

(2) The foreign limited liability company does not deliver its completed annual report to the secretary of state when it is due;

(3) The foreign limited liability company is without a registered agent or registered office in this state for sixty days or more; or

(4) The secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of limited liability company records in the jurisdiction under which the foreign limited liability company was organized stating that the foreign limited liability company has been dissolved or its certificate or articles of formation canceled.

NEW SECTION. Sec. 74. (1) If the secretary of state determines that one or more grounds exist under section 73 of this act for revocation of a foreign limited liability company's registration, the secretary of state must give the foreign limited liability company written notice of the determination by first-class mail, postage prepaid, stating in the notice the ground or grounds for and effective date of the secretary of state's determination, which date must not be earlier than the date on which the notice is mailed.

(2) If the foreign limited liability company does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the secretary of state that each ground determined by the secretary of state does not exist within sixty days after notice is effective, the secretary of state must revoke the foreign limited liability company's registration by executing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The secretary of state must file the original of the certificate and mail a copy to the foreign limited liability company.

(3) Documents to be mailed by the secretary of state to a foreign limited liability company for which provision is made in this section must be sent to the foreign limited liability company at the address of the agent for service of process contained in the application or certificate of this limited liability company which is most recently filed with the secretary of state.

(4) The authority of a foreign limited liability company to transact business in this state ceases on the date shown on the certificate revoking its registration.

(5) The secretary of state's revocation of a foreign limited liability company's registration appoints the secretary of state the foreign limited liability company's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign limited liability company was authorized to transact business in this state.

(6) Revocation of a foreign limited liability company's registration does not terminate the authority of the registered agent of the foreign limited liability company.

ARTICLE X. DERIVATIVE ACTIONS

NEW SECTION. Sec. 75. A member may bring a derivative action to enforce a right of a limited liability company if:

(1) The member first makes a demand on the members in a member-managed limited liability company, or on the managers of a manager-managed limited liability company, requesting that they cause the limited liability company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand would be futile.

NEW SECTION. Sec. 76. In a derivative action, the plaintiff must be a member at the time of bringing the action and:

(1) At the time of the transaction of which the plaintiff complains; or

(2) The plaintiff's status as a member had devolved upon the person by operation of law or pursuant to the terms of a limited liability company agreement from a person who was a member at the time of the transaction.

NEW SECTION. Sec. 77. In a derivative action, the complaint must set forth with particularity:

(1) The date and content of plaintiff's demand and the members' or managers' response to the demand; or

(2) Why a demand should be excused as futile.

NEW SECTION. Sec. 78. If a derivative action is successful, in whole or in part, as a result of a judgment, compromise, or settlement of any such action, the court may award the plaintiff reasonable expenses, including reasonable attorneys' fees, from the recovery of the limited liability company.

ARTICLE XI. MERGERS AND CONVERSIONS

NEW SECTION. **Sec. 79.** In this article:

(1) "Constituent limited liability company" means a limited liability company that is a party to a merger.

(2) "Constituent organization" means an organization that is party to a merger.

(3) "Converted organization" means the organization into which a converting organization converts under sections 84 through 87 of this act.

(4) "Converting limited liability company" means a converting organization that is a limited liability company.

(5) "Converting organization" means an organization that converts into another organization pursuant to section 84 of this act.

(6) "Governing statute" of an organization means the statute that governs the organization's internal affairs.

(7) "Organization" means a general partnership, including a limited liability partnership; limited partnership, including a limited liability limited partnership; limited liability company; business trust; corporation; or any other person having a governing statute. The term includes domestic and foreign organizations whether or not formed for profit.

(8) "Organizational documents" means:

(a) For a domestic or foreign general partnership, its partnership agreement;

(b) For a limited partnership or foreign limited partnership, its certificate of limited partnership and partnership agreement;

(c) For a domestic or foreign limited liability company, its certificate of formation and limited liability company agreement, or comparable records as provided in its governing statute;

(d) For a business trust, its agreement of trust and declaration of trust;

(e) For a domestic or foreign corporation for profit, its articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and

(f) For any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(9) "Personal liability" means personal liability for a debt, liability, or other obligation of an organization which is imposed on a person that co-owns, has an interest in, or is a member of the organization:

(a) By the organization's governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or

(b) By the organization's organizational documents under a provision of the organization's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization.

(10) "Surviving organization" means an organization into which one or more other organizations are merged.

NEW SECTION. Sec. 80. (1) A limited liability company may merge with one or more other constituent organizations pursuant to this section and sections 81 through 83 of this act and a plan of merger, if:

(a) The governing statute of each of the other organizations authorizes the merger;

(b) The merger is not prohibited by the law of a jurisdiction that enacted any of those governing statutes; and

(c) Each of the other organizations complies with its governing statute in effecting the merger.

(2) The plan of merger must be in a record and must set forth:

(a) The name and form of each constituent organization;

(b) The name and form of the surviving organization;

(c) The terms and conditions of the merger, including the manner and basis of converting the interests in each constituent organization into any combination of the interests, shares, obligations, or other securities of the surviving organization or any other organization or into cash or other property in whole or part; and

(d) Any amendments to be made by the merger to the surviving organization's organizational documents.

(3) The plan of merger may set forth other provisions relating to the merger.

NEW SECTION. Sec. 81. (1) A plan of merger of a constituent limited liability company must be approved, and such approval shall occur when:

(a) The plan is approved by a majority of the members; and

(b) Any written consents required by section 88 of this act have been obtained.

(2) Subject to section 88 of this act and any contractual rights, after a merger is approved, and at any time before a filing is made under section 82 of this act, a constituent limited liability company may amend the plan or abandon the planned merger:

(a) As provided in the plan; and

(b) Except as prohibited by the plan, with the same approval as was required to approve the plan.

(3) If a domestic limited partnership is a party to the merger, the plan of merger must be adopted and approved as provided in RCW 25.10.781.

(4) If a domestic corporation is a party to the merger, the plan of merger must be adopted and approved as provided in chapter 23B.11 RCW.

(5) If a domestic partnership is a party to the merger, the plan of merger must be approved as provided in RCW 25.05.375.

NEW SECTION. Sec. 82. (1) After each constituent organization has approved a merger, articles of merger must be executed on behalf of each constituent organization by an authorized representative.

(2) The articles of merger must include:

(a) The name and form of each constituent organization and the jurisdiction of its governing statute;

(b) The name and form of the surviving organization and the jurisdiction of its governing statute;

(c) The date the merger is effective under the governing statute of the surviving organization;

(d) Any amendments provided for in the plan of merger for the organizational document that created the surviving organization;

(e) A statement as to each constituent organization that the merger was approved as required by the organization's governing statute;

(f) If the surviving organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office that the secretary of state may use for the purposes of section 83(3) of this act; and

(g) Any additional information required by the governing statute of any constituent organization.

(3) The surviving organization must deliver the articles of merger for filing in the office of the secretary of state.

(4) The effective time of a merger is:

(a) If the surviving organization is a limited liability company, upon the later of:

(i) Filing of the articles of merger in the office of the secretary of state; or

(ii) Subject to subsection (5) of this section, as specified in the articles of merger; or

(b) If the surviving organization is not a limited liability company, as provided by the governing statute of the surviving organization.

(5) If the articles of merger do not specify a delayed effective date, the articles of merger become effective upon filing. If the articles of merger specify a delayed effective time and date, the articles of merger become effective at the time and date specified. If the articles of merger specify a delayed effective date but no time is specified, the articles of merger are effective at the close of business on that date. A delayed effective date for articles of merger may not be later than the ninetieth day after the date they are filed.

NEW SECTION. Sec. 83. (1) When a merger becomes effective:

(a) The surviving organization continues;

(b) Each constituent organization that merges into the surviving organization ceases to exist as a separate entity;

(c) The title to all real estate and other property owned by each constituent organization is vested in the surviving organization without reversion or impairment;

(d) The surviving organization has all liabilities of each constituent organization;

(e) A proceeding pending by or against any constituent organization may be continued as if the merger did not occur or the surviving organization may be substituted in the proceeding for the constituent organization whose existence ceased;

(f) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving organization;

(g) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(h) The organizational documents of the surviving organization are amended to the extent provided in the articles of merger; and

(i) The former holders of interests of every constituent limited liability company are entitled only to the rights provided in the plan of merger and to their rights under article XII of this chapter.

(2) A merger of a limited liability company, including a limited liability company which is not the surviving organization in the merger, does not require the limited liability company to wind up its affairs under section 58 of this act or pay its liabilities and distribute its assets under section 60 of this act.

(3) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by a constituent organization, if before the merger the constituent organization was subject to suit in this state on the obligation. A surviving organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for the purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in section 7(3) of this act.

NEW SECTION. Sec. 84. (1) An organization other than a limited liability company may convert into a limited liability company, and a limited liability company may convert into an organization pursuant to this section and sections 85 through 87 of this act and a plan of conversion, if:

- (a) The other organization's governing statute authorizes the conversion;
- (b) The conversion is not prohibited by the law of the jurisdiction that enacted the other organization's governing statute; and
- (c) The other organization complies with its governing statute in effecting the conversion.

(2) A plan of conversion must be in a record and must include:

- (a) The name and form of the organization before conversion;
- (b) The name and form of the organization after conversion;
- (c) The terms and conditions of the conversion, including the manner and basis for converting interests in the converting organization into any combination of the interests, shares, obligations, or other securities of the converted organization or any other organization or into cash or other property in whole or part; and
- (d) The organizational documents of the converted organization.

NEW SECTION. Sec. 85. (1) Subject to section 88 of this act, a plan of conversion must be consented to by all the members of a converting limited liability company.

(2) Subject to section 88 of this act and any contractual rights, after a conversion is approved, and at any time before a filing is made under section 86 of this act, a converting limited liability company may amend the plan or abandon the planned conversion:

- (a) As provided in the plan; and
- (b) Except as prohibited by the plan, by the same approval as was required to approve the plan.

NEW SECTION. Sec. 86. (1) After a plan of conversion is approved, the converting organization must make one of the following filings to complete the conversion:

(a) A converting limited liability company must deliver to the secretary of state for filing articles of conversion, which must include:

- (i) A statement that the limited liability company has been converted into another organization;

(ii) The name and form of the converted organization and the jurisdiction of its governing statute;

(iii) The date the conversion is effective under the governing statute of the converted organization;

(iv) A statement that the conversion was approved as required by this chapter;

(v) A statement that the conversion was approved as required by the governing statute of the converted organization; and

(vi) If the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office that the secretary of state may use for the purposes of section 87(3) of this act; or

(b) A converting organization that is not a limited liability company must deliver to the secretary of state for filing a certificate of formation, together with articles of conversion, which must include:

(i) A statement that the limited liability company was converted from another organization;

(ii) The name and form of the converting organization and the jurisdiction of its governing statute; and

(iii) A statement that the conversion was approved in a manner that complied with the converting organization's governing statute.

(2) The effective time of a conversion is either:

(a) If the converted organization is a limited liability company, when the certificate of formation takes effect; or

(b) If the converted organization is not a limited liability company, as provided by the governing statute of the converted organization.

(3) If the certificate of formation filed pursuant to this section does not specify a delayed effective date, it becomes effective upon filing. If the certificate of formation specifies a delayed effective time and date, the certificate of formation becomes effective at the time and date specified. If the certificate of formation specifies a delayed effective date but no time is specified, the certificate of formation is effective at the close of business on that date. A delayed effective date for a certificate of formation may not be later than the ninetieth day after the date it is filed.

NEW SECTION. Sec. 87. (1) An organization that has been converted pursuant to this article is for all purposes the same entity that existed before the conversion.

(2) When a conversion takes effect:

(a) The title to all real estate and other property owned by the converting organization remains vested in the converted organization without reversion or impairment;

(b) All debts, liabilities, and other obligations of the converting organization continue as obligations of the converted organization;

(c) An action or proceeding pending by or against the converting organization may be continued as if the conversion had not occurred;

(d) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the converting organization remain vested in the converted organization;

(e) Except as otherwise provided in the plan of conversion, the terms and conditions of the plan of conversion take effect; and

(f) Except as otherwise agreed, the conversion does not dissolve a converting limited liability company for the purposes of article VIII of this chapter.

(3) A converted organization that is a foreign organization consents to the jurisdiction of the courts of this state to enforce any obligation owed by the converting limited liability company, if before the conversion the converting limited liability company was subject to suit in this state on the obligation. A converted organization that is a foreign organization and not authorized to transact business in this state appoints the secretary of state as its agent for service of process for purposes of enforcing an obligation under this subsection. Service on the secretary of state under this subsection is made in the same manner and with the same consequences as in section 7(3) of this act.

NEW SECTION. Sec. 88. If a member of a converting limited liability company or constituent limited liability company will have personal liability with respect to a converted organization or surviving organization, then, in addition to the applicable approval requirements in section 85(1) or 81(1)(a) of this act, approval of a plan of conversion or plan of merger must also require the execution, by each such member, of a separate written consent to become subject to such personal liability.

ARTICLE XII. DISSENTERS' RIGHTS

NEW SECTION. Sec. 89. In this article:

(1) "Dissenter" means a member who is entitled to dissent from a plan of merger and who exercises that right when and in the manner required by this article.

(2) "Fair value," with respect to a dissenter's limited liability company interest, means the value of the member's limited liability company interest immediately before the effectuation of the merger to which the dissenter objects, excluding any appreciation or depreciation in anticipation of the merger unless exclusion would be inequitable.

(3) "Interest" means interest from the effective date of the merger until the date of payment, at the average rate currently paid by the limited liability company on its principal bank loans or, if none, at a rate that is fair and equitable under all the circumstances.

(4) "Limited liability company" means the limited liability company in which the dissenter holds or held a membership interest, or the surviving organization by merger, whether foreign or domestic, of that limited liability company.

NEW SECTION. Sec. 90. (1) Except as provided in section 92 or 94(2) of this act, or in a written limited liability company agreement, a member of a limited liability company is entitled to dissent from, and obtain payment of, the fair value of the member's interest in a limited liability company in the event of consummation of a plan of merger to which the limited liability company is a party as permitted by section 80 of this act.

(2) A member entitled to dissent and obtain payment for the member's interest in a limited liability company under this article may not challenge the merger creating the member's entitlement unless the merger fails to comply with the procedural requirements imposed by this chapter, Title 23B RCW, chapter

25.05 RCW, chapter 25.10 RCW, or the limited liability company agreement, or is fraudulent with respect to the member or the limited liability company.

(3) The right of a dissenting member in a limited liability company to obtain payment of the fair value of the member's interest in the limited liability company terminates upon the occurrence of any one of the following events:

- (a) The proposed merger is abandoned or rescinded;
- (b) A court having jurisdiction permanently enjoins or sets aside the merger;

or

(c) The member's demand for payment is withdrawn with the written consent of the limited liability company.

NEW SECTION. Sec. 91. (1) Not less than ten days prior to the approval of a plan of merger, the limited liability company must send a written notice to all members who are entitled to vote on or approve the plan of merger that they may be entitled to assert dissenters' rights under this article. Such notice shall be accompanied by a copy of this article.

(2) The limited liability company must notify in writing all members not entitled to vote on or approve the plan of merger that the plan of merger was approved, and send them the dissenters' notice as required by section 93 of this act.

NEW SECTION. Sec. 92. A member of a limited liability company who is entitled to vote on or approve the plan of merger and who wishes to assert dissenters' rights must not vote in favor of or approve the plan of merger. A member who does not satisfy the requirements of this section is not entitled to payment for the member's interest in the limited liability company under this article.

NEW SECTION. Sec. 93. (1) If the plan of merger is approved, the limited liability company shall deliver a written dissenters' notice to all members who satisfied the requirements of section 92 of this act.

(2) The dissenters' notice required by section 91(2) of this act or by subsection (1) of this section must be sent within ten days after the approval of the plan of merger, and must:

- (a) State where the payment demand must be sent;
- (b) Inform members as to the extent transfer of the member's interest in the limited liability company will be restricted as permitted by section 95 of this act after the payment demand is received;
- (c) Supply a form for demanding payment;
- (d) Set a date by which the limited liability company must receive the payment demand, which date may not be fewer than thirty nor more than sixty days after the date the notice under this section is delivered; and
- (e) Be accompanied by a copy of this article.

NEW SECTION. Sec. 94. (1) A member of a limited liability company who demands payment retains all other rights of a member of such limited liability company until the proposed merger becomes effective.

(2) A member of a limited liability company sent a dissenters' notice who does not demand payment by the date set in the dissenters' notice is not entitled to payment for the member's interest in the limited liability company under this article.

NEW SECTION. Sec. 95. The limited liability company may restrict the transfer of members' interests in the limited liability company from the date the demand for their payment is received until the proposed merger becomes effective or the restriction is released under this article.

NEW SECTION. Sec. 96. (1) Within thirty days of the later of the date the proposed merger becomes effective, or the payment demand is received, the limited liability company must pay each dissenter who complied with section 94 of this act the amount the limited liability company estimates to be the fair value of the dissenting member's interest in the limited liability company, plus accrued interest.

(2) The payment must be accompanied by:

(a) Copies of the financial statements for the limited liability company for its most recent fiscal year maintained as required by section 29 of this act;

(b) An explanation of how the limited liability company estimated the fair value of the member's interest in the limited liability company;

(c) An explanation of how the accrued interest was calculated;

(d) A statement of the dissenter's right to demand payment; and

(e) A copy of this article.

NEW SECTION. Sec. 97. (1) If the proposed merger does not become effective within sixty days after the date set for demanding payment, the limited liability company must release any transfer restrictions imposed as permitted by section 95 of this act.

(2) If, after releasing transfer restrictions, the proposed merger becomes effective, the limited liability company must send a new dissenters' notice as provided in sections 91(2) and 93 of this act and repeat the payment demand procedure.

NEW SECTION. Sec. 98. (1) A dissenter may notify the limited liability company in writing of the dissenter's own estimate of the fair value of the dissenter's interest in the limited liability company, and amount of interest due, and demand payment of the dissenter's estimate, less any payment under section 96 of this act, if:

(a) The dissenter believes that the amount paid is less than the fair value of the dissenter's interest in the limited liability company, or that the interest due is incorrectly calculated;

(b) The limited liability company fails to make payment within sixty days after the date set for demanding payment; or

(c) The limited liability company, having failed to effectuate the proposed merger, does not release the transfer restrictions imposed on members' interests as permitted by section 95 of this act within sixty days after the date set for demanding payment.

(2) A dissenter waives the right to demand payment under this section unless the dissenter notifies the limited liability company of the dissenter's demand in writing under subsection (1) of this section within thirty days after the limited liability company made payment for the dissenter's interest in the limited liability company.

NEW SECTION. Sec. 99. (1) If a demand for payment under section 94 of this act remains unsettled, the limited liability company must commence a proceeding within sixty days after receiving the payment demand and petition

the court to determine the fair value of the dissenting member's interest in the limited liability company, and accrued interest. If the limited liability company does not commence the proceeding within the sixty-day period, it must pay each dissenter whose demand remains unsettled the amount demanded.

(2) The limited liability company must commence the proceeding in the superior court of the county where the limited liability company's principal office or, if none in this state, its registered office is located.

(3) The limited liability company must make all dissenters, whether or not residents of this state, whose demands remain unsettled parties to the proceeding as in an action against their membership interests in the limited liability company and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(4) The limited liability company may join as a party to the proceeding any member who claims to be a dissenter but who has not, in the opinion of the limited liability company, complied with the provisions of this article. If the court determines that such member has not complied with the provisions of this article, the member must be dismissed as a party.

(5) The jurisdiction of the court in which the proceeding is commenced is plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend decisions on the question of fair value. The appraisers have the powers described in the order appointing them or in any amendment to it. The dissenters are entitled to the same discovery rights as parties in other civil proceedings.

(6) Each dissenter made a party to the proceeding is entitled to judgment for the amount, if any, by which the court finds the fair value of the dissenter's membership interest in the limited liability company, plus interest, exceeds the amount paid by the limited liability company.

NEW SECTION. Sec. 100. (1) The court in a proceeding commenced under section 99 of this act must determine all costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court must assess the costs against the limited liability company, except that the court may assess the costs against all or some of the dissenters, in amounts the court finds equitable, to the extent the court finds the dissenters acted arbitrarily, vexatiously, or not in good faith in demanding payment.

(2) The court may also assess the fees and expenses of counsel and experts for the respective parties, in amounts the court finds equitable:

(a) Against the limited liability company and in favor of any or all dissenters if the court finds the limited liability company did not substantially comply with the requirements of this article; or

(b) Against either the limited liability company or a dissenter, in favor of any other party, if the court finds that the party against whom the fees and expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this article.

(3) If the court finds that the services of counsel for any dissenter were of substantial benefit to other dissenters similarly situated, and that the fees for those services should not be assessed against the limited liability company, the court may award to these counsel reasonable fees to be paid out of the amounts awarded to the dissenters who were benefited.

ARTICLE XIII. MISCELLANEOUS

NEW SECTION. Sec. 101. (1) The rule that statutes in derogation of the common law are to be strictly construed has no application to this chapter.

(2) It is the policy of this chapter to give the maximum effect to the principle of freedom of contract and to the enforceability of limited liability company agreements.

(3) Unless the context otherwise requires, as used in this chapter, the singular includes the plural and the plural may refer to only the singular.

NEW SECTION. Sec. 102. (1) The secretary of state must adopt rules establishing fees which are charged and collected for:

(a) Filing of a certificate of formation, certificate of amendment, or restated certificate of formation for a domestic limited liability company;

(b) Filing of an application for registration, or a certificate correcting any statement in an application for registration, of a foreign limited liability company;

(c) Filing of articles of merger or articles of conversion for a domestic limited liability company;

(d) Filing of a certificate of dissolution for a domestic limited liability company;

(e) Filing of a certificate of revocation of dissolution for a domestic limited liability company;

(f) Filing of an application for reinstatement of a domestic limited liability company;

(g) Filing of a certificate of cancellation for a foreign limited liability company;

(h) Filing of an application to reserve, register, or transfer a foreign or domestic limited liability company name;

(i) Filing of any other certificate, statement, or report authorized or permitted to be filed;

(j) Copies, certified copies, certificates, service of process filings, and expedited filings or other special services; and

(k) The initial and annual report for a limited liability company, or the annual report for a foreign limited liability company, and any related penalties.

(2) In the establishment of a fee schedule, the secretary of state must, insofar as is possible and reasonable, be guided by the fee schedule provided for corporations governed by Title 23B RCW. Fees for copies, certified copies, certificates of record, and service of process filings must be as provided for in RCW 23B.01.220.

(3) All fees collected by the secretary of state must be deposited with the state treasurer pursuant to law.

NEW SECTION. Sec. 103. The secretary of state has the power and authority reasonably necessary for the efficient and effective administration of this chapter, including the adoption of rules under chapter 34.05 RCW.

NEW SECTION. Sec. 104. This act takes effect January 1, 2016.

NEW SECTION. Sec. 105. This chapter may be known and cited as the "Washington Limited Liability Company Act."

NEW SECTION. Sec. 106. This chapter does not affect an action commenced, proceeding brought, or right accrued before January 1, 2016.

NEW SECTION. Sec. 107. Sections 1 through 106 of this act are each added to chapter 25.15 RCW.

NEW SECTION. Sec. 108. The following acts or parts of acts are each repealed:

(1) RCW 25.15.005 (Definitions) and 2010 c 196 s 1, 2008 c 198 s 4, 2002 c 296 s 3, 2000 c 169 s 1, 1995 c 337 s 13, & 1994 c 211 s 101;

(2) RCW 25.15.007 (Standards for electronic filing—Rules) and 2002 c 74 s 15;

(3) RCW 25.15.010 (Name set forth in certificate of formation) and 2009 c 188 s 1410, 1998 c 102 s 9, 1996 c 231 s 5, & 1994 c 211 s 102;

(4) RCW 25.15.015 (Reserved name—Registered name) and 1998 c 102 s 11 & 1994 c 211 s 103;

(5) RCW 25.15.020 (Registered office—Registered agent) and 2009 c 202 s 5, 2002 c 74 s 16, 1996 c 231 s 6, & 1994 c 211 s 104;

(6) RCW 25.15.025 (Service of process on domestic limited liability companies) and 1994 c 211 s 105;

(7) RCW 25.15.030 (Nature of business permitted—Powers) and 2006 c 48 s 1 & 1994 c 211 s 106;

(8) RCW 25.15.035 (Business transactions of member or manager with the limited liability company) and 1994 c 211 s 107;

(9) RCW 25.15.040 (Limitation of liability and indemnification) and 1994 c 211 s 108;

(10) RCW 25.15.045 (Professional limited liability companies) and 2001 c 251 s 32, 1999 c 128 s 2, 1998 c 293 s 5, & 1997 c 390 s 4;

(11) RCW 25.15.050 (Member agreements) and 1994 c 211 s 110;

(12) RCW 25.15.055 (Membership residency) and 1994 c 211 s 111;

(13) RCW 25.15.060 (Piercing the veil) and 1995 c 337 s 15 & 1994 c 211 s 112;

(14) RCW 25.15.070 (Certificate of formation) and 2010 c 196 s 2 & 1994 c 211 s 201;

(15) RCW 25.15.075 (Amendment to certificate of formation) and 1994 c 211 s 202;

(16) RCW 25.15.085 (Execution) and 2014 c 83 s 7, 2010 c 196 s 3, 2002 c 74 s 17, 2001 c 307 s 3, 1995 c 337 s 16, & 1994 c 211 s 204;

(17) RCW 25.15.090 (Execution, amendment, or cancellation by judicial order) and 1994 c 211 s 205;

(18) RCW 25.15.095 (Filing) and 2010 c 196 s 4, 2002 c 74 s 18, 2001 c 307 s 4, & 1994 c 211 s 206;

(19) RCW 25.15.100 (Restated certificate) and 1994 c 211 s 207;

(20) RCW 25.15.105 (Initial and annual reports) and 2010 1st sp.s. c 29 s 8, 2001 c 307 s 2, & 1994 c 211 s 208;

(21) RCW 25.15.115 (Admission of members) and 1994 c 211 s 301;

(22) RCW 25.15.120 (Voting and classes of membership) and 1994 c 211 s 302;

(23) RCW 25.15.125 (Liability of members and managers to third parties) and 1994 c 211 s 303;

(24) RCW 25.15.130 (Events of dissociation) and 2000 c 169 s 2, 1995 c 337 s 17, & 1994 c 211 s 304;

(25) RCW 25.15.135 (Records and information) and 1994 c 211 s 305;

(26) RCW 25.15.140 (Remedies for breach of limited liability company agreement by member) and 1994 c 211 s 306;

(27) RCW 25.15.150 (Management) and 1996 c 231 s 8 & 1994 c 211 s 401;

(28) RCW 25.15.155 (Liability of managers and members) and 1994 c 211 s 402;

(29) RCW 25.15.160 (Manager—Members' rights and duties) and 1994 c 211 s 403;

(30) RCW 25.15.165 (Voting and classes of managers) and 1994 c 211 s 404;

(31) RCW 25.15.170 (Remedies for breach of limited liability company agreement by manager) and 1994 c 211 s 405;

(32) RCW 25.15.175 (Reliance on reports and information by member or manager) and 1994 c 211 s 406;

(33) RCW 25.15.180 (Resignation of manager) and 1994 c 211 s 407;

(34) RCW 25.15.185 (Loss of sole remaining manager) and 2000 c 169 s 3;

(35) RCW 25.15.190 (Form of contribution) and 1994 c 211 s 501;

(36) RCW 25.15.195 (Liability for contribution) and 1994 c 211 s 502;

(37) RCW 25.15.200 (Allocation of profits and losses) and 1994 c 211 s 503;

(38) RCW 25.15.205 (Allocation of distributions) and 1994 c 211 s 504;

(39) RCW 25.15.215 (Interim distributions) and 1994 c 211 s 601;

(40) RCW 25.15.220 (Distribution on event of dissociation) and 1995 c 337 s 18 & 1994 c 211 s 602;

(41) RCW 25.15.225 (Distribution in-kind) and 1994 c 211 s 603;

(42) RCW 25.15.230 (Right to distribution) and 1994 c 211 s 604;

(43) RCW 25.15.235 (Limitations on distribution) and 1994 c 211 s 605;

(44) RCW 25.15.245 (Nature of limited liability company interest—Certificate of interest) and 1994 c 211 s 701;

(45) RCW 25.15.250 (Assignment of limited liability company interest) and 1995 c 337 s 19 & 1994 c 211 s 702;

(46) RCW 25.15.255 (Rights of judgment creditor) and 1994 c 211 s 703;

(47) RCW 25.15.260 (Right of assignee to become member) and 1994 c 211 s 704;

(48) RCW 25.15.270 (Dissolution) and 2010 c 196 s 5, 2009 c 437 s 1, 2006 c 48 s 4, 2000 c 169 s 4, 1997 c 21 s 1, 1996 c 231 s 9, & 1994 c 211 s 801;

(49) RCW 25.15.273 (After dissolution under RCW 25.15.270) and 2010 c 196 s 6;

(50) RCW 25.15.275 (Judicial dissolution) and 1994 c 211 s 802;

(51) RCW 25.15.280 (Administrative dissolution—Commencement of proceeding) and 1995 c 337 s 20 & 1994 c 211 s 803;

(52) RCW 25.15.285 (Administrative dissolution—Notice—Opportunity to correct deficiencies) and 1994 c 211 s 804;

(53) RCW 25.15.290 (Administrative dissolution—Reinstatement—Application—When effective) and 2010 c 196 s 7, 2009 c 437 s 2, & 1994 c 211 s 805;

(54) RCW 25.15.293 (Dissolution under RCW 25.15.270—Revocation—Approval required—When effective) and 2010 c 196 s 8 & 2009 c 437 s 3;

(55) RCW 25.15.295 (Winding up) and 2010 c 196 s 9 & 1994 c 211 s 806;

(56) RCW 25.15.298 (Disposing of known claims—Definition) and 2010 c 196 s 10;

(57) RCW 25.15.300 (Distribution of assets) and 1994 c 211 s 807;

(58) RCW 25.15.303 (Remedies available after dissolution) and 2010 c 196 s 11 & 2006 c 325 s 1;

(59) RCW 25.15.310 (Law governing) and 1995 c 337 s 21 & 1994 c 211 s 901;

(60) RCW 25.15.315 (Registration required—Application) and 1994 c 211 s 902;

(61) RCW 25.15.320 (Issuance of registration) and 1994 c 211 s 903;

(62) RCW 25.15.325 (Name—Registered office—Registered agent) and 2009 c 188 s 1411, 2002 c 74 s 19, 1998 c 102 s 10, 1996 c 231 s 10, & 1994 c 211 s 904;

(63) RCW 25.15.330 (Amendments to application) and 1994 c 211 s 905;

(64) RCW 25.15.335 (Cancellation of registration) and 1994 c 211 s 906;

(65) RCW 25.15.340 (Doing business without registration) and 2010 c 196 s 12 & 1994 c 211 s 907;

(66) RCW 25.15.345 (Foreign limited liability companies doing business without having qualified—Injunctions) and 1994 c 211 s 908;

(67) RCW 25.15.350 (Transactions not constituting transacting business) and 1994 c 211 s 909;

(68) RCW 25.15.355 (Service of process on registered foreign limited liability companies) and 1994 c 211 s 910;

(69) RCW 25.15.360 (Service of process on unregistered foreign limited liability companies) and 1994 c 211 s 911;

(70) RCW 25.15.365 (Revocation of registration—Requirements for commencement) and 1996 c 231 s 11;

(71) RCW 25.15.366 (Revocation of registration—Procedure—Notice—Correction of grounds—Certificate of revocation—Authority of agent) and 1996 c 231 s 12;

(72) RCW 25.15.370 (Right to bring action) and 1994 c 211 s 1001;

(73) RCW 25.15.375 (Proper plaintiff) and 1994 c 211 s 1002;

(74) RCW 25.15.380 (Complaint) and 1994 c 211 s 1003;

(75) RCW 25.15.385 (Expenses) and 1994 c 211 s 1004;

(76) RCW 25.15.390 (Definitions) and 2014 c 83 s 1;

(77) RCW 25.15.395 (Merger—Plan—Effective date) and 1998 c 103 s 1319 & 1994 c 211 s 1101;

(78) RCW 25.15.400 (Merger—Plan—Approval) and 2009 c 188 s 1412, 1998 c 103 s 1320, & 1994 c 211 s 1102;

(79) RCW 25.15.405 (Articles of merger—Filing) and 2009 c 188 s 1413, 1998 c 103 s 1321, & 1994 c 211 s 1103;

(80) RCW 25.15.410 (Effect of merger) and 2009 c 188 s 1414, 1998 c 103 s 1322, & 1994 c 211 s 1104;

(81) RCW 25.15.415 (Merger—Foreign and domestic) and 2009 c 188 s 1415, 1998 c 103 s 1323, & 1994 c 211 s 1105;

(82) RCW 25.15.417 (Conversion) and 2014 c 83 s 2;

(83) RCW 25.15.419 (Action on plan of conversion by converting limited liability company) and 2014 c 83 s 3;

(84) RCW 25.15.420 (Filings required for conversion—Effective date) and 2014 c 83 s 4;

(85) RCW 25.15.422 (Effect of conversion) and 2014 c 83 s 5;

(86) RCW 25.15.423 (Restrictions on approval of conversions) and 2014 c 83 s 6;

(87) RCW 25.15.425 (Definitions) and 1994 c 211 s 1201;

(88) RCW 25.15.430 (Member—Dissent—Payment of fair value) and 2009 c 188 s 1416 & 1994 c 211 s 1202;

(89) RCW 25.15.435 (Dissenters' rights—Notice—Timing) and 1994 c 211 s 1203;

(90) RCW 25.15.440 (Member—Dissent—Voting restriction) and 1994 c 211 s 1204;

(91) RCW 25.15.445 (Members—Dissenters' notice—Requirements) and 1994 c 211 s 1205;

(92) RCW 25.15.450 (Member—Payment demand—Entitlement) and 1994 c 211 s 1206;

(93) RCW 25.15.455 (Member's interests—Transfer restriction) and 1994 c 211 s 1207;

(94) RCW 25.15.460 (Payment of fair value—Requirements for compliance) and 1994 c 211 s 1208;

(95) RCW 25.15.465 (Merger—Not effective within sixty days—Transfer restrictions) and 1994 c 211 s 1209;

(96) RCW 25.15.470 (Dissenter's estimate of fair value—Notice) and 1994 c 211 s 1210;

(97) RCW 25.15.475 (Unsettled demand for payment—Proceeding—Parties—Appraisers) and 1994 c 211 s 1211;

(98) RCW 25.15.480 (Unsettled demand for payment—Costs—Fees and expenses of counsel) and 1994 c 211 s 1212;

(99) RCW 25.15.800 (Construction and application of chapter and limited liability company agreement) and 1994 c 211 s 1301;

(100) RCW 25.15.805 (Establishment of filing fees and miscellaneous charges) and 2010 c 196 s 13 & 1994 c 211 s 1302;

(101) RCW 25.15.810 (Authority to adopt rules) and 1994 c 211 s 1303;

(102) RCW 25.15.900 (Effective date—1994 c 211) and 1994 c 211 s 1312;

(103) RCW 25.15.901 (Short title) and 1994 c 211 s 1313; and

(104) RCW 25.15.902 (Severability—1994 c 211) and 1994 c 211 s 1314.

NEW SECTION. Sec. 109. 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.

ARTICLE XIV. CONFORMING AMENDMENTS

Sec. 110. RCW 23B.11.080 and 2009 c 188 s 1401 are each amended to read as follows:

(1) One or more domestic corporations may merge with one or more limited liability companies, partnerships, or limited partnerships if:

(a) The board of directors of each corporation adopts and the shareholders of each corporation approve, if approval would be necessary, the plan of merger as required by RCW 23B.11.030;

(b) The partners of each limited partnership approve the plan of merger as required by RCW 25.10.781;

(c) The partners of each partnership approve the plan of merger as required by RCW 25.05.375; and

(d) The members of each limited liability company approve, if approval is necessary, the plan of merger as required by (~~RCW 25.15.400~~) section 81 of this act.

(2) The plan of merger must set forth:

(a) The name of each limited liability company, partnership, corporation, and limited partnership planning to merge and the name of the surviving limited liability company, partnership, corporation, or limited partnership into which each other limited liability company, partnership, corporation, or limited partnership plans to merge;

(b) The terms and conditions of the merger; and

(c) The manner and basis of converting the shares of each corporation, the member interests of each limited liability company, and the partnership interests in each partnership and each limited partnership into shares, limited liability company member interests, partnership interests, obligations, or other securities of the surviving limited liability company, partnership, corporation, or limited partnership, or into cash or other property, including shares, obligations, or securities of any other limited liability company, partnership, or corporation, and partnership interests, obligations, or securities of any other limited partnership, in whole or in part.

(3) The plan of merger may set forth:

(a) Amendments to the articles of incorporation of the surviving corporation;

(b) Amendments to the certificate of limited partnership of the surviving limited partnership; and

(c) Other provisions relating to the merger.

Sec. 111. RCW 23B.11.090 and 2009 c 188 s 1402 are each amended to read as follows:

After a plan of merger for one or more corporations and one or more limited partnerships, one or more partnerships, or one or more limited liability companies is approved by the shareholders of each corporation (or adopted by the board of directors of any corporation for which shareholder approval is not required), is approved by the partners for each limited partnership as required by RCW 25.10.781, is approved by the partners of each partnership as required by RCW 25.05.380, or is approved by the members of each limited liability company as required by (~~RCW 25.15.400~~) section 81 of this act, the surviving entity must:

(1) If the surviving entity is a corporation, file with the secretary of state articles of merger setting forth:

(a) The plan of merger;

(b) A statement that the merger was duly approved by the shareholders of each corporation pursuant to RCW 23B.11.030 (or a statement that shareholder approval was not required for a merging corporation); and

(c) A statement that the merger was duly approved by the partners of each limited partnership pursuant to RCW 25.10.781.

(2) If the surviving entity is a limited partnership, comply with the requirements in RCW 25.10.786.

(3) If the surviving entity is a partnership, comply with the requirements in RCW 25.05.380.

(4) If the surviving entity is a limited liability company, comply with the requirements in ~~((RCW 25.15.405))~~ section 82 of this act.

Sec. 112. RCW 23B.11.110 and 2009 c 188 s 1403 are each amended to read as follows:

(1) One or more foreign limited partnerships, foreign corporations, foreign partnerships, and foreign limited liability companies may merge with one or more domestic partnerships, domestic limited liability companies, domestic limited partnerships, or domestic corporations, provided that:

(a) The merger is permitted by the law of the jurisdiction under which each foreign limited partnership was organized and the law of the state or country under which each foreign corporation was incorporated and each foreign limited partnership or foreign corporation complies with that law in effecting the merger;

(b) If the surviving entity is a foreign or domestic corporation, that corporation complies with RCW 23B.11.090;

(c) If the surviving entity is a foreign or domestic limited partnership, that limited partnership complies with RCW 25.10.786;

(d) Each domestic corporation complies with RCW 23B.11.080;

(e) Each domestic limited partnership complies with RCW 25.10.781;

(f) Each domestic limited liability company complies with ~~((RCW 25.15.400))~~ section 81 of this act; and

(g) Each domestic partnership complies with RCW 25.05.375.

(2) Upon the merger taking effect, a surviving foreign corporation, foreign limited partnership, foreign limited liability corporation, or foreign partnership is deemed:

(a) To appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders or partners of each domestic corporation, domestic limited partnership, domestic limited liability company, or domestic partnership party to the merger; and

(b) To agree that it will promptly pay to the dissenting shareholders or partners of each domestic corporation, domestic limited partnership, domestic limited liability company, or domestic partnership party to the merger the amount, if any, to which they are entitled under chapter 23B.13 RCW, in the case of dissenting shareholders, or under chapter 25.10, 25.15, or 25.05 RCW, in the case of dissenting partners.

Sec. 113. RCW 25.05.375 and 2009 c 188 s 1406 are each amended to read as follows:

(1) Unless otherwise provided in the partnership agreement, approval of a plan of merger by a domestic partnership party to the merger shall occur when the plan is approved by all of the partners.

(2) If a domestic limited partnership is a party to the merger, the plan of merger shall be adopted and approved as provided in RCW 25.10.781.

(3) If a domestic limited liability company is a party to the merger, the plan of merger shall be adopted and approved as provided in ~~((RCW 25.15.400))~~ section 81 of this act.

(4) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW.

Sec. 114. RCW 25.05.380 and 1998 c 103 s 907 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, after a plan of merger is approved or adopted, the surviving partnership, limited liability company, limited partnership, or corporation shall deliver to the secretary of state for filing articles of merger setting forth:

(a) The plan of merger;

(b) If the approval of any partners, members, or shareholders of one or more partnerships, limited liability companies, limited partnerships, or corporations party to the merger was not required, a statement to that effect; or

(c) If the approval of any partners, members, or shareholders of one or more of the partnerships, limited liability companies, limited partnerships, or corporations party to the merger was required, a statement that the merger was duly approved by such members, partners, and shareholders pursuant to ~~((RCW 25.15.400))~~ section 81 of this act, RCW 25.05.375, or chapter 23B.11 RCW.

(2) If the merger involves only two or more partnerships and one or more of such partnerships has filed a statement of partnership authority with the secretary of state, the surviving partnership shall file articles of merger as provided in subsection (1) of this section.

Sec. 115. RCW 25.05.385 and 2009 c 188 s 1407 are each amended to read as follows:

(1) When a merger takes effect:

(a) Every other partnership, limited liability company, limited partnership, or corporation that is party to the merger merges into the surviving partnership, limited liability company, limited partnership, or corporation and the separate existence of every partnership, limited liability company, limited partnership, or corporation except the surviving partnership, limited liability company, limited partnership, or corporation ceases;

(b) The title to all real estate and other property owned by each partnership, limited liability company, limited partnership, and corporation party to the merger is vested in the surviving partnership, limited liability company, limited partnership, or corporation without reversion or impairment;

(c) The surviving partnership, limited liability company, limited partnership, or corporation has all liabilities of each partnership, limited liability company, limited partnership, and corporation that is party to the merger;

(d) A proceeding pending against any partnership, limited liability company, limited partnership, or corporation that is party to the merger may be continued as if the merger did not occur or the surviving partnership, limited liability company, limited partnership, or corporation may be substituted in the proceeding for the partnership, limited liability company, limited partnership, or corporation whose existence ceased;

(e) The certificate of formation of the surviving limited liability company is amended to the extent provided in the plan of merger;

(f) The partnership agreement of the surviving limited partnership is amended to the extent provided in the plan of merger;

(g) The articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and

(h) The former members of every limited liability company party to the merger, the former holders of the partnership interests of every domestic partnership or limited partnership that is party to the merger, and the former holders of the shares of every domestic corporation that is party to the merger are entitled only to the rights provided in the plan of merger, or to their rights under this article, to their rights under RCW 25.10.831 through 25.10.886, or to their rights under chapter 23B.13 RCW.

(2) Unless otherwise agreed, a merger of a domestic partnership, including a domestic partnership which is not the surviving entity in the merger, shall not require the domestic partnership to wind up its affairs under article 8 of this chapter.

(3) Unless otherwise agreed, a merger of a domestic limited partnership, including a domestic limited partnership which is not the surviving entity in the merger, shall not require the domestic limited partnership to wind up its affairs under RCW 25.10.581 or pay its liabilities and distribute its assets under RCW 25.10.621.

(4) Unless otherwise agreed, a merger of a domestic limited liability company, including a domestic limited liability company which is not the surviving entity in the merger, shall not require the domestic limited liability company to wind up its affairs under ~~((RCW 25.15.295))~~ section 58 of this act or pay its liabilities and distribute its assets under ~~((RCW 25.15.300))~~ section 60 of this act.

Sec. 116. RCW 25.05.390 and 2009 c 188 s 1408 are each amended to read as follows:

(1) One or more foreign partnerships, foreign limited liability companies, foreign limited partnerships, and foreign corporations may merge with one or more domestic partnerships, domestic limited liability companies, domestic limited partnerships, or domestic corporations if:

(a) The merger is permitted by the law of the jurisdiction under which each foreign partnership was organized, each foreign limited liability company was formed, each foreign limited partnership was organized, and each foreign corporation was incorporated, and each foreign partnership, foreign limited liability company, foreign limited partnership, and foreign corporation complies with that law in effecting the merger;

(b) The surviving entity complies with RCW 25.05.380;

(c) Each domestic limited liability company complies with ~~((RCW 25.15.400))~~ section 81 of this act;

(d) Each domestic limited partnership complies with RCW 25.10.781; and

(e) Each domestic corporation complies with RCW 23B.11.080.

(2) Upon the merger taking effect, a surviving foreign limited liability company, limited partnership, or corporation is deemed to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting members, partners, or shareholders of each domestic limited liability company, domestic limited partnership, or domestic corporation party to the merger.

Sec. 117. RCW 25.05.425 and 2009 c 188 s 1409 are each amended to read as follows:

(1) Except as provided in RCW 25.05.435 or 25.05.445(2), a partner in a domestic partnership is entitled to dissent from, and obtain payment of the fair value of the partner's interest in a partnership in the event of consummation of a plan of merger to which the partnership is a party as permitted by RCW 25.05.370 or 25.05.390.

(2) A partner entitled to dissent and obtain payment for the partner's interest in a partnership under this article may not challenge the merger creating the partner's entitlement unless the merger fails to comply with the procedural requirements imposed by this title, Title 23B RCW, RCW 25.10.776 through 25.10.796, or ~~((25.15.430))~~ section 90 of this act, as applicable, or the partnership agreement, or is fraudulent with respect to the partner or the partnership.

(3) The right of a dissenting partner in a partnership to obtain payment of the fair value of the partner's interest in the partnership shall terminate upon the occurrence of any one of the following events:

(a) The proposed merger is abandoned or rescinded;

(b) A court having jurisdiction permanently enjoins or sets aside the merger;
or

(c) The partner's demand for payment is withdrawn with the written consent of the partnership.

Sec. 118. RCW 25.10.781 and 2009 c 188 s 1107 are each amended to read as follows:

(1) Subject to RCW 25.10.796, a plan of merger must be consented to by all the partners of a constituent limited partnership.

(2) Subject to RCW 25.10.796 and any contractual rights, after a merger is approved, and at any time before a filing is made under RCW 25.10.786, a constituent limited partnership may amend the plan or abandon the planned merger:

(a) As provided in the plan; and

(b) Except as prohibited by the plan, with the same consent as was required to approve the plan.

(3) If a domestic corporation is a party to the merger, the plan of merger shall be adopted and approved as provided in chapter 23B.11 RCW.

(4) If a domestic partnership is a party to the merger, the plan of merger shall be approved as provided in RCW 25.05.375.

(5) If a domestic limited liability company is a party to the merger, the plan of merger shall be approved as provided in ~~((RCW 25.15.400))~~ section 81 of this act.

Sec. 119. RCW 30A.08.025 and 2014 c 37 s 152 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, if the conditions of this section are met, a bank or a holding company of a bank may be organized as, or convert to, a limited liability company under the Washington limited liability company act, chapter 25.15 RCW. As used in this section, "bank" includes an applicant to become a bank or holding company of a bank and "holding company" means a holding company of a bank.

(2)(a) Before a bank or holding company may organize as, or convert to, a limited liability company, the bank or holding company must obtain approval of the director.

(b)(i) To obtain approval under this section from the director, the bank or holding company must file a request for approval with the director at least ninety days before the day on which the bank or holding company becomes a limited liability company.

(ii) If the director does not disapprove the request for approval within ninety days from the day on which the director receives the request, the request is considered approved.

(iii) When taking action on a request for approval filed under this section, the director may:

(A) Approve the request;

(B) Approve the request subject to terms and conditions the director considers necessary; or

(C) Disapprove the request.

(3) To approve a request for approval, the director must find that the bank or holding company:

(a) Will operate in a safe and sound manner; and

(b) Has the following characteristics:

(i) The certificate of formation and limited liability company require or set forth that the duration of the limited liability company is perpetual;

(ii) The bank or holding company is not otherwise subject to automatic termination, dissolution, or suspension upon the happening of some event other than the passage of time;

(iii) The exclusive authority to manage the bank, trust company, or holding company is vested in a board of managers or directors that:

(A) Is elected or appointed by the owners;

(B) Is not required to have owners of the bank, trust company, or holding company included on the board;

(C) Possesses adequate independence and authority to supervise the operation of the bank, trust company, or holding company; and

(D) Operates with substantially the same rights, powers, privileges, duties, and responsibilities as the board of directors of a corporation;

(iv) Neither state law, nor the bank's or holding company's operating agreement, bylaws, or other organizational documents provide that an owner of the bank or holding company is liable for the debts, liabilities, and obligations of the bank or holding company in excess of the amount of the owner's investment;

(v) Neither state law, nor the bank's or holding company's operating agreement, bylaws, or other organizational documents require the consent of any other owner of the bank or holding company in order for any owner to transfer an ownership interest in the bank or holding company, including voting rights;

(vi) The bank or holding company is able to obtain new investment funding if needed to maintain adequate capital;

(vii) The bank or holding company is able to comply with all legal and regulatory requirements for a federally insured depository bank or holding company of a federally insured depository bank, under applicable federal and state law; and

(viii) A bank or holding company that is organized as a limited liability company shall maintain the characteristics listed in this subsection (3)(b) during such time as it is authorized to conduct business under this title as a limited liability company.

(4)(a) All rights, privileges, powers, duties, and obligations of a bank or holding company, that is organized as a limited liability company, and its members and managers are governed by the Washington limited liability company act, chapter 25.15 RCW, except:

(i) To the extent chapter 25.15 RCW is in conflict with federal law or regulation respecting the organization of a federally insured depository institution as a limited liability company, such federal law or regulation supersedes the conflicting provisions contained in chapter 25.15 RCW in relation to a bank or holding company organized as a limited liability company pursuant to this section; and

(ii) Without limitation, the following are inapplicable to a bank or holding company organized as a limited liability company:

(A) Permitting automatic dissolution or suspension of a limited liability company as set forth in ((RCW 25.15.270(1))) section 51(1) of this act, pursuant to a statement of limited duration which, though impermissible under subsection (3)(b)(i) of this section, has been provided for in a certificate of formation;

(B) Permitting automatic dissolution or suspension of a limited liability company, pursuant to the limited liability company agreement, as set forth in ((RCW 25.15.270(2))) section 51(2) of this act;

(C) Permitting dissolution of the limited liability company agreement based upon agreement of all the members, as set forth in ((RCW 25.15.270(3))) section 51(3) of this act;

(D) Permitting dissociation of all the members of the limited liability company, as set forth in ((RCW 25.15.270(4))) section 51(4) of this act; and

(E) Permitting automatic dissolution or suspension of a limited liability company, pursuant to operation of law, as otherwise set forth in chapter 25.15 RCW.

(b) Notwithstanding (a) of this subsection:

(i) For purposes of transferring a member's interests in the bank or holding company, a member's interest in the bank or holding company is treated like a share of stock in a corporation; and

(ii) If a member's interest in the bank or holding company is transferred voluntarily or involuntarily to another person, the person who receives the member's interest obtains the member's entire rights associated with the member's interest in the bank or holding company including all economic rights and all voting rights.

(c) A bank or holding company may not by agreement or otherwise change the application of (a) of this subsection to the bank or holding company.

(5)(a) Notwithstanding any provision of chapter 25.15 RCW or this section to the contrary, all voting members remain liable and responsible as fiduciaries of a bank or holding company organized as a limited liability company, regardless of resignation, dissociation, or disqualification, to the same extent that directors of a bank or holding company organized as a corporation would be or remain liable or responsible to the department and applicable federal banking regulators; and

(b) If death, incapacity, or disqualification of all members of the limited liability company would result in a complete dissociation of all members, then the bank, holding company, or both, as applicable is deemed nonetheless to remain in existence for purposes of the department or an applicable federal regulator, or both, having standing under RCW 30A.44.270 or applicable federal law, or both, to exercise the powers and authorities of a receiver for the bank or holding company.

(6) For the purposes of this section, and unless the context clearly requires otherwise, for the purpose of applying chapter 25.15 RCW to a bank or holding company organized as a limited liability company:

(a) "Articles of incorporation" includes a limited liability company's certificate of formation, as that term is used in (~~RCW 25.15.005(1) and 25.15.070~~) sections 1 and 18 of this act, and a limited liability company agreement as that term is used in (~~RCW 25.15.005(5)~~) section 1 of this act;

(b) "Board of directors" includes one or more persons who have, with respect to a bank or holding company described in subsection (1) of this section, authority that is substantially similar to that of a board of directors of a corporation;

(c) "Bylaws" includes a limited liability company agreement as that term is defined in (~~RCW 25.15.005(5)~~) section 1 of this act;

(d) "Corporation" includes a limited liability company organized under chapter 25.15 RCW;

(e) "Director" includes any of the following of a limited liability company:

(i) A manager;

(ii) A director; or

(iii) Other person who has, with respect to the bank or holding company described in subsection (1) of this section, authority substantially similar to that of a director of a corporation;

(f) "Dividend" includes distributions made by a limited liability company under (~~RCW 25.15.215~~) section 42 of this act;

(g) "Incorporator" includes the person or persons executing the certificate of formation as provided in (~~RCW 25.15.085(1)~~) section 21 of this act;

(h) "Officer" includes any of the following of a bank or holding company:

(i) An officer; or

(ii) Other person who has, with respect to the bank or holding company, authority substantially similar to that of an officer of a corporation;

(i) "Security," "shares," or "stock" of a corporation includes a membership interest in a limited liability company and any certificate or other evidence of an ownership interest in a limited liability company; and

(j) "Stockholder" or "shareholder" includes an owner of an equity interest in a bank or holding company, including a member as defined in (~~RCW 25.15.005(8) and 25.15.115~~) sections 1 and 25 of this act.

Sec. 120. RCW 32.08.025 and 2006 c 48 s 3 are each amended to read as follows:

(1) Notwithstanding any other provision of this title, if the conditions of this section are met, a savings bank, or a holding company of a savings bank, may be organized as, or convert to, a limited liability company under the Washington limited liability company act, chapter 25.15 RCW. As used in this section, "savings bank" includes an applicant to become a savings bank or holding

company of a savings bank, and "holding company" means a holding company of a savings bank.

(2)(a) Before a savings bank or holding company may organize as, or convert to, a limited liability company, the savings bank or holding company must obtain approval of the director.

(b)(i) To obtain approval under this section from the director, the savings bank or holding company must file a request for approval with the director at least ninety days before the day on which the savings bank or holding company becomes a limited liability company.

(ii) If the director does not disapprove the request for approval within ninety days from the day on which the director receives the request, the request is considered approved.

(iii) When taking action on a request for approval filed under this section, the director may:

(A) Approve the request;

(B) Approve the request subject to terms and conditions the director considers necessary; or

(C) Disapprove the request.

(3) To approve a request for approval, the director must find that the savings bank or holding company:

(a) Will operate in a safe and sound manner; and

(b) Has the following characteristics:

(i) The certificate of formation and limited liability company require or set forth that the duration of the limited liability company is perpetual;

(ii) The savings bank or holding company is not otherwise subject to automatic termination, dissolution, or suspension upon the happening of some event other than the passage of time;

(iii) The exclusive authority to manage the savings bank or holding company is vested in a board of managers or directors that:

(A) Is elected or appointed by the owners;

(B) Is not required to have owners of the savings bank or holding company included on the board;

(C) Possesses adequate independence and authority to supervise the operation of the savings bank or holding company; and

(D) Operates with substantially the same rights, powers, privileges, duties, and responsibilities as the board of directors of a corporation;

(iv) Neither state law, nor the savings bank's or holding company's operating agreement, bylaws, or other organizational documents provide that an owner of the savings bank or holding company is liable for the debts, liabilities, and obligations of the savings bank or holding company in excess of the amount of the owner's investment;

(v) Neither state law, nor the savings bank's or holding company's operating agreement, bylaws, or other organizational documents require the consent of any other owner of the savings bank or holding company in order for any owner to transfer an ownership interest in the savings bank or holding company, including voting rights;

(vi) The savings bank or holding company is able to obtain new investment funding if needed to maintain adequate capital;

(vii) The savings bank or holding company is able to comply with all legal and regulatory requirements for a federally insured depository bank, or holding company of a federally insured depository bank, under applicable federal and state law; and

(viii) A savings bank or holding company that is organized as a limited liability company shall maintain the characteristics listed in this subsection (3)(b) during such time as it is authorized to conduct business under this title as a limited liability company.

(4)(a) All rights, privileges, powers, duties, and obligations of a savings bank or holding company, that is organized as a limited liability company, and its members and managers are governed by the Washington limited liability company act, chapter 25.15 RCW, except:

(i) To the extent chapter 25.15 RCW is in conflict with federal law or regulation respecting the organization of a federally insured depository institution as a limited liability company, such federal law or regulation supersedes the conflicting provisions contained in chapter 25.15 RCW in relation to a savings bank or holding company organized as a limited liability company pursuant to this section; and

(ii) Without limitation, the following are inapplicable to a savings bank or holding company organized as a limited liability company:

(A) Permitting automatic dissolution or suspension of a limited liability company as set forth in ((~~RCW 25.15.270(1)~~) section 51(1) of this act, pursuant to a statement of limited duration which, though impermissible under subsection (3)(b)(i) of this section, has been provided for in a certificate of formation;

(B) Permitting automatic dissolution or suspension of a limited liability company, pursuant to the limited liability company agreement, as set forth in ((~~RCW 25.15.270(2)~~) section 51(2) of this act;

(C) Permitting dissolution of the limited liability company agreement based upon agreement of all the members, as set forth in ((~~RCW 25.15.270(3)~~) section 51(3) of this act;

(D) Permitting dissociation of all the members of the limited liability company, as set forth in ((~~RCW 25.15.270(4)~~) section 51(4) of this act; and

(E) Permitting automatic dissolution or suspension of a limited liability company, pursuant to operation of law, as otherwise set forth in chapter 25.15 RCW.

(b) Notwithstanding (a) of this subsection:

(i) For purposes of transferring a member's interests in the savings bank or holding company, a member's interest in the savings bank or holding company is treated like a share of stock in a corporation; and

(ii) If a member's interest in the savings bank or holding company is transferred voluntarily or involuntarily to another person, the person who receives the member's interest obtains the member's entire rights associated with the member's interest in the savings bank or holding company including(;) all economic rights and all voting rights.

(c) A savings bank or holding company may not by agreement or otherwise change the application of (a) of this subsection to the savings bank or holding company.

(5)(a) Notwithstanding any provision of chapter 25.15 RCW or this section to the contrary, all voting members remain liable and responsible as fiduciaries

of a savings bank or holding company organized as a limited liability company, regardless of resignation, dissociation, or disqualification, to the same extent that directors of a savings bank or holding company organized as a corporation would be or remain liable or responsible to the department and applicable federal banking regulators; and

(b) If death, incapacity, or disqualification of all members of the limited liability company would result in a complete dissociation of all members, then the savings bank or holding company, or both, as applicable is deemed nonetheless to remain in existence for purposes of the department or an applicable federal regulator, or both, having standing under RCW 32.24.090 or applicable federal law, or both, to exercise the powers and authorities of a receiver for the savings bank or holding company.

(6) For the purposes of this section, and unless the context clearly requires otherwise, for the purpose of applying chapter 25.15 RCW to a savings bank or holding company organized as a limited liability company:

(a) "Articles of incorporation" includes a limited liability company's certificate of formation, as that term is used in ~~((RCW 25.15.005(1) and 25.15.070))~~ sections 1 and 18 of this act, and a limited liability company agreement as that term is used in ~~((RCW 25.15.005(5)))~~ section 1 of this act;

(b) "Board of directors" includes one or more persons who have, with respect to a savings bank or holding company described in subsection (1) of this section, authority that is substantially similar to that of a board of directors of a corporation;

(c) "Bylaws" includes a limited liability company agreement as that term is defined in ~~((RCW 25.15.005(5)))~~ section 1 of this act;

(d) "Corporation" includes a limited liability company organized under chapter 25.15 RCW;

(e) "Director" includes any of the following of a limited liability company:

(i) A manager;

(ii) A director; or

(iii) Other person who has, with respect to the savings bank or holding company described in subsection (1) of this section, authority substantially similar to that of a director of a corporation;

(f) "Dividend" includes distributions made by a limited liability company under ~~((RCW 25.15.215))~~ section 42 of this act;

(g) "Incorporator" includes the person or persons executing the certificate of formation as provided in ~~((RCW 25.15.085(1)))~~ section 21 of this act;

(h) "Officer" includes any of the following of a savings bank or holding company:

(i) An officer; or

(ii) Other person who has, with respect to the savings bank or holding company, authority substantially similar to that of an officer of a corporation;

(i) "Security," "shares," or "stock" of a corporation includes a membership interest in a limited liability company and any certificate or other evidence of an ownership interest in a limited liability company; and

(j) "Stockholder" or "shareholder" includes an owner of an equity interest in a savings bank or holding company, including a member as defined in ~~((RCW 25.15.005(8) and 25.15.115))~~ sections 1 and 25 of this act.

Sec. 121. RCW 82.32.145 and 2012 c 39 s 8 are each amended to read as follows:

(1) Whenever the department has issued a warrant under RCW 82.32.210 for the collection of unpaid trust fund taxes from a limited liability business entity and that business entity has been terminated, dissolved, or abandoned, or is insolvent, the department may pursue collection of the entity's unpaid trust fund taxes, including penalties and interest on those taxes, against any or all of the responsible individuals. For purposes of this subsection, "insolvent" means the condition that results when the sum of the entity's debts exceeds the fair market value of its assets. The department may presume that an entity is insolvent if the entity refuses to disclose to the department the nature of its assets and liabilities.

(2) Personal liability under this section may be imposed for state and local trust fund taxes.

(3)(a) For a responsible individual who is the current or a former chief executive or chief financial officer, liability under this section applies regardless of fault or whether the individual was or should have been aware of the unpaid trust fund tax liability of the limited liability business entity.

(b) For any other responsible individual, liability under this section applies only if he or she willfully fails to pay or to cause to be paid to the department the trust fund taxes due from the limited liability business entity.

(4)(a) Except as provided in this subsection (4)(a), a responsible individual who is the current or a former chief executive or chief financial officer is liable under this section only for trust fund tax liability accrued during the period that he or she was the chief executive or chief financial officer. However, if the responsible individual had the responsibility or duty to remit payment of the limited liability business entity's trust fund taxes to the department during any period of time that the person was not the chief executive or chief financial officer, that individual is also liable for trust fund tax liability that became due during the period that he or she had the duty to remit payment of the limited liability business entity's taxes to the department but was not the chief executive or chief financial officer.

(b) All other responsible individuals are liable under this section only for trust fund tax liability that became due during the period he or she had the responsibility or duty to remit payment of the limited liability business entity's taxes to the department.

(5) Persons described in subsection (3)(b) of this section are exempt from liability under this section in situations where nonpayment of the limited liability business entity's trust fund taxes is due to reasons beyond their control as determined by the department by rule.

(6) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under RCW 82.32.160, 82.32.170, 82.32.180, 82.32.190, and 82.32.200.

(7) This section does not relieve the limited liability business entity of its trust fund tax liability or otherwise impair other tax collection remedies afforded by law.

(8) Collection authority and procedures prescribed in this chapter apply to collections under this section.

(9) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Chief executive" means: The president of a corporation; or for other entities or organizations other than corporations or if the corporation does not have a president as one of its officers, the highest ranking executive manager or administrator in charge of the management of the company or organization.

(b) "Chief financial officer" means: The treasurer of a corporation; or for entities or organizations other than corporations or if a corporation does not have a treasurer as one of its officers, the highest senior manager who is responsible for overseeing the financial activities of the entire company or organization.

(c) "Limited liability business entity" means a type of business entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity, or a business entity that is managed or owned in whole or in part by an entity that generally shields its owners from personal liability for the debts, obligations, and liabilities of the entity. Limited liability business entities include corporations, limited liability companies, limited liability partnerships, trusts, general partnerships and joint ventures in which one or more of the partners or parties are also limited liability business entities, and limited partnerships in which one or more of the general partners are also limited liability business entities.

(d) "Manager" has the same meaning as in ((RCW 25.15.005))section 1 of this act.

(e) "Member" has the same meaning as in ((RCW 25.15.005))section 1 of this act, except that the term only includes members of member-managed limited liability companies.

(f) "Officer" means any officer or assistant officer of a corporation, including the president, vice president, secretary, and treasurer.

(g)(i) "Responsible individual" includes any current or former officer, manager, member, partner, or trustee of a limited liability business entity with an unpaid tax warrant issued by the department.

(ii) "Responsible individual" also includes any current or former employee or other individual, but only if the individual had the responsibility or duty to remit payment of the limited liability business entity's unpaid trust fund tax liability reflected in a tax warrant issued by the department.

(iii) Whenever any taxpayer has one or more limited liability business entities as a member, manager, or partner, "responsible individual" also includes any current and former officers, members, or managers of the limited liability business entity or entities or of any other limited liability business entity involved directly in the management of the taxpayer. For purposes of this subsection (9)(g)(iii), "taxpayer" means a limited liability business entity with an unpaid tax warrant issued against it by the department.

(h) "Trust fund taxes" means taxes collected from purchasers and held in trust under RCW 82.08.050, including taxes imposed under RCW 82.08.020 and 82.08.150.

(i) "Willfully fails to pay or to cause to be paid" means that the failure was the result of an intentional, conscious, and voluntary course of action.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 189

[Senate Bill 5100]

RENTAL OR LEASED CARS--INFRACTIONS--REPORTING PROVISIONS

AN ACT Relating to processing certain motor vehicle-related violations applicable to rental cars; and amending RCW 46.20.270 and 46.63.073.

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

Sec. 1. RCW 46.20.270 and 2013 2nd sp.s. c 35 s 17 are each amended to read as follows:

(1) Every court having jurisdiction over offenses committed under this chapter, or any other act of this state or municipal ordinance adopted by a local authority regulating the operation of motor vehicles on highways, or any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations within this state, shall immediately forward to the department a forfeiture of bail or collateral deposited to secure the defendant's appearance in court, a payment of a fine, penalty, or court cost, a plea of guilty or nolo contendere or a finding of guilt, or a finding that any person has committed a traffic infraction an abstract of the court record in the form prescribed by rule of the supreme court, showing the conviction of any person or the finding that any person has committed a traffic infraction in said court for a violation of any said laws other than regulations governing standing, stopping, parking, and pedestrian offenses.

(2) Every state agency or municipality having jurisdiction over offenses committed under this chapter, or under any other act of this state or municipal ordinance adopted by a state or local authority regulating the operation of motor vehicles on highways, may forward to the department within ten days of failure to respond, failure to pay a penalty, failure to appear at a hearing to contest the determination that a violation of any statute, ordinance, or regulation relating to standing, stopping, parking, or civil penalties issued under RCW 46.63.160 has been committed, or failure to appear at a hearing to explain mitigating circumstances, an abstract of the citation record in the form prescribed by rule of the department, showing the finding by such municipality that two or more violations of laws governing standing, stopping, and parking or one or more civil penalties issued under RCW 46.63.160 have been committed and indicating the nature of the defendant's failure to act. Such violations or infractions may not have occurred while the vehicle is stolen from the registered owner (~~or is leased or rented under a bona fide commercial vehicle lease or rental agreement between a lessor engaged in the business of leasing vehicles and a lessee who is not the vehicle's registered owner~~). The department may enter into agreements of reciprocity with the duly authorized representatives of the states for reporting to each other violations of laws governing standing, stopping, and parking.

(3) For the purposes of this title and except as defined in RCW 46.25.010, "conviction" means a final conviction in a state or municipal court or by any federal authority having jurisdiction over offenses substantially the same as those set forth in this title which occur on federal installations in this state, an unvacated forfeiture of bail or collateral deposited to secure a defendant's

appearance in court, the payment of a fine or court cost, a plea of guilty or nolo contendere, or a finding of guilt on a traffic law violation charge, regardless of whether the imposition of sentence or sanctions are deferred or the penalty is suspended, but not including entry into a deferred prosecution agreement under chapter 10.05 RCW.

(4) Perfection of a notice of appeal shall stay the execution of the sentence pertaining to the withholding of the driving privilege.

(5) For the purposes of this title, "finding that a traffic infraction has been committed" means a failure to respond to a notice of infraction or a determination made by a court pursuant to this chapter. Payment of a monetary penalty made pursuant to RCW 46.63.070(2) is deemed equivalent to such a finding.

Sec. 2. RCW 46.63.073 and 2007 c 372 s 1 are each amended to read as follows:

(1) In the event a traffic infraction is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the law enforcement agency shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the issuing agency by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this subsection must be accompanied by a copy of a filed police report regarding the vehicle theft.

Timely mailing of this statement to the issuing law enforcement agency relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. If appropriate under the circumstances, a renter identified under (a) of this subsection is responsible for an infraction. For the purpose of this subsection, a "traffic infraction based on a vehicle's identification" includes, but is not limited to, parking infractions, high occupancy toll lane violations, and violations recorded by automated traffic safety cameras.

(2) In the event a parking infraction is issued by a private parking facility and is based on a vehicle's identification, and the registered owner of the vehicle is a rental car business, the parking facility shall, before a notice of infraction may be issued, provide a written notice to the rental car business that a notice of infraction may be issued to the rental car business if the rental car business does not, within thirty days of receiving the written notice, provide to the parking facility by return mail:

(a) A statement under oath stating the name and known mailing address of the individual driving or renting the vehicle when the infraction occurred; or

(b) A statement under oath that the business is unable to determine who was driving or renting the vehicle at the time the infraction occurred because the vehicle was stolen at the time of the infraction. A statement provided under this

subsection must be accompanied by a copy of a filed police report regarding the vehicle theft.

Timely mailing of this statement to the parking facility relieves a rental car business of any liability under this chapter for the notice of infraction. In lieu of identifying the vehicle operator, the rental car business may pay the applicable penalty. For the purpose of this subsection, a "parking infraction based on a vehicle's identification" is limited to parking infractions occurring on a private parking facility's premises.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 190

[Engrossed Substitute Senate Bill 5158]

TELECOMMUNICATIONS--CALL LOCATION INFORMATION--LAW ENFORCEMENT

AN ACT Relating to requiring call location information to be provided to law enforcement responding to an emergency; amending RCW 40.24.070; adding a new section to chapter 80.36 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. A new section is added to chapter 80.36 RCW to read as follows:

(1) A wireless telecommunications provider must provide information in its possession concerning the current or most recent location of a telecommunications device and call information of a user of the device when requested by a law enforcement agency. A law enforcement agency must meet the following requirements:

(a) The law enforcement officer making the request on behalf of the law enforcement agency must be on duty during the course of his or her official duties at the time of the request;

(b) The law enforcement agency must verify there is no relationship or conflict of interest between the law enforcement officer responding, investigating or making the request, and either the person requesting the call location information or the person for whom the call location information is being requested;

(c) A law enforcement agency may only request this information when, in the law enforcement officer's exercise of reasonable judgment, he or she believes that the individual is in an emergency situation that involves the risk of death or serious physical harm and requires disclosure without a delay of information relating to the emergency;

(d) Concurrent to making a request, the responding law enforcement agency must check the federal bureau of investigation's national crime information center and any other available databases to identify if either the person requesting the call location information or the person for whom the call location information is being requested has any history of domestic violence or any court order restricting contact by a respondent;

(e) Concurrent to making a request, the responding law enforcement agency must also check with the Washington state patrol to identify if either the person requesting the call location information or the person for whom the call location information is being requested is participating in the address confidentiality program established in chapter 40.24 RCW. The secretary of state must make name information available to the Washington state patrol from the address confidentiality program as required under RCW 40.24.070. The Washington state patrol must not further disseminate list information except on an individual basis to respond to a request under this section;

(f) If the responding law enforcement agency identifies or has reason to believe someone has a history of domestic violence or stalking, has a court order restricting contact, or if the Washington state patrol identifies someone as participating in the address confidentiality program, then the law enforcement agency must not provide call location information to the individual who requested the information, unless pursuant to the order of a court of competent jurisdiction. A law enforcement agency may not disclose information obtained under this section to any other party except first responders responding to the emergency situation; and

(g) A law enforcement agency may not request information under this section for any purpose other than responding to a call for emergency services or in an emergency situation that involves the risk of death or serious physical harm.

(2) A wireless telecommunications provider may establish protocols by which the carrier discloses call location information to law enforcement.

(3) No cause of action may be brought in any court against any wireless telecommunications provider, its officers, employees, agents, or other specified persons for providing call location information while acting in good faith and in accordance with the provisions of this section.

(4) All wireless telecommunications providers registered to do business in the state of Washington and all resellers of wireless telecommunications services shall submit their emergency contact information to the Washington state patrol in order to facilitate requests from a law enforcement agency for call location information in accordance with this section. Any change in contact information must be submitted immediately.

(5) The Washington state patrol must maintain a database containing emergency contact information for all wireless telecommunications providers registered to do business in the state of Washington and must make the information immediately available upon request to facilitate a request from law enforcement for call location information under this section.

(6) The Washington state patrol may adopt by rule criteria for fulfilling the requirements of this section.

Sec. 2. RCW 40.24.070 and 2008 c 18 s 5 are each amended to read as follows:

The secretary of state may not make any records in a program participant's file available for inspection or copying, other than the address designated by the secretary of state, except under the following circumstances:

(1) If requested by a law enforcement agency, to the law enforcement agency; and

(a) The participant's application contains no indication that he or she has been a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee; and

(b) The request is in accordance with official law enforcement duties and is in writing on official law enforcement letterhead stationery and signed by the law enforcement agency's chief officer, or his or her designee; or

(2) If directed by a court order, to a person identified in the order; and

(a) The request is made by a nonlaw enforcement agency; or

(b) The participant's file indicates he or she has reason to believe he or she is a victim of domestic violence, sexual assault, or stalking perpetrated by a law enforcement employee.

(3) To the Washington state patrol solely for the use authorized in section 1 of this act, provided that participant information must clearly distinguish between those participants requesting disclosure to a law enforcement agency of the location of a telecommunications device and call information of the user, and those participants who request nondisclosure to a law enforcement agency of the location of a telecommunications device and call information of the user. The Washington state patrol may not use the information or make the information available for inspection and copying for any other purpose than authorized in section 1 of this act. The secretary of state may adopt rules to make available the information required for the purposes of this section and section 1 of this act. The secretary of state and the secretary of state's officers, employees, or custodian, are not liable, nor shall a cause of action exist, for any loss or damage based upon the release of information, or the nondisclosure of information, from the address confidentiality program to the Washington state patrol if the agency, officer, employee, or custodian acted in good faith in attempting to comply with the provisions of this section and section 1 of this act.

NEW SECTION. Sec. 3. This act may be known and cited as the Kelsey Smith act.

Passed by the Senate April 21, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 191

[Substitute Senate Bill 5166]

FORAGE FISH RESOURCES--MANAGEMENT

AN ACT Relating to the management of forage fish resources; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of natural resources and the department of fish and wildlife must collaborate to conduct a survey of the location of surf smelt and sand lance spawning grounds throughout Puget Sound, including the Strait of Juan de Fuca. To the extent available, the departments of natural resources and fish and wildlife must conduct the surveys using crews of the veterans conservation corps created in RCW 43.60A.150.

(2) The results from the survey required under this section must be used by the department of natural resources and the department of fish and wildlife to expand knowledge of spawning habitat areas. The survey results must be made accessible to the public.

(3) The survey required under this section must be completed by June 30, 2017.

NEW SECTION. Sec. 2. (1) Subject to the availability of amounts appropriated for this specific purpose, the department of fish and wildlife must conduct a mid-water trawl survey at various depths throughout Puget Sound to evaluate the prevalence of adults of all species of forage fish. The department must integrate the results of the survey into existing Puget Sound ecosystem assessments to assist the department of fish and wildlife in the management and conservation of forage fish species and the species that prey upon them.

(2) The department of fish and wildlife must complete the survey required under this section by June 30, 2017.

NEW SECTION. Sec. 3. The legislature intends for the department of natural resources and the department of fish and wildlife to complete the survey required under section 1 of this act with funds specifically appropriated from the state's capital budget for the 2015-2017 biennium.

NEW SECTION. Sec. 4. This act expires July 1, 2018.

Passed by the Senate April 16, 2015.

Passed by the House April 8, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 192

[Substitute Senate Bill 5280]

BEER AND CIDER--GROCERY STORE LICENSEES

AN ACT Relating to the sale of beer and cider by grocery store licensees; and amending RCW 66.24.360.

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

Sec. 1. RCW 66.24.360 and 2012 c 2 s 104 are each amended to read as follows:

(1) There is a grocery store license to sell wine and/or beer, including without limitation strong beer at retail in original containers, not to be consumed upon the premises where sold.

(2) There is a wine retailer reseller endorsement of a grocery store license, to sell wine at retail in original containers to retailers licensed to sell wine for consumption on the premises, for resale at their licensed premises according to the terms of the license. However, no single sale may exceed twenty-four liters, unless the sale is made by a licensee that was a contract liquor store manager of a contract-operated liquor store at the location from which such sales are made. For the purposes of this title, a grocery store license is a retail license, and a sale by a grocery store licensee with a reseller endorsement is a retail sale only if not for resale.

(3) Licensees obtaining a written endorsement from the board may also sell malt liquor in kegs or other containers capable of holding less than five and one-half gallons of liquid.

(4) The annual fee for the grocery store license is one hundred fifty dollars for each store.

(5) The annual fee for the wine retailer reseller endorsement is one hundred sixty-six dollars for each store.

(6)(a) Upon approval by the board, a grocery store licensee with revenues derived from beer and/or wine sales exceeding fifty percent of total revenues or that maintains an alcohol inventory of not less than fifteen thousand dollars may also receive an endorsement to permit the sale of beer and cider, as defined in RCW 66.24.210(6), in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap by the licensee at the time of sale by an employee of the licensee holding a class 12 alcohol server permit.

(b) Pursuant to RCW 74.08.580(1)(f), a person may not use an electronic benefit transfer card for the purchase of any product authorized for sale under this section.

(c) The board may, by rule, establish fees to be paid by licensees receiving the endorsement authorized under this subsection (6), as necessary to cover the costs of implementing and enforcing the provisions of this subsection (6).

(7) The board must issue a restricted grocery store license authorizing the licensee to sell beer and only table wine, if the board finds upon issuance or renewal of the license that the sale of strong beer or fortified wine would be against the public interest. In determining the public interest, the board must consider at least the following factors:

(a) The likelihood that the applicant will sell strong beer or fortified wine to persons who are intoxicated;

(b) Law enforcement problems in the vicinity of the applicant's establishment that may arise from persons purchasing strong beer or fortified wine at the establishment; and

(c) Whether the sale of strong beer or fortified wine would be detrimental to or inconsistent with a government-operated or funded alcohol treatment or detoxification program in the area.

If the board receives no evidence or objection that the sale of strong beer or fortified wine would be against the public interest, it must issue or renew the license without restriction, as applicable. The burden of establishing that the sale of strong beer or fortified wine by the licensee would be against the public interest is on those persons objecting.

~~((7))~~ (8) Licensees holding a grocery store license must maintain a minimum three thousand dollar inventory of food products for human consumption, not including pop, beer, strong beer, or wine.

~~((8))~~ (9) A grocery store licensee with a wine retailer reseller endorsement may accept delivery of wine at its licensed premises or at one or more warehouse facilities registered with the board, which facilities may also warehouse and distribute nonliquor items, and from which it may deliver to its own licensed premises and, pursuant to sales permitted by this title, to other licensed premises, to other registered facilities, or to lawful purchasers outside the state. Facilities

may be registered and utilized by associations, cooperatives, or comparable groups of grocery store licensees.

~~((9))~~ (10) Upon approval by the board, the grocery store licensee may also receive an endorsement to permit the international export of beer, strong beer, and wine.

(a) Any beer, strong beer, or wine sold under this endorsement must have been purchased from a licensed beer or wine distributor licensed to do business within the state of Washington.

(b) Any beer, strong beer, and wine sold under this endorsement must be intended for consumption outside the state of Washington and the United States and appropriate records must be maintained by the licensee.

(c) Any beer, strong beer, or wine sold under this endorsement must be sold at a price no less than the acquisition price paid by the holder of the license.

(d) The annual cost of this endorsement is five hundred dollars and is in addition to the license fees paid by the licensee for a grocery store license.

~~((10))~~ (11) A grocery store licensee holding a snack bar license under RCW 66.24.350 may receive an endorsement to allow the sale of confections containing more than one percent but not more than ten percent alcohol by weight to persons twenty-one years of age or older.

(12) The board may adopt rules to implement this section.

(13) Nothing in this section limits the authority of the board to regulate the sale of beer or cider or container sizes under rules adopted pursuant to RCW 66.08.030.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 193

[Substitute Senate Bill 5292]

ALCOHOL--POWDERED--PROHIBITION

AN ACT Relating to protecting children and youth from powdered alcohol; amending RCW 66.04.010; adding a new section to chapter 66.44 RCW; creating a new section; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that powdered alcohol poses a risk to the public health and safety of children and youth. The legislature intends to minimize this risk by banning the use, purchase, sale, and possession of powdered alcohol, except for bona fide research purposes.

NEW SECTION. Sec. 2. A new section is added to chapter 66.44 RCW to read as follows:

(1) It is unlawful for a person to use, offer for use, purchase, offer to purchase, sell, offer to sell, or possess powdered alcohol.

(2) Any person who violates this section is guilty of a misdemeanor.

(3) This section does not apply to the use of powdered alcohol for bona fide research purposes by a:

- (a) Health care provider that operates primarily for the purposes of conducting scientific research;
- (b) State institution of higher education, as defined in RCW 28B.10.016;
- (c) Private college or university; or
- (d) Pharmaceutical or biotechnology company.

Sec. 3. RCW 66.04.010 and 2012 c 117 s 264 are each amended to read as follows:

In this title, unless the context otherwise requires:

(1) "Alcohol" is that substance known as ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, which is commonly produced by the fermentation or distillation of grain, starch, molasses, or sugar, or other substances including all dilutions and mixtures of this substance. The term "alcohol" does not include alcohol in the possession of a manufacturer or distiller of alcohol fuel, as described in RCW 66.12.130, which is intended to be denatured and used as a fuel for use in motor vehicles, farm implements, and machines or implements of husbandry.

(2) "Authorized representative" means a person who:

(a) Is required to have a federal basic permit issued pursuant to the federal alcohol administration act, 27 U.S.C. Sec. 204;

(b) Has its business located in the United States outside of the state of Washington;

(c) Acquires ownership of beer or wine for transportation into and resale in the state of Washington; and which beer or wine is produced by a brewery or winery in the United States outside of the state of Washington; and

(d) Is appointed by the brewery or winery referenced in (c) of this subsection as its authorized representative for marketing and selling its products within the United States in accordance with a written agreement between the authorized representative and such brewery or winery pursuant to this title.

(3) "Beer" means any malt beverage, flavored malt beverage, or malt liquor as these terms are defined in this chapter.

(4) "Beer distributor" means a person who buys beer from a domestic brewery, microbrewery, beer certificate of approval holder, or beer importers, or who acquires foreign produced beer from a source outside of the United States, for the purpose of selling the same pursuant to this title, or who represents such brewer or brewery as agent.

(5) "Beer importer" means a person or business within Washington who purchases beer from a beer certificate of approval holder or who acquires foreign produced beer from a source outside of the United States for the purpose of selling the same pursuant to this title.

(6) "Board" means the liquor control board, constituted under this title.

(7) "Brewer" or "brewery" means any person engaged in the business of manufacturing beer and malt liquor. Brewer includes a brand owner of malt beverages who holds a brewer's notice with the federal bureau of alcohol, tobacco, and firearms at a location outside the state and whose malt beverage is contract-produced by a licensed in-state brewery, and who may exercise within the state, under a domestic brewery license, only the privileges of storing, selling to licensed beer distributors, and exporting beer from the state.

(8) "Club" means an organization of persons, incorporated or unincorporated, operated solely for fraternal, benevolent, educational, athletic, or social purposes, and not for pecuniary gain.

(9) "Confection" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, dairy products, or flavorings, in the form of bars, drops, or pieces.

(10) "Consume" includes the putting of liquor to any use, whether by drinking or otherwise.

(11) "Contract liquor store" means a business that sells liquor on behalf of the board through a contract with a contract liquor store manager.

(12) "Craft distillery" means a distillery that pays the reduced licensing fee under RCW 66.24.140.

(13) "Dentist" means a practitioner of dentistry duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.32 RCW.

(14) "Distiller" means a person engaged in the business of distilling spirits.

(15) "Domestic brewery" means a place where beer and malt liquor are manufactured or produced by a brewer within the state.

(16) "Domestic winery" means a place where wines are manufactured or produced within the state of Washington.

(17) "Drug store" means a place whose principal business is, the sale of drugs, medicines, and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.

(18) "Druggist" means any person who holds a valid certificate and is a registered pharmacist and is duly and regularly engaged in carrying on the business of pharmaceutical chemistry pursuant to chapter 18.64 RCW.

~~((18) "Drug store" means a place whose principal business is, the sale of drugs, medicines, and pharmaceutical preparations and maintains a regular prescription department and employs a registered pharmacist during all hours the drug store is open.))~~

(19) "Employee" means any person employed by the board.

(20) "Flavored malt beverage" means:

(a) A malt beverage containing six percent or less alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than forty-nine percent of the beverage's overall alcohol content; or

(b) A malt beverage containing more than six percent alcohol by volume to which flavoring or other added nonbeverage ingredients are added that contain distilled spirits of not more than one and one-half percent of the beverage's overall alcohol content.

(21) "Fund" means 'liquor revolving fund.'

(22) "Hotel" means buildings, structures, and grounds, having facilities for preparing, cooking, and serving food, that are kept, used, maintained, advertised, or held out to the public to be a place where food is served and sleeping accommodations are offered for pay to transient guests, in which twenty or more rooms are used for the sleeping accommodation of such transient guests. The buildings, structures, and grounds must be located on adjacent property either owned or leased by the same person or persons.

(23) "Importer" means a person who buys distilled spirits from a distillery outside the state of Washington and imports such spirituous liquor into the state for sale to the board or for export.

(24) "Imprisonment" means confinement in the county jail.

(25) "Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine, and beer), and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine, or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid, or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight.

(26) "Malt beverage" or "malt liquor" means any beverage such as beer, ale, lager beer, stout, and porter obtained by the alcoholic fermentation of an infusion or decoction of pure hops, or pure extract of hops and pure barley malt or other wholesome grain or cereal in pure water containing not more than eight percent of alcohol by weight, and not less than one-half of one percent of alcohol by volume. For the purposes of this title, any such beverage containing more than eight percent of alcohol by weight shall be referred to as "strong beer."

(27) "Manufacturer" means a person engaged in the preparation of liquor for sale, in any form whatsoever.

(28) "Nightclub" means an establishment that provides entertainment and has as its primary source of revenue (a) the sale of alcohol for consumption on the premises, (b) cover charges, or (c) both.

(29) "Package" means any container or receptacle used for holding liquor.

(30) "Passenger vessel" means any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

(31) "Permit" means a permit for the purchase of liquor under this title.

(32) "Person" means an individual, copartnership, association, or corporation.

(33) "Physician" means a medical practitioner duly and regularly licensed and engaged in the practice of his or her profession within the state pursuant to chapter 18.71 RCW.

(34) "Powdered alcohol" means any powder or crystalline substance containing alcohol that is produced for direct use or reconstitution.

(35) "Prescription" means a memorandum signed by a physician and given by him or her to a patient for the obtaining of liquor pursuant to this title for medicinal purposes.

~~((35))~~ (36) "Public place" includes streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; those parts of establishments where beer may be sold under this title, soft drink establishments, public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theatres, stores, garages and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, and other public conveyances of all kinds and character, and the depots and waiting rooms

used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, and/or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

~~((36))~~ (37) "Regulations" means regulations made by the board under the powers conferred by this title.

~~((37))~~ (38) "Restaurant" means any establishment provided with special space and accommodations where, in consideration of payment, food, without lodgings, is habitually furnished to the public, not including drug stores and soda fountains.

~~((38))~~ (39) "Sale" and "sell" include exchange, barter, and traffic; and also include the selling or supplying or distributing, by any means whatsoever, of liquor, or of any liquid known or described as beer or by any name whatever commonly used to describe malt or brewed liquor or of wine, by any person to any person; and also include a sale or selling within the state to a foreign consignee or his or her agent in the state. "Sale" and "sell" shall not include the giving, at no charge, of a reasonable amount of liquor by a person not licensed by the board to a person not licensed by the board, for personal use only. "Sale" and "sell" also does not include a raffle authorized under RCW 9.46.0315: PROVIDED, That the nonprofit organization conducting the raffle has obtained the appropriate permit from the board.

~~((39))~~ (40) "Service bar" means a fixed or portable table, counter, cart, or similar work station primarily used to prepare, mix, serve, and sell alcohol that is picked up by employees or customers. Customers may not be seated or allowed to consume food or alcohol at a service bar.

~~((40))~~ (41) "Soda fountain" means a place especially equipped with apparatus for the purpose of dispensing soft drinks, whether mixed or otherwise.

~~((41))~~ (42) "Spirits" means any beverage which contains alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding twenty-four percent of alcohol by volume.

~~((42))~~ (43) "Store" means a state liquor store established under this title.

~~((43))~~ (44) "Tavern" means any establishment with special space and accommodation for sale by the glass and for consumption on the premises, of beer, as herein defined.

~~((44))~~ (45) "VIP airport lounge" means an establishment within an international airport located beyond security checkpoints that provides a special space to sit, relax, read, work, and enjoy beverages where access is controlled by the VIP airport lounge operator and is generally limited to the following classifications of persons:

(a) Airline passengers of any age whose admission is based on a first-class, executive, or business class ticket;

(b) Airline passengers of any age who are qualified members or allowed guests of certain frequent flyer or other loyalty incentive programs maintained by airlines that have agreements describing the conditions for access to the VIP airport lounge;

(c) Airline passengers of any age who are qualified members or allowed guests of certain enhanced amenities programs maintained by companies that have agreements describing the conditions for access to the VIP airport lounge;

(d) Airport and airline employees, government officials, foreign dignitaries, and other attendees of functions held by the airport authority or airlines related to the promotion of business objectives such as increasing international air traffic and enhancing foreign trade where access to the VIP airport lounge will be controlled by the VIP airport lounge operator; and

(e) Airline passengers of any age or airline employees whose admission is based on a pass issued or permission given by the airline for access to the VIP airport lounge.

~~((45))~~ (46) "VIP airport lounge operator" means an airline, port district, or other entity operating a VIP airport lounge that: Is accountable for compliance with the alcohol beverage control act under this title; holds the license under chapter 66.24 RCW issued to the VIP airport lounge; and provides a point of contact for addressing any licensing and enforcement by the board.

~~((46))~~ (47)(a) "Wine" means any alcoholic beverage obtained by fermentation of fruits (grapes, berries, apples, et cetera) or other agricultural product containing sugar, to which any saccharine substances may have been added before, during or after fermentation, and containing not more than twenty-four percent of alcohol by volume, including sweet wines fortified with wine spirits, such as port, sherry, muscatel, and angelica, not exceeding twenty-four percent of alcohol by volume and not less than one-half of one percent of alcohol by volume. For purposes of this title, any beverage containing no more than fourteen percent of alcohol by volume when bottled or packaged by the manufacturer shall be referred to as "table wine," and any beverage containing alcohol in an amount more than fourteen percent by volume when bottled or packaged by the manufacturer shall be referred to as "fortified wine." However, "fortified wine" shall not include: (i) Wines that are both sealed or capped by cork closure and aged two years or more; and (ii) wines that contain more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that have not been produced with the addition of wine spirits, brandy, or alcohol.

(b) This subsection shall not be interpreted to require that any wine be labeled with the designation "table wine" or "fortified wine."

~~((47))~~ (48) "Wine distributor" means a person who buys wine from a domestic winery, wine certificate of approval holder, or wine importer, or who acquires foreign produced wine from a source outside of the United States, for the purpose of selling the same not in violation of this title, or who represents such vintner or winery as agent.

~~((48))~~ (49) "Wine importer" means a person or business within Washington who purchases wine from a wine certificate of approval holder or who acquires foreign produced wine from a source outside of the United States for the purpose of selling the same pursuant to this title.

~~((49))~~ (50) "Winery" means a business conducted by any person for the manufacture of wine for sale, other than a domestic winery.

NEW SECTION. **Sec. 4.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

Passed by the Senate April 16, 2015.

Passed by the House April 13, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 194

[Engrossed Second Substitute Senate Bill 5353]

DISTILLERIES--MARKETING OPPORTUNITIES

AN ACT Relating to marketing opportunities for spirits produced in Washington by craft and general licensed distilleries; amending RCW 66.24.140, 66.24.145, and 66.20.010; adding a new section to chapter 66.20 RCW; and adding a new section to chapter 66.24 RCW.

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

Sec. 1. RCW 66.24.140 and 2014 c 92 s 4 are each amended to read as follows:

(1) There ~~((shall be))~~ is a license to distillers, including blending, rectifying, and bottling; fee two thousand dollars per annum, unless provided otherwise as follows:

(a) For distillers producing one hundred fifty thousand gallons or less of spirits with at least half of the raw materials used in the production grown in Washington, the license fee must be reduced to one hundred dollars per annum;

(b) The board must license stills used and to be used solely and only by a commercial chemist for laboratory purposes, and not for the manufacture of liquor for sale, at a fee of twenty dollars per annum;

(c) The board must license stills used and to be used solely and only for laboratory purposes in any school, college, or educational institution in the state, without fee; and

(d) The board must license stills that have been duly licensed as fruit and/or wine distilleries by the federal government, used and to be used solely as fruit and/or wine distilleries in the production of fruit brandy and wine spirits, at a fee of two hundred dollars per annum.

(2) Any distillery licensed under this section may:

(a) Sell spirits of its own production for consumption off the premises. A distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers;

(b) Contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export; and

(c) Provide free or for a charge one-half ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits samples may be adulterated with nonalcoholic mixers, water, and/or ice.

Sec. 2. RCW 66.24.145 and 2014 c 92 s 1 are each amended to read as follows:

(1)(a) Any craft distillery may sell spirits of its own production for consumption off the premises.

(b) A craft distillery selling spirits under this subsection must comply with the applicable laws and rules relating to retailers.

(2) Any craft distillery may contract distilled spirits for, and sell contract distilled spirits to, holders of distillers' or manufacturers' licenses, including licenses issued under RCW 66.24.520, or for export.

(3) Any craft distillery licensed under this section may provide, free or for a charge, onehalf ounce or less samples of spirits of its own production to persons on the premises of the distillery. The maximum total per person per day is two ounces. Every person who participates in any manner in the service of samples must obtain a class 12 alcohol server permit. Spirits samples may be adulterated with nonalcoholic mixers, water, and/or ice.

(4)(a) A distillery or craft distillery licensee may apply to the board for an endorsement to sell spirits of its own production at retail for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is seventy-five dollars.

(b) For each month during which a distillery or craft distillery will sell spirits at a qualifying farmers market, the distillery or craft distillery must provide the board or its designee a list of the dates, times, and locations at which bottled spirits may be offered for sale. This list must be received by the board before the spirits may be offered for sale at a qualifying farmers market.

(c) Each approved location in a qualifying farmers market is deemed to be part of the distillery or craft distillery license for the purpose of this title. The approved locations under an endorsement granted under this subsection do not include tasting or sampling privileges. The distillery or craft distillery may not store spirits at a farmers market beyond the hours that the bottled spirits are offered for sale. The distillery or craft distillery may not act as a distributor from a farmers market location.

(d) Before a distillery or craft distillery may sell bottled spirits at a qualifying farmers market, the farmers market must apply to the board for authorization for any distillery or craft distillery with an endorsement approved under this subsection to sell bottled spirits at retail at the farmers market. This application must include, at a minimum: (i) A map of the farmers market showing all booths, stalls, or other designated locations at which an approved distillery or craft distillery may sell bottled spirits; and (ii) the name and contact information for the on-site market managers who may be contacted by the board or its designee to verify the locations at which bottled spirits may be sold. Before authorizing a qualifying farmers market to allow an approved distillery or craft distillery to sell bottled spirits at retail at its farmers market location, the board must notify the persons or entities of such application for authorization pursuant to RCW 66.24.010 (8) and (9). An authorization granted under this subsection (4)(d) may be withdrawn by the board for any violation of this title or any rules adopted under this title.

(e) For the purposes of this subsection (4), "qualifying farmers market" has the same meaning as defined in RCW 66.24.170.

(5) The board must adopt rules to implement the alcohol server permit requirement and may adopt additional rules to implement this section.

~~((5))~~ (6) Distilling is an agricultural practice.

Sec. 3. RCW 66.20.010 and 2013 c 59 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the

prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanitorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a

reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) ~~((shall))~~ must be waived by the board;

(13) Where the application is for a special permit by a distillery or craft distillery for an event not open to the general public to be held or conducted at a specific place, including at the licensed premise of the applying distillery or craft distillery, upon a specific date for the purpose of tasting and selling spirits of its own production. The distillery or craft distillery must obtain a permit for a fee of ten dollars per event. An application for the permit must be submitted for private banquet permits prior to the event and, once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all

times the permit is in use. No licensee may receive more than twelve permits under this subsection (13) each year.

NEW SECTION, Sec. 4. A new section is added to chapter 66.20 RCW to read as follows:

(1) The holder of a license to operate a distillery or craft distillery issued under RCW 66.24.140 or 66.24.145 may accept orders for spirits from, and deliver spirits to, customers if all of the following conditions are met for each sale:

(a) Spirits are not used for resale;

(b) Spirits come directly from the distillery's or craft distillery's possession prior to shipment or delivery. All transactions are to be treated as if they were conducted in the retail location of the distillery or craft distillery regardless of how they are received or processed;

(c) Spirits may be ordered in person at a licensed location, by mail, telephone, or internet, or by other similar methods; and

(d) Only a distillery or craft distillery licensee or a licensee's direct employees may accept and process orders and payments. A contractor may not do so on behalf of a distillery or craft distillery licensee, except for transmittal of payment through a third-party service. A third-party service may not solicit customer business on behalf of a distillery or craft distillery licensee.

(2) All orders and payments must be fully processed before spirits transfers ownership or, in the case of delivery, leaves a licensed distillery's or craft distillery's possession.

(3) Payment methods include, but are not limited to: Cash, credit or debit card, check or money order, electronic funds transfer, or an existing prepaid account. An existing prepaid account may not have a negative balance.

(4) To sell spirits via the internet, a new distillery or craft distillery license applicant must request internet-sales privileges in his or her application. An existing distillery or craft distillery licensee must notify the board prior to beginning internet sales. A corporate entity representing multiple licensees may notify the board in a single letter on behalf of affiliated distillery or craft distillery licensees, as long as the liquor license numbers of all licensee locations utilizing internet sales privileges are clearly identified.

(5) Delivery may be made only to a residence or business that has an address recognized by the United States postal service; however, the board may grant an exception to this rule at its discretion. A residence includes a hotel room, a motel room, marina, or other similar lodging that temporarily serves as a residence.

(6) Spirits may be delivered each day of the week between the hours of 6:00 a.m. and 2:00 a.m. Delivery must be fully completed by 2:00 a.m.

(7) Under chapter 66.44 RCW, any person under twenty-one years of age is prohibited from purchasing, delivering, or accepting delivery of liquor.

(a) A delivery person must verify the age of the person accepting delivery before handing over liquor.

(b) If no person twenty-one years of age or older is present to accept a liquor order at the time of delivery, the liquor must be returned.

(8) Delivery of liquor is prohibited to any person who shows signs of intoxication.

(9)(a) Individual units of spirits must be factory sealed in bottles. For the purposes of this subsection, "factory sealed" means that a unit is in one hundred percent resalable condition, with all manufacturer's seals intact.

(b) The outermost surface of a liquor package, delivered by a third party, must have language stating that:

- (i) The package contains liquor;
- (ii) The recipient must be twenty-one years of age or older; and
- (iii) Delivery to intoxicated persons is prohibited.

(10)(a) Records and files must be retained at the licensed premises. Each delivery sales record must include the following:

- (i) Name of the purchaser;
- (ii) Name of the person who accepts delivery;
- (iii) Street addresses of the purchaser and the delivery location; and
- (iv) Time and date of purchase and delivery.

(b) A private carrier must obtain the signature of the person who receives liquor upon delivery.

(c) A sales record does not have to include the name of the delivery person, but it is encouraged.

(11) Web site requirements. When selling over the internet, all web site pages associated with the sale of liquor must display the distillery or craft distillery licensee's registered trade name.

(12) A distillery or craft distillery licensee is accountable for all deliveries of liquor made on its behalf.

(13) The board may impose administrative enforcement action upon a licensee, or suspend or revoke a licensee's delivery privileges, or any combination thereof, should a licensee violate any condition, requirement, or restriction.

NEW SECTION. Sec. 5. A new section is added to chapter 66.24 RCW to read as follows:

(1) Any licensee authorized to sell at retail under this chapter may sell gift certificates and gift cards intended to be exchanged for consumer goods or services, including liquor sold by the licensee. The licensee may also sell the gift certificates and gift cards to or through a third-party retailer for resale to the public. Gift certificates and gift cards may not be redeemed for alcohol by persons under the age of twenty-one.

(2) For the purposes of this section, "gift certificate" and "gift cards" have the same meaning as provided in RCW 19.240.010.

Passed by the Senate April 16, 2015.

Passed by the House April 14, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 195

[Substitute Senate Bill 5596]

WINE--TASTING AND SELLING--SPECIAL PERMIT

AN ACT Relating to creating a special permit by a manufacturer of wine to hold a private event for the purpose of tasting and selling wine of its own production; and amending RCW 66.20.010.

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

Sec. 1. RCW 66.20.010 and 2013 c 59 s 1 are each amended to read as follows:

Upon application in the prescribed form being made to any employee authorized by the board to issue permits, accompanied by payment of the prescribed fee, and upon the employee being satisfied that the applicant should be granted a permit under this title, the employee must issue to the applicant under such regulations and at such fee as may be prescribed by the board a permit of the class applied for, as follows:

(1) Where the application is for a special permit by a physician or dentist, or by any person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(2) Where the application is for a special permit by a person engaged within the state in mechanical or manufacturing business or in scientific pursuits requiring alcohol for use therein, or by any private individual, a special permit to purchase alcohol for the purpose named in the permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(3) Where the application is for a special permit to consume liquor at a banquet, at a specified date and place, a special permit to purchase liquor for consumption at such banquet, to such applicants as may be fixed by the board;

(4) Where the application is for a special permit to consume liquor on the premises of a business not licensed under this title, a special permit to purchase liquor for consumption thereon for such periods of time and to such applicants as may be fixed by the board;

(5) Where the application is for a special permit by a manufacturer to import or purchase within the state alcohol, malt, and other materials containing alcohol to be used in the manufacture of liquor, or other products, a special permit;

(6) Where the application is for a special permit by a person operating a drug store to purchase liquor at retail prices only, to be thereafter sold by such person on the prescription of a physician, a special liquor purchase permit, except that the governor may waive the requirement for a special liquor purchase permit under this subsection pursuant to an order issued under RCW 43.06.220(2);

(7) Where the application is for a special permit by an authorized representative of a military installation operated by or for any of the armed forces within the geographical boundaries of the state of Washington, a special permit to purchase liquor for use on such military installation;

(8) Where the application is for a special permit by a vendor that manufactures or sells a product which cannot be effectively presented to potential buyers without serving it with liquor or by a manufacturer, importer, or distributor, or representative thereof, to serve liquor without charge to delegates and guests at a convention of a trade association composed of licensees of the board, when the said liquor is served in a hospitality room or from a booth in a board-approved suppliers' display room at the convention, and when the liquor so served is for consumption in the said hospitality room or display room during

the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(9) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate liquor for a reception, breakfast, luncheon, or dinner for delegates and guests at a convention of a trade association composed of licensees of the board, when the liquor so donated is for consumption at the said reception, breakfast, luncheon, or dinner during the convention, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(10) Where the application is for a special permit by a manufacturer, importer, or distributor, or representative thereof, to donate and/or serve liquor without charge to delegates and guests at an international trade fair, show, or exposition held under the auspices of a federal, state, or local governmental entity or organized and promoted by a nonprofit organization, anything in this title to the contrary notwithstanding. Any such spirituous liquor must be purchased from a liquor spirits retailer or distributor, and any such liquor is subject to the taxes imposed by RCW 66.24.290 and 66.24.210;

(11) Where the application is for an annual special permit by a person operating a bed and breakfast lodging facility to donate or serve wine or beer without charge to overnight guests of the facility if the wine or beer is for consumption on the premises of the facility. "Bed and breakfast lodging facility," as used in this subsection, means a facility offering from one to eight lodging units and breakfast to travelers and guests;

(12) Where the application is for a special permit to allow tasting of alcohol by persons at least eighteen years of age under the following circumstances:

(a) The application is from a community or technical college as defined in RCW 28B.50.030;

(b) The person who is permitted to taste under this subsection is enrolled as a student in a required or elective class that is part of a culinary, wine technology, beer technology, or spirituous technology-related degree program;

(c) The alcohol served to any person in the degree-related programs under (b) of this subsection is tasted but not consumed for the purposes of educational training as part of the class curriculum with the approval of the educational provider;

(d) The service and tasting of alcoholic beverages is supervised by a faculty or staff member of the educational provider who is twenty-one years of age or older. The supervising faculty or staff member shall possess a class 12 or 13 alcohol server permit under the provisions of RCW 66.20.310;

(e) The enrolled student permitted to taste the alcoholic beverages does not purchase the alcoholic beverages; and

(f) The permit fee for the special permit provided for in this subsection (12) shall be waived by the board;

(13) Where the application is for a special permit by a manufacturer of wine for an event not open to the general public to be held or conducted at a specific place upon a specific date for the purpose of tasting and selling wine of its own production. The winery must obtain a permit for a fee of ten dollars per event.

An application for the permit must be submitted at least ten days before the event and once issued, must be posted in a conspicuous place at the premises for which the permit was issued during all times the permit is in use. No more than twelve events per year may be held by a single manufacturer under this subsection.

Passed by the Senate April 16, 2015.

Passed by the House April 9, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 196

[Senate Bill 5603]

COTTAGE FOOD OPERATION

AN ACT Relating to cottage food operations; and amending RCW 69.22.050.

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

Sec. 1. RCW 69.22.050 and 2011 c 281 s 5 are each amended to read as follows:

(1) The annual gross sales of cottage food products may not exceed ~~((an annual amount set by the department))~~ twenty-five thousand dollars. The determination of the maximum annual gross sales must be computed on the basis of the amount of gross sales within or at a particular domestic residence and may not be computed on a per person basis within or at an individual domestic residence.

(2) If gross sales exceed the maximum allowable annual gross sales amount, the cottage food operation must either obtain a food processing plant license under chapter 69.07 RCW or cease operations.

(3) A cottage food operation exceeding the maximum allowable annual gross sales amount is not entitled to a full or partial refund of any fees paid under RCW 69.22.030 or 69.22.040.

~~(4) ((The maximum annual gross sales amount must be established in rule by the department consistent with this subsection. The amount must be set at fifteen thousand dollars until December 31, 2012. Beginning January 1, 2013, the department must increase the fifteen thousand dollar annual gross sales limit biennially to reflect inflation. The department may determine inflation-based increases in any matter it deems most efficient.~~

~~(5))~~ The director may request in writing documentation to verify the annual gross sales figure.

Passed by the Senate April 21, 2015.

Passed by the House April 9, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 197

[Substitute Senate Bill 5733]

LIVESTOCK TRANSACTION REPORTING

AN ACT Relating to livestock transaction reporting; amending RCW 16.57.160; and adding a new section to chapter 16.57 RCW.

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

NEW SECTION. **Sec. 1.** A new section is added to chapter 16.57 RCW to read as follows:

(1)(a) The director may establish an electronic cattle transaction reporting system as a mechanism for reporting transactions involving unbranded dairy cattle to the department. The system may be used as an alternative to mandatory inspections under RCW 16.57.160. However, it may only be used as an alternative for unbranded dairy cattle that are individually identified through an identification method authorized by the department. All other livestock transactions are subject to the provisions of RCW 16.57.160.

(b) Pursuant to criteria established by the director by rule, a cattle transaction described in (a) of this subsection, that would otherwise trigger a mandatory inspection under rules adopted pursuant to RCW 16.57.160, is eligible to report electronically under this section.

(c) Transactions that may be reported electronically include any sale, trade, gift, barter, or any other transaction that constitutes a change of ownership of unbranded dairy cattle.

(2) A person may not electronically report transactions involving unbranded dairy cattle under this section without first obtaining an electronic cattle transaction reporting license from the director. Applicants for an electronic cattle transaction reporting license must submit an application to the department on a form provided by the department and must include an application fee. The amount of the application fee must be established by the director by rule consistent with subsection (8) of this section.

(3) All holders of an electronic cattle transaction reporting license must transmit to the department a record of each transaction containing the unique identification of each individual animal included in the transaction as assigned through a department-authorized identification method. The transmission required under this subsection must be completed no more than twenty-four hours after a qualifying transaction involving unbranded dairy cattle.

(4) All holders of an electronic cattle transaction reporting license must keep accurate records of all transactions involving unbranded dairy cattle and make those records available for inspection by the department upon reasonable request during normal business hours. All records of the licensed property must be retained for at least three years.

(5)(a) The director may enter the property of the holder of an electronic cattle transaction reporting license at any reasonable time to conduct examinations and inspections of cattle and any associated records for movement verification purposes.

(b) It is unlawful for any person to interfere with an examination and inspection of cattle and records performed under this subsection.

(c) If the director is denied access to a property or cattle for the purposes of this subsection, or a person fails to comply with an order of the director, the

director may apply to a court of competent jurisdiction for a search warrant. To show that access is denied, the director must file with the court an affidavit or declaration containing a description of all attempts to notify and locate the owner or owner's agent and secure consent.

(6)(a) The director may deny, suspend, or revoke an electronic cattle transaction reporting license issued under this section if the director finds that an electronic cattle transaction reporting license holder:

- (i) Fails to satisfy the reporting requirements as provided in this section;
- (ii) Knowingly makes false or inaccurate statements;
- (iii) Has previously had an electronic cattle transaction reporting license revoked;
- (iv) Denies entry to property, cattle, or records as provided in subsection (5) of this section; or

(v) Violates any other provision of this chapter or any rules adopted under this chapter.

(b) Any action taken under this subsection must be consistent with the provisions of chapter 34.05 RCW, the administrative procedure act.

(c) If an electronic cattle transaction reporting license is denied, suspended, or revoked, then the mandatory cattle inspection requirements under RCW 16.57.160 apply to any future transactions.

(7) The department must submit an annual report to the legislature, consistent with RCW 43.01.036, that documents all examinations and inspections of cattle and records of electronic cattle transaction reporting license holders performed by the department either since the department's last report or since the adoption of the electronic cattle transaction reporting system. The annual report must also include details regarding any actions the department took following the examinations and inspections. All reports required under this section must be submitted by July 31st of each year.

(8)(a) The director may adopt rules:

(i) Designating the conditions of licensure under this section and the use of the electronic cattle transaction reporting system authorized by this section;

(ii) Establishing an initial application fee and a license renewal fee applicable to the electronic cattle transaction reporting license; and

(iii) Establishing any fees that must be paid by the holder of an electronic cattle transaction reporting license for reporting cattle transactions through the electronic cattle transaction reporting system.

(b) All fees established under this section must, as closely as practicable, cover the cost of the development, maintenance, fee collection, and audit and administrative oversight of the electronic cattle transaction reporting system.

Sec. 2. RCW 16.57.160 and 2013 c 313 s 1 are each amended to read as follows:

(1) The director may adopt rules:

(a) Designating any point for mandatory inspection of cattle or horses or the furnishing of proof that cattle or horses passing or being transported through the point have been inspected or identified and are lawfully being transported;

(b) Providing for issuance of individual horse and cattle identification certificates or other means of horse and cattle identification;

(c) Designating the documents that constitute other satisfactory proof of ownership for cattle and horses. A bill of sale may not be designated as documenting satisfactory proof of ownership for cattle; and

(d) Designating when inspection certificates, certificates of permit, or other transportation documents required by law or rule must designate a physical address of a destination. Cattle and horses must be delivered or transported directly to the physical address of that destination.

(2) The director may establish a process to electronically report transactions involving unbranded dairy cattle under section 1 of this act as an alternative to the mandatory cattle inspections required by department rule adopted pursuant to this section.

(3) A self-inspection certificate may be accepted as satisfactory proof of ownership for cattle if the director determines that the self-inspection certificate, together with other available documentation, sufficiently establishes ownership. Self-inspection certificates completed after June 10, 2010, are not satisfactory proof of ownership for cattle.

~~((3))~~ (4)(a) Upon request by a milk producer licensed under chapter 15.36 RCW, the department must issue an official individual identification tag to be placed by the producer before the first point of sale on bull calves and free-martins (infertile female calves) under thirty days of age. The fee for each tag is the cost to the department for manufacture, purchase, and distribution of the tag plus the applicable beef commission assessment. As used in this subsection ~~((3))~~ (4), "green tag" means the official individual identification issued by the department.

(b) Transactions involving unbranded dairy breed bull calves or free-martins (infertile female calves) not being moved or transported out of Washington are exempt from inspection requirements under this chapter only if:

(i) The animal is under thirty days old and has not been previously bought or sold;

(ii) The seller holds a valid milk producer's license under chapter 15.36 RCW;

(iii) The sale does not take place at or through a public livestock market or special sale authorized by chapter 16.65 RCW;

(iv) Each animal is officially identified as provided in (a) of this subsection; and

(v) A certificate of permit and a bill of sale listing each animal's green tag accompanies the animal to the buyer's location. These documents do not constitute proof of ownership under this chapter.

(c) All fees received under (a) of this subsection, except for the beef commission assessment, must be deposited in the animal disease traceability account in the agricultural local fund created in RCW 43.23.230.

Passed by the Senate April 21, 2015.

Passed by the House April 9, 2015.

Approved by the Governor May 7, 2015.

Filed in Office of Secretary of State May 7, 2015.

CHAPTER 198

[Substitute Senate Bill 5433]

K-12 EDUCATION--TRIBAL EDUCATION

AN ACT Relating to teaching Washington's tribal history, culture, and government in the common schools; amending RCW 28A.320.170; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature recognizes the need to reaffirm the state's commitment to educating the citizens of our state, particularly the youth who are our future leaders, about tribal history, culture, treaty rights, contemporary tribal and state government institutions and relations and the contribution of Indian nations to the state of Washington. The legislature recognizes that this goal has yet to be achieved in most of our state's schools and districts. As a result, Indian students may not find the school curriculum, especially Washington state history curriculum, relevant to their lives or experiences. In addition, many students may remain uninformed about the experiences, contributions, and perspectives of their tribal neighbors, fellow citizens, and classmates. The legislature finds that more widespread use of the Since Time Immemorial curriculum developed by the office of the superintendent of public instruction and available free of charge to schools would contribute greatly towards helping improve school's history curriculum and improve the experiences Indian students have in our schools. Accordingly, the legislature finds that merely encouraging education regarding Washington's tribal history, culture, and government is not sufficient, and hereby declares its intent that such education be mandatory in Washington's common schools.

Sec. 2. RCW 28A.320.170 and 2005 c 205 s 4 are each amended to read as follows:

(1) ~~((Each))~~ (a) Beginning the effective date of this section, when a school district board of directors ((is encouraged to)) reviews or adopts its social studies curriculum, it shall incorporate curricula about the history, culture, and government of the nearest federally recognized Indian tribe or tribes, so that students learn about the unique heritage and experience of their closest neighbors. ~~((School districts near Washington's borders are encouraged to include federally recognized Indian tribes whose traditional lands and territories included parts of Washington, but who now reside in Oregon, Idaho, and British Columbia. School districts and tribes are encouraged to work together to develop such curricula.))~~

(b) School districts shall meet the requirements of this section by using curriculum developed and made available free of charge by the office of the superintendent of public instruction and may modify that curriculum in order to incorporate elements that have a regionally specific focus or to incorporate the curriculum into existing curricular materials.

(2) As they conduct regularly scheduled reviews and revisions of their social studies and history curricula, school districts ~~((are encouraged to))~~ shall collaborate with any federally recognized Indian tribe within their district, and with neighboring Indian tribes, to incorporate expanded and improved curricular materials about Indian tribes, and to create programs of classroom and community cultural exchanges.

(3) School districts (~~(are encouraged to)~~) shall collaborate with the office of the superintendent of public instruction on curricular areas regarding tribal government and history that are statewide in nature, such as the concept of tribal sovereignty and the history of federal policy towards federally recognized Indian tribes. The program of Indian education within the office of the superintendent of public instruction (~~(is encouraged to)~~) shall help local school districts identify federally recognized Indian tribes whose reservations are in whole or in part within the boundaries of the district and/or those that are nearest to the school district.

Passed by the Senate March 11, 2015.

Passed by the House April 15, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 199

[Engrossed Substitute House Bill 1126]

EARLY LEARNING--FATALITY REVIEWS

AN ACT Relating to department of early learning fatality reviews; amending RCW 43.06A.100; adding a new section to chapter 43.215 RCW; and creating a new section.

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

NEW SECTION, Sec. 1. A new section is added to chapter 43.215 RCW to read as follows:

(1) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.

(2)(a) The department shall conduct a child fatality review if a child fatality occurs in an early learning program described in RCW 43.215.400 through 43.215.450 or a licensed child care center or a licensed child care home.

(b) The department shall convene a child fatality review committee and determine the membership of the review committee. The committee shall comprise individuals with appropriate expertise, including but not limited to experts from outside the department with knowledge of early learning licensing requirements and program standards, a law enforcement officer with investigative experience, a representative from a county or state health department, and a child advocate with expertise in child fatalities. The department shall invite one parent or guardian for membership on the child fatality review committee who has had a child die in a child care setting. The department shall ensure that the fatality review team is made up of individuals who had no previous involvement in the case.

(c) The department shall allow the parents or guardians whose child's death is being reviewed to testify before the child fatality review committee.

(d) The primary purpose of the fatality review shall be the development of recommendations to the department and legislature regarding changes in licensing requirements, practice, or policy to prevent fatalities and strengthen safety and health protections for children.

(e) Upon conclusion of a child fatality review required pursuant to this section, the department shall, within one hundred eighty days following the fatality, issue a report on the results of the review, unless an extension has been

granted by the governor. Reports must be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section must be posted and maintained. A child fatality review report completed pursuant to this section is subject to public disclosure and must be posted on the public web site, except that confidential information may be redacted by the department consistent with the requirements of RCW 13.50.100, 68.50.105, and 74.13.500 through 74.13.525, chapter 42.56 RCW, and other applicable state and federal laws.

(3) The department shall consult with the office of the family and children's ombuds to determine if a review should be conducted in the case of a near child fatality that occurs in an early learning program described in RCW 43.215.400 through 43.215.450 or licensed child care center or licensed child care home.

(4) In any review of a child fatality or near fatality, the department and the fatality review team must have access to all records and files regarding the child or that are otherwise relevant to the review and that have been produced or retained by the early education and assistance program provider or licensed child care center or licensed family home provider.

(5) The child fatality review committee shall coordinate with local law enforcement to ensure that the fatality or near fatality review does not interfere with any ongoing or potential criminal investigation.

(6)(a) A child fatality or near fatality review completed pursuant to this section is subject to discovery in a civil or administrative proceeding, but may not be admitted into evidence or otherwise used in a civil or administrative proceeding except pursuant to this section.

(b) A department employee responsible for conducting a child fatality or near fatality review, or member of a child fatality or near fatality review team, may not be examined in a civil or administrative proceeding regarding the following:

- (i) The work of the child fatality or near fatality review team;
- (ii) The incident under review;
- (iii) The employee's or member's statements, deliberations, thoughts, analyses, or impressions relating to the work of the child fatality or near fatality review team or the incident under review; or
- (iv) Statements, deliberations, thoughts, analyses, or impressions of any other member of the child fatality or near fatality review team, or any person who provided information to the child fatality or near fatality review team, relating to the work of the child fatality or near fatality review team or the incident under review.

(c) Documents prepared by or for a child fatality or near fatality review team are inadmissible and may not be used in a civil or administrative proceeding, except that any document that exists before its use or consideration in a child fatality or near fatality review, or that is created independently of such review, does not become inadmissible merely because it is reviewed or used by a child fatality or near fatality review team. A person is not unavailable as a witness merely because the person has been interviewed by or has provided a statement for a child fatality or near fatality review, but if called as a witness, a person may not be examined regarding the person's interactions with the child fatality or near fatality review including, without limitation, whether the person was interviewed during such review, the questions that were asked during such

review, and the answers that the person provided during such review. This section may not be construed as restricting a person from testifying fully in any proceeding regarding his or her knowledge of the incident under review.

(d) The restrictions in this section do not apply in a licensing or disciplinary proceeding arising from an agency's effort to revoke or suspend the license of any licensed professional based in whole or in part upon allegations of wrongdoing in connection with a minor's death or near fatality reviewed by a child fatality or near fatality review team.

(7) The department shall develop and implement procedures to carry out the requirements of this section.

(8) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW 43.215.400 through 43.215.450, a licensed child care center, or a licensed child care home.

Sec. 2. RCW 43.06A.100 and 2013 c 23 s 80 are each amended to read as follows:

(1) The department of social and health services and the department of early learning shall:

~~((1))~~ (a) Allow the ombuds or the ombuds's designee to communicate privately with any child in the custody of the department of social and health services, or any child who is part of a near fatality investigation by the department of early learning, for the purposes of carrying out its duties under this chapter;

~~((2))~~ (b) Permit the ombuds or the ombuds designee physical access to state institutions serving children, and state licensed facilities or residences for the purpose of carrying out its duties under this chapter;

~~((3))~~ (c) Upon the ombuds's request, grant the ombuds or the ombuds's designee the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the department of social and health services or the department of early learning that the ombuds considers necessary in an investigation; and

~~((4))~~ (d) Grant the office of the family and children's ombuds unrestricted online access to the child welfare case ((and)) management information system ((CAMIS) or any successor) and the department of early learning data information system for the purpose of carrying out its duties under this chapter.

(2) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition.

(3) Nothing in this section creates a duty for the office of the family and children's ombuds under RCW 43.06A.030 as related to children in the care of an early learning program described in RCW 43.215.400 through 43.215.450, a licensed child care center, or a licensed child care home.

NEW SECTION. Sec. 3. This act may be known and cited as the Eve Uphold act.

Passed by the House April 23, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 200

[Substitute House Bill 1480]

INTERMITTENT-USE TRAILERS

AN ACT Relating to the intermittent-use trailers; amending RCW 46.04.126; reenacting and amending RCW 46.18.220; adding a new section to chapter 46.16A RCW; adding a new section to chapter 46.17 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 46.16A RCW to read as follows:

(1) A trailer in good working order that has a scale weight of two thousand pounds or less and is used only for participation in club activities, exhibitions, tours, and parades, and for occasional pleasure use, is considered an intermittent-use trailer and may be issued a permanent registration. To be eligible to receive a permanent registration, the registered owner of the intermittent-use trailer must:

(a) Apply for a permanent registration with the department, county auditor or other agent, or subagent appointed by the director; and

(b) Pay the fee required under section 2 of this act.

(2) A trailer with a permanent registration under this section is exempt from annual registration renewal under RCW 46.16A.110.

(3) The permanent registration under this section expires when the trailer changes ownership, is permanently removed from the state, or is otherwise disposed of.

(4) A person in violation of this section is subject to a traffic infraction with a maximum fine of one hundred fifty dollars including all other applicable assessments and fees.

(5) An intermittent-use trailer:

(a) Must display a standard license plate;

(b) Is not eligible for personalization; and

(c) May not display a special license plate.

(6) In lieu of displaying a standard issue license plate required in subsection (5)(a) of this section, a person applying for a permanent registration under this section may apply to the department to display a license plate that was issued by the department the year that the intermittent-use trailer was manufactured.

(7) For purposes of this section, "occasional pleasure use" means use that is not general or daily, but seasonal or sporadic and not more than once per week on average. "Occasional pleasure use" does not mean (a) being held for rent to the public or (b) use for commercial or business purposes.

(8) The department may adopt rules to implement this section.

NEW SECTION. Sec. 2. A new section is added to chapter 46.17 RCW to read as follows:

Before accepting an application for a permanent registration authorized under section 1 of this act, the department, county auditor or other agent, or subagent appointed by the director must require an applicant to pay a one hundred eighty-seven dollar and fifty cent fee, which must be deposited and distributed under RCW 46.68.030.

Sec. 3. RCW 46.18.220 and 2011 c 243 s 1 and 2011 c 171 s 70 are each reenacted and amended to read as follows:

(1) A registered owner may apply to the department, county auditor or other agent, or subagent appointed by the director for a collector vehicle license plate for a motor vehicle or travel trailer that is at least thirty years old. The motor vehicle must be operated primarily as a collector vehicle and be in good running order. The applicant for the collector vehicle license plate shall:

(a) Purchase a registration for the motor vehicle or travel trailer as required under chapters 46.16A and 46.17 RCW; and

(b) Pay the special license plate fee established under RCW 46.17.220(1)((~~4~~)) (f), in addition to any other fees or taxes required by law.

(2) A person applying for a collector vehicle license plate may:

(a) Receive a collector vehicle license plate assigned by the department; or

(b) Provide an actual Washington state issued license plate designated for general use in the year of the vehicle's manufacture.

(3) Collector vehicle license plates:

(a) Are valid for the life of the motor vehicle or travel trailer;

(b) Are not required to be renewed; and

(c) Must be displayed on the rear of the motor vehicle or travel trailer.

(4) A collector vehicle registered under this section may only be used for participation in club activities, exhibitions, tours, parades, and occasional pleasure driving.

(5) Collector vehicle license plates under subsection (2)(b) of this section may be transferred from one (~~(motor)~~) vehicle to another (~~(motor)~~) vehicle described in subsection (1) of this section upon application to the department, county auditor or other agent, or subagent appointed by the director.

(6) Any person who knowingly provides a false or facsimile license plate under subsection (2)(b) of this section is subject to a traffic infraction and fine in an amount equal to the monetary penalty for a violation of RCW 46.16A.200(7)(b). Additionally, the person must pay for the cost of a collector vehicle license plate as listed in RCW 46.17.220(1)((~~4~~)) (f), unless already paid.

Sec. 4. RCW 46.04.126 and 2009 c 142 s 2 are each amended to read as follows:

"Collector vehicle" means any motor vehicle or travel trailer that is (~~(more than)~~) at least thirty years old.

NEW SECTION. Sec. 5. This act takes effect January 1, 2017.

Passed by the House April 16, 2015.

Passed by the Senate April 13, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 201

[Substitute House Bill 1503]

MEDICAL LIENS

AN ACT Relating to medical liens; amending RCW 60.44.020 and 60.44.060; and reenacting and amending RCW 19.16.100.

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

Sec. 1. RCW 60.44.020 and 1975 1st ex.s. c 250 s 2 are each amended to read as follows:

No person shall be entitled to the lien given by RCW 60.44.010 unless such person (~~shall~~);

(1) In any effort to enforce the lien, either attempts to enforce the lien on his or her own behalf or designates a collection agency licensed under chapter 19.16 RCW to collect on his or her behalf;

(2) Discloses the person's use of liens under this chapter as part of the person's billing and collection practices; and

(3) Within twenty days after the date of such injury or receipt of transportation or care, or, if settlement has not been accomplished and payment made to such injured person, then at any time before such settlement and payment, files for record with the county auditor of the county in which said service was performed, a notice of claim stating the name and address of the person claiming the lien and whether such person claims as a practitioner, physician, nurse, ambulance service, or hospital, the name and address of the patient and place of domicile or residence, the time when and place where the alleged fault or negligence of the tort-feasor occurred, and the nature of the injury if any, the name and address of the tort-feasor, if same or any thereof are known, which claim shall be subscribed by the claimant and verified before a person authorized to administer oaths.

Sec. 2. RCW 60.44.060 and 2012 c 117 s 153 are each amended to read as follows:

(1) Such lien may be enforced by a suit at law brought by the claimant or his or her assignee within one year after the filing of such lien against the said tort feisor and/or insurer. In the event that such tort feisor and/or insurer shall have made payment or settlement on account of such injury, the fact of such payment shall only for the purpose of such suit be prima facie evidence of the negligence of the tort feisor and of the liability of the payer to compensate for such negligence.

(2) No more than thirty days after payment or settlement and acceptance of the amount due to the claimant or his or her assignee, the claimant or his or her assignee shall prepare and execute a release of all lien rights for which payment has been made and deliver the release to the patient. In any suit to compel deliverance of the release thereafter in which the court determines the delay was unjustified, the court shall, in addition to ordering the deliverance of the release, award the costs of the action including reasonable attorneys' fees and any damages.

Sec. 3. RCW 19.16.100 and 2013 c 148 s 1 are each reenacted and amended to read as follows:

Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Board" means the Washington state collection agency board.

(2) "Claim" means any obligation for the payment of money or thing of value arising out of any agreement or contract, express or implied.

(3) "Client" or "customer" means any person authorizing or employing a collection agency to collect a claim.

(4) "Collection agency" means and includes:

(a) Any person directly or indirectly engaged in soliciting claims for collection, or collecting or attempting to collect claims owed or due or asserted to be owed or due another person;

(b) Any person who directly or indirectly furnishes or attempts to furnish, sells, or offers to sell forms represented to be a collection system or scheme intended or calculated to be used to collect claims even though the forms direct the debtor to make payment to the creditor and even though the forms may be or are actually used by the creditor himself or herself in his or her own name;

(c) Any person who in attempting to collect or in collecting his or her own claim uses a fictitious name or any name other than his or her own which would indicate to the debtor that a third person is collecting or attempting to collect such claim;

(d) Any person or entity that is engaged in the business of purchasing delinquent or charged off claims for collection purposes, whether it collects the claims itself or hires a third party for collection or an attorney for litigation in order to collect such claims;

(e) Any person or entity attempting to enforce a lien under chapter 60.44 RCW, other than the person or entity originally entitled to the lien.

(5) "Collection agency" does not mean and does not include:

(a) Any individual engaged in soliciting claims for collection, or collecting or attempting to collect claims on behalf of a licensee under this chapter, if said individual is an employee of the licensee;

(b) Any individual collecting or attempting to collect claims for not more than one employer, if all the collection efforts are carried on in the name of the employer and if the individual is an employee of the employer;

(c) Any person whose collection activities are carried on in his, her, or its true name and are confined and are directly related to the operation of a business other than that of a collection agency, such as but not limited to: Trust companies; savings and loan associations; building and loan associations; abstract companies doing an escrow business; real estate brokers; property management companies collecting assessments, charges, or fines on behalf of condominium unit owners associations, associations of apartment owners, or homeowners' associations; public officers acting in their official capacities; persons acting under court order; lawyers; insurance companies; credit unions; loan or finance companies; mortgage banks; and banks;

(d) Any person who on behalf of another person prepares or mails monthly or periodic statements of accounts due if all payments are made to that other person and no other collection efforts are made by the person preparing the statements of account;

(e) An "out-of-state collection agency" as defined in this chapter; or

(f) Any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of the person is not the collection of debts.

(6) "Commercial claim" means any obligation for payment of money or thing of value arising out of any agreement or contract, express or implied,

where the transaction which is the subject of the agreement or contract is not primarily for personal, family, or household purposes.

(7) "Debtor" means any person owing or alleged to owe a claim.

(8) "Director" means the director of licensing.

(9) "Licensee" means any person licensed under this chapter.

(10) "Out-of-state collection agency" means a person whose activities within this state are limited to collecting debts from debtors located in this state by means of interstate communications, including telephone, mail, or facsimile transmission, from the person's location in another state on behalf of clients located outside of this state, but does not include any person who is excluded from the definition of the term "debt collector" under the federal fair debt collection practices act (15 U.S.C. Sec. 1692a(6)).

(11) "Person" includes individual, firm, partnership, trust, joint venture, association, or corporation.

(12) "Statement of account" means a report setting forth only amounts billed, invoices, credits allowed, or aged balance due.

Passed by the House April 23, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

CHAPTER 202

[Engrossed Second Substitute House Bill 1546]

HIGHER AND K-12 EDUCATION--DUAL CREDIT OPPORTUNITIES

AN ACT Relating to dual credit opportunities provided by Washington state's public institutions of higher education; amending RCW 28A.320.196, 28A.600.290, and 28A.600.310; reenacting and amending RCW 28B.95.020 and 28B.95.030; creating new sections; and providing an expiration date.

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

NEW SECTION. Sec. 1. The legislature finds that Washington has been a front-runner in dual credit innovation through the establishment of the running start and college in the high school programs, and has continued to expand student choices in dual credit programs.

In Washington, a range of dual credit or dual enrollment programs are available to students. Dual credit programs, such as running start, college in the high school, tech prep (course completion options), and AP and international baccalaureate and Cambridge (standardized exam options) offer academically prepared students the opportunity to earn college credits while still in high school. Students who participate in these programs achieve improved high school graduation rates and are more likely to continue on to college and complete a degree. In addition, dual credit and dual enrollment programs support students' individual college and career pathways.

The legislature further finds that through the development and implementation of the 2013 roadmap the student achievement council has identified key barriers that limit access to dual credit programs, particularly for low-income students. Removing these barriers is a critical step toward achieving the state educational attainment goals outlined in the roadmap.

The legislature recognizes that the decision to enroll in a dual credit program should be made by the student and the student's parents or guardians, in consultation with counselors or academic advisors, and based on the academic, cultural, and developmental needs and college and career goals of the student. The decision to choose one dual credit option over another should not be based on the difference in the costs of one option over another.

In the college in the high school program, credit is awarded based on successful course completion and ability to pay tuition and fees. Under the current college in the high school system, some students may successfully complete the course but do not receive credit because they are unable to pay.

Students in the running start program face a different but equally challenging situation. Students in the running start program do not receive funding for books and transportation costs. These financial barriers decrease opportunities for lower income students to benefit from dual credit programs.

Therefore, the legislature intends to increase opportunities for academically prepared high school students to earn up to two years of college credit through dual credit programs, and to reduce disparities in access to, and completion of, these programs. This act provides a new funding model to support tuition in the college in the high school program, and provides flexibility in the academic acceleration incentive program to assist students with transportation and book expenses associated with the running start program. It is the intent of the legislature, once this new funding model is enacted and operational, to establish a distinction between the college in the high school program as a program occurring in high schools and the running start program as a program occurring on a college campus.

The legislature finds that dual credit opportunities are a valuable means of supporting students on their way to successful completion of college and career pathways. The legislature seeks additional recommendations to mitigate financial and other barriers for students enrolled in the running start program, and dual credit programs based on standardized exams.

Sec. 2. RCW 28A.320.196 and 2013 c 184 s 3 are each amended to read as follows:

(1) Subject to funds appropriated specifically for this purpose, the academic acceleration incentive program is established as provided in this section. The intent of the legislature is that the funds awarded under the program be used to support teacher training, curriculum, technology, examination fees, textbook fees, and other costs associated with offering dual credit courses to high school students, including transportation for running start students to and from the institution of higher education as defined in RCW 28A.600.300.

(2) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section on a competitive basis to provide one-time grants for high schools to expand the availability of dual credit courses. To be eligible for a grant, a school district must have adopted an academic acceleration policy as provided under RCW 28A.320.195. In making grant awards, the office of the superintendent of public instruction must give priority to grants for high schools with a high proportion of low-income students and high schools seeking to develop new capacity for dual credit courses rather than proposing marginal expansion of current capacity.

(3) The office of the superintendent of public instruction shall allocate half of the funds appropriated for the purposes of this section to school districts as an incentive award for each student who earned dual high school and college credit, as described under subsection (4) of this section, for courses offered by the district's high schools during the previous school year. School districts must distribute the award to the high schools that generated the funds. The award amount for low-income students eligible to participate in the federal free and reduced-price meals program who earn dual credits must be set at one hundred twenty-five percent of the base award for other students. A student who earns more than one dual credit in the same school year counts only once for the purposes of the incentive award.

(4) For the purposes of this section, the following students are considered to have earned dual high school and college credit in a course offered by a high school:

- (a) Students who achieve a score of three or higher on an AP examination;
- (b) Students who achieve a score of four or higher on an examination of the international baccalaureate diploma programme;
- (c) Students who successfully complete a Cambridge advanced international certificate of education examination;
- (d) Students who successfully complete a course through the college in the high school program under RCW 28A.600.290 and are awarded credit by the partnering institution of higher education; and
- (e) Students who satisfy the dual enrollment and class performance requirements to earn college credit through a tech prep course.

(5) If a high school provides access to online courses for students to earn dual high school and college credit at no cost to the student, such a course is considered to be offered by the high school. ~~((Students enrolled in the running start program under RCW 28A.600.300 do not generate an incentive award under this section.))~~

(6) The office of the superintendent of public instruction shall report to the education policy committees and the fiscal committees of the legislature, by January 1st of each year, information about the demographics of the students earning dual credits in the schools receiving grants under this section for the prior school year. Demographic data shall be disaggregated pursuant to RCW 28A.300.042.

Sec. 3. RCW 28A.600.290 and 2012 c 229 s 801 are each amended to read as follows:

~~(1) (The superintendent of public instruction, the state board for community and technical colleges, and the public baccalaureate institutions shall jointly develop and each adopt rules governing the college in the high school program. The association of Washington school principals shall be consulted during the rules development. The rules shall be written to encourage the maximum use of the program and may not narrow or limit the enrollment options.~~

(2)) (a) Subject to the availability of amounts appropriated for this specific purpose and commencing with the 2015-16 school year, funding may be allocated at an amount per college credit for eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grade who are enrolled in college

in the high school courses under this section as specified in the omnibus appropriations act and adjusted for inflation from the 2015-16 school year. The maximum annual number of allocated credits per participating student shall be specified in the omnibus appropriations act, which must not exceed ten credits. Funding shall be prioritized in the following order:

(i) High schools offering a running start in the high school program in school year 2014-15. These schools shall only receive prioritized funding in school year 2015-16;

(ii) Students whose residence or the high school in which they are enrolled is located twenty driving miles or more as measured by the most direct route from the nearest eligible institution of higher education offering a running start program, whichever is greater; and

(iii) High schools eligible for the small school funding enhancement in the omnibus appropriations act.

(b)(i) Subject to the availability of amounts appropriated for this specific purpose and commencing with the 2015-16 school year, and only after the programs in (a) of this subsection are funded, a subsidy may be provided per college credit for eleventh and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the eleventh or twelfth grade who have been deemed eligible for free or reduced-price lunch and are enrolled in college in the high school courses under this section as specified in the omnibus appropriations act and adjusted for inflation from the 2015-16 school year. The maximum annual number of subsidized credits per participating student shall be specified in the omnibus appropriations act, which must not exceed five credits.

(ii) Districts wishing to participate in the subsidy program must apply to the office of the superintendent of public instruction by July 1st of each year and report the preliminary estimate of eligible students to receive the subsidy and the total number of projected credit hours.

(iii) The office of the superintendent of public instruction shall notify districts by September 1st of each school year if the district's students will receive the subsidy. If more districts apply than funding is available, the office of the superintendent of public instruction shall prioritize the district applications. The superintendent shall develop factors to determine priority including, but not limited to, the number of dual credit opportunities available for low-income students in the districts.

(c) Districts shall remit any allocations or subsidies on behalf of participating students under (a) and (b) of this subsection to the participating institution of higher education and those students shall not be required to pay for the credits.

(d) The minimum allocation and subsidy under this section is sixty-five dollars per quarter credit for credit-bearing postsecondary coursework. The office of the superintendent of public instruction, the student achievement council, the state board for community and technical colleges, and the public baccalaureate institutions shall review funding levels for the program every four years beginning in 2017 and recommend changes.

(e) Students may pay college in the high school fees with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

(2) For the purposes of funding students enrolled in the college in the high school program in accordance with subsection (1) of this section, college in the high school is defined as a dual credit program located on a high school campus or in a high school environment in which a high school student is able to earn both high school and postsecondary credit by completing postsecondary level courses with a passing grade.

(3) College in the high school programs may include both academic and career and technical education.

(4) College in the high school programs shall each be governed by a local contract between the district and the participating institution of higher education, in compliance with the ~~((guidelines adopted by the superintendent of public instruction, the state board for community and technical colleges, and the public baccalaureate institutions))~~ rules adopted by the superintendent of public instruction under this section.

~~((3))~~ (5) The college in the high school program must include the provisions in this subsection.

(a) The high school and participating institution of higher education together shall define the criteria for student eligibility. The institution of higher education may charge tuition fees to participating students. If specific funding is provided in the omnibus appropriations act for the per credit allocations and per credit subsidies under subsection (1) of this section, the maximum per credit fee charged to any enrolled student may not exceed the amount of the per credit allocation or subsidy.

~~(b) ((School districts shall report no student for more than one full-time equivalent including college in the high school courses.~~

~~(e))~~ The funds received by the participating institution of higher education may not be deemed tuition or operating fees and may be retained by the institution of higher education.

~~((d))~~ (c) Enrollment information on persons registered under this section must be maintained by the institution of higher education separately from other enrollment information and may not be included in official enrollment reports, nor may such persons be considered in any enrollment statistics that would affect higher education budgetary determinations.

~~((e))~~ (d) A school district must grant high school credit to a student enrolled in a program course if the student successfully completes the course. If no comparable course is offered by the school district, the school district superintendent shall determine how many credits to award for the course. The determination shall be made in writing before the student enrolls in the course. The credits shall be applied toward graduation requirements and subject area requirements. Evidence of successful completion of each program course shall be included in the student's secondary school records and transcript.

~~((f) An))~~ (e) A participating institution of higher education must grant college credit to a student enrolled in a program course if the student successfully completes the course. The college credit shall be applied toward general education requirements or ~~((major requirements. If no comparable course is offered by the college, the institution of higher education at which the teacher of the program course is employed shall determine how many credits to award for the course and whether the course fulfills general education or major))~~ degree requirements at institutions of higher education. Evidence of successful

completion of each program course must be included in the student's college transcript.

~~((e))~~ (f) Tenth, eleventh, and twelfth grade students or students who have not yet received a high school diploma or its equivalent and are eligible to be in the tenth, eleventh, or twelfth grades may participate in the college in the high school program.

~~((h))~~ (g) Participating school districts must provide general information about the college in the high school program to all students in grades ~~((ten, eleven, and))~~ nine through twelve and to the parents and guardians of those students.

~~((i))~~ (h) Full-time and part-time faculty at institutions of higher education, including adjunct faculty, are eligible to teach program courses.

~~((4))~~ (6) The superintendent of public instruction shall adopt rules for the administration of this section. The rules shall be jointly developed by the superintendent of public instruction, the state board for community and technical colleges, the student achievement council, and the public baccalaureate institutions. The association of Washington school principals must be consulted during the rules development. The rules must outline quality and eligibility standards that are informed by nationally recognized standards or models. In addition, the rules must encourage the maximum use of the program and may not narrow or limit the enrollment options.

(7) The definitions in this subsection apply throughout this section.

(a) "Institution of higher education" has the ~~((meaning))~~ definition in RCW 28B.10.016, and also includes a public tribal college located in Washington and accredited by the Northwest commission on colleges and universities or another accrediting association recognized by the United States department of education.

(b) "Program course" means a college course offered in a high school under the college in the high school program.

Sec. 4. RCW 28A.600.310 and 2012 c 229 s 702 are each amended to read as follows:

(1)~~(a)~~ Eleventh and twelfth grade students or students who have not yet received the credits required for the award of a high school diploma and are eligible to be in the eleventh or twelfth grades may apply to a participating institution of higher education to enroll in courses or programs offered by the institution of higher education.

(b) The course sections and programs offered as running start courses must also be open for registration to matriculated students at the participating institution of higher education and may not be a course consisting solely of high school students offered at a high school campus.

(c) A student receiving home-based instruction enrolling in a public high school for the sole purpose of participating in courses or programs offered by institutions of higher education shall not be counted by the school district in any required state or federal accountability reporting if the student's parents or guardians filed a declaration of intent to provide home-based instruction and the student received home-based instruction during the school year before the school year in which the student intends to participate in courses or programs offered by the institution of higher education. Students receiving home-based instruction under chapter 28A.200 RCW and students attending private schools approved under chapter 28A.195 RCW shall not be required to meet the student learning

goals, obtain a certificate of academic achievement or a certificate of individual achievement to graduate from high school, or to master the essential academic learning requirements. However, students are eligible to enroll in courses or programs in participating universities only if the board of directors of the student's school district has decided to participate in the program. Participating institutions of higher education, in consultation with school districts, may establish admission standards for these students. If the institution of higher education accepts a secondary school pupil for enrollment under this section, the institution of higher education shall send written notice to the pupil and the pupil's school district within ten days of acceptance. The notice shall indicate the course and hours of enrollment for that pupil.

(2)(a) In lieu of tuition and fees, as defined in RCW 28B.15.020 and 28B.15.041:

(i) Running start students shall pay to the community or technical college all other mandatory fees as established by each community or technical college and, in addition, the state board for community and technical colleges may authorize a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041; and

(ii) All other institutions of higher education operating a running start program may charge running start students a fee of up to ten percent of tuition and fees as defined in RCW 28B.15.020 and 28B.15.041 in addition to technology fees.

(b) The fees charged under this subsection (2) shall be prorated based on credit load.

(c) Students may pay fees under this subsection with advanced college tuition payment program tuition units at a rate set by the advanced college tuition payment program governing body under chapter 28B.95 RCW.

(3) The institutions of higher education must make available fee waivers for low-income running start students. Each institution must establish a written policy for the determination of low-income students before offering the fee waiver. A student shall be considered low income and eligible for a fee waiver upon proof that the student is currently qualified to receive free or reduced-price lunch. Acceptable documentation of low-income status may also include, but is not limited to, documentation that a student has been deemed eligible for free or reduced-price lunches in the last five years, or other criteria established in the institution's policy.

(b) Institutions of higher education, in collaboration with relevant student associations, shall aim to have students who can benefit from fee waivers take advantage of these waivers. Institutions shall make every effort to communicate to students and their families the benefits of the waivers and provide assistance to students and their families on how to apply. Information about waivers shall, to the greatest extent possible, be incorporated into financial aid counseling, admission information, and individual billing statements. Institutions also shall, to the greatest extent possible, use all means of communication, including but not limited to web sites, online catalogues, admission and registration forms, mass email messaging, social media, and outside marketing to ensure that information about waivers is visible, compelling, and reaches the maximum number of students and families that can benefit.

(4) The pupil's school district shall transmit to the institution of higher education an amount per each full-time equivalent college student at statewide uniform rates for vocational and nonvocational students. The superintendent of public instruction shall separately calculate and allocate moneys appropriated for basic education under RCW 28A.150.260 to school districts for purposes of making such payments and for granting school districts seven percent thereof to offset program related costs. The calculations and allocations shall be based upon the estimated statewide annual average per full-time equivalent high school student allocations under RCW 28A.150.260, excluding small high school enhancements, and applicable rules adopted under chapter 34.05 RCW. The superintendent of public instruction, participating institutions of higher education, and the state board for community and technical colleges shall consult on the calculation and distribution of the funds. The funds received by the institution of higher education from the school district shall not be deemed tuition or operating fees and may be retained by the institution of higher education. A student enrolled under this subsection shall be counted for the purpose of meeting enrollment targets in accordance with terms and conditions specified in the omnibus appropriations act.

~~((5) The state board for community and technical colleges, in collaboration with the other institutions of higher education that participate in the running start program and the office of the superintendent of public instruction, shall identify, assess, and report on alternatives for providing ongoing and adequate financial support for the program. Such alternatives shall include but are not limited to student tuition, increased support from local school districts, and reallocation of existing state financial support among the community and technical college system to account for differential running start enrollment levels and impacts. The state board for community and technical colleges shall report the assessment of alternatives to the governor and to the appropriate fiscal and policy committees of the legislature by September 1, 2010.))~~

Sec. 5. RCW 28B.95.020 and 2012 c 229 s 606 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter, unless the context clearly requires otherwise.

(1) "Academic year" means the regular nine-month, three-quarter, or two-semester period annually occurring between August 1st and July 31st.

(2) "Account" means the Washington advanced college tuition payment program account established for the deposit of all money received by the office from eligible purchasers and interest earnings on investments of funds in the account, as well as for all expenditures on behalf of eligible beneficiaries for the redemption of tuition units and for the development of any authorized college savings program pursuant to RCW 28B.95.150.

(3) "Committee on advanced tuition payment" or "committee" means a committee of the following members: The state treasurer, the director of the office of financial management, the director of the office, or their designees, and two members to be appointed by the governor, one representing program participants and one private business representative with marketing, public relations, or financial expertise.

(4) "Contractual obligation" means a legally binding contract of the state with the purchaser and the beneficiary establishing that purchases of tuition units

will be worth the same number of tuition units at the time of redemption as they were worth at the time of the purchase.

(5) "Dual credit fees" means any fees charged to a student for participation in college in the high school under RCW 28A.600.290 or running start under RCW 28A.600.310.

(6) "Eligible beneficiary" means the person for whom the tuition unit will be redeemed for attendance at an institution of higher education, participation in college in the high school under RCW 28A.600.290, or participation in running start under RCW 28A.600.310. The beneficiary is that person named by the purchaser at the time that a tuition unit contract is accepted by the governing body. Qualified organizations, as allowed under section 529 of the federal internal revenue code, purchasing tuition unit contracts as future scholarships need not designate a beneficiary at the time of purchase.

~~((6))~~ (7) "Eligible purchaser" means an individual or organization that has entered into a tuition unit contract with the governing body for the purchase of tuition units for an eligible beneficiary. The state of Washington may be an eligible purchaser for purposes of purchasing tuition units to be held for granting Washington college bound scholarships.

~~((7))~~ (8) "Full-time tuition charges" means resident tuition charges at a state institution of higher education for enrollments between ten credits and eighteen credit hours per academic term.

~~((8))~~ (9) "Governing body" means the committee empowered by the legislature to administer the Washington advanced college tuition payment program.

~~((9))~~ (10) "Institution of higher education" means an institution that offers education beyond the secondary level and is recognized by the internal revenue service under chapter 529 of the internal revenue code.

~~((10))~~ (11) "Investment board" means the state investment board as defined in chapter 43.33A RCW.

~~((11))~~ (12) "Office" means the office of student financial assistance as defined in chapter 28B.76 RCW.

~~((12))~~ (13) "State institution of higher education" means institutions of higher education as defined in RCW 28B.10.016.

~~((13))~~ (14) "Tuition and fees" means undergraduate tuition and services and activities fees as defined in RCW 28B.15.020 and 28B.15.041 rounded to the nearest whole dollar. For purposes of this chapter, services and activities fees do not include fees charged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities.

~~((14))~~ (15) "Tuition unit contract" means a contract between an eligible purchaser and the governing body, or a successor agency appointed for administration of this chapter, for the purchase of tuition units for a specified beneficiary that may be redeemed at a later date for an equal number of tuition units.

~~((15))~~ (16) "Unit purchase price" means the minimum cost to purchase one tuition unit for an eligible beneficiary. Generally, the minimum purchase price is one percent of the undergraduate tuition and fees for the current year, rounded to the nearest whole dollar, adjusted for the costs of administration and adjusted to ensure the actuarial soundness of the account. The analysis for price setting shall

also include, but not be limited to consideration of past and projected patterns of tuition increases, program liability, past and projected investment returns, and the need for a prudent stabilization reserve.

Sec. 6. RCW 28B.95.030 and 2011 1st sp.s. c 12 s 2 and 2011 1st sp.s. c 11 s 170 are each reenacted and amended to read as follows:

(1) The Washington advanced college tuition payment program shall be administered by the committee on advanced tuition payment which shall be chaired by the director of the office. The committee shall be supported by staff of the office.

(2)(a) The Washington advanced college tuition payment program shall consist of the sale of tuition units, which may be redeemed by the beneficiary at a future date for an equal number of tuition units regardless of any increase in the price of tuition, that may have occurred in the interval.

(b) Each purchase shall be worth a specific number of or fraction of tuition units at each state institution of higher education as determined by the governing body.

(c) The number of tuition units necessary to pay for a full year's, full-time undergraduate tuition and fee charges at a state institution of higher education shall be set by the governing body at the time a purchaser enters into a tuition unit contract.

(d) The governing body may limit the number of tuition units purchased by any one purchaser or on behalf of any one beneficiary, however, no limit may be imposed that is less than that necessary to achieve four years of full-time, undergraduate tuition charges at a state institution of higher education. The governing body also may, at its discretion, limit the number of participants, if needed, to ensure the actuarial soundness and integrity of the program.

(e) While the Washington advanced college tuition payment program is designed to help all citizens of the state of Washington, the governing body may determine residency requirements for eligible purchasers and eligible beneficiaries to ensure the actuarial soundness and integrity of the program.

(3)(a) No tuition unit may be redeemed until two years after the purchase of the unit.

(b) Units may be redeemed for enrollment at any institution of higher education that is recognized by the internal revenue service under chapter 529 of the internal revenue code. Units may also be redeemed to pay for dual credit fees.

(b) Units redeemed at a nonstate institution of higher education or for graduate enrollment shall be redeemed at the rate for state public institutions in effect at the time of redemption.

(4) The governing body shall determine the conditions under which the tuition benefit may be transferred to another family member. In permitting such transfers, the governing body may not allow the tuition benefit to be bought, sold, bartered, or otherwise exchanged for goods and services by either the beneficiary or the purchaser.

(5) The governing body shall administer the Washington advanced college tuition payment program in a manner reasonably designed to be actuarially sound, such that the assets of the trust will be sufficient to defray the obligations of the trust including the costs of administration. The governing body may, at its discretion, discount the minimum purchase price for certain kinds of purchases

such as those from families with young children, as long as the actuarial soundness of the account is not jeopardized.

(6) The governing body shall annually determine current value of a tuition unit.

(7) The governing body shall promote, advertise, and publicize the Washington advanced college tuition payment program.

(8) In addition to any other powers conferred by this chapter, the governing body may:

(a) Impose reasonable limits on the number of tuition units or units that may be used in any one year;

(b) Determine and set any time limits, if necessary, for the use of benefits under this chapter;

(c) Impose and collect administrative fees and charges in connection with any transaction under this chapter;

(d) Appoint and use advisory committees and the state actuary as needed to provide program direction and guidance;

(e) Formulate and adopt all other policies and rules necessary for the efficient administration of the program;

(f) Consider the addition of an advanced payment program for room and board contracts and also consider a college savings program;

(g) Purchase insurance from insurers licensed to do business in the state, to provide for coverage against any loss in connection with the account's property, assets, or activities or to further insure the value of the tuition units;

(h) Make, execute, and deliver contracts, conveyances, and other instruments necessary to the exercise and discharge of its powers and duties under this chapter;

(i) Contract for the provision for all or part of the services necessary for the management and operation of the program with other state or nonstate entities authorized to do business in the state;

(j) Contract for other services or for goods needed by the governing body in the conduct of its business under this chapter;

(k) Contract with financial consultants, actuaries, auditors, and other consultants as necessary to carry out its responsibilities under this chapter;

(l) Solicit and accept cash donations and grants from any person, governmental agency, private business, or organization; and

(m) Perform all acts necessary and proper to carry out the duties and responsibilities of this program under this chapter.

NEW SECTION. Sec. 7. (1) By September 15, 2016, the student achievement council, in collaboration with the state board for community and technical colleges, the office of the superintendent of public instruction, and the public baccalaureate institutions, shall make recommendations to the legislature to streamline and improve dual credit programs in Washington with particular attention to increasing participation of students who are low income and/or currently underrepresented in the running start, AP, international baccalaureate, and Cambridge international programs.

(2) This section expires January 1, 2017.

Passed by the House April 23, 2015.

Passed by the Senate April 15, 2015.

Approved by the Governor May 8, 2015.

Filed in Office of Secretary of State May 8, 2015.

AUTHENTICATION

I, K. Kyle Thiessen, Code Reviser of the State of Washington, certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 2015 session (64th Legislature), chapters 1 through 202, as certified and transmitted to the Statute Law Committee by the Secretary of State under RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 18th day of September, 2015.

A handwritten signature in black ink that reads "K. Kyle Thiessen" with a long horizontal flourish extending to the right.

K. KYLE THIESSEN
Code Reviser

