

**FORTIETH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Friday, February 16, 2007

The Senate was called to order at 10:00 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker.

The Sergeant at Arms Color Guard consisting of Pages Paul Shin and Jeremiah Allen, presented the Colors. Reverend Glenn Smith of Shem Ministries International offered the prayer.

**MOTION**

On motion of Senator Eide, the reading of the Journal of the previous day was dispensed with and it was approved.

**MOTION**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

February 15, 2007

**SB 5344** Prime Sponsor, Kline: Penalizing the false or fraudulent refusal of an insurance claim. Reported by Committee on Consumer Protection & Housing

MAJORITY recommendation: Do pass. Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Jacobsen, Kilmer and Tom

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Honeyford

Passed to Committee on Rules for second reading.

February 15, 2007

**SB 5379** Prime Sponsor, Weinstein: Protecting consumers from the keeping of dangerous wild animals. Reported by Committee on Consumer Protection & Housing

MAJORITY recommendation: That Substitute Senate Bill No. 5379 be substituted therefor, and the substitute bill do pass. Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Delvin, Haugen, Jacobsen, Kilmer, McCaslin and Tom

MINORITY recommendation: Do not pass. Signed by Senator Honeyford

Passed to Committee on Rules for second reading.

February 15, 2007

**SB 5461** Prime Sponsor, Morton: Improving forest health on state trust lands by continuing the use of contract harvesting for silvicultural treatments. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 5461 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

**SB 5463** Prime Sponsor, Jacobsen: Modifying forest fire protection assessments. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 5463 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Ways & Means.

February 15, 2007

**SB 5477** Prime Sponsor, Kastama: Addressing manufactured/mobile home community registrations and dispute resolution. Reported by Committee on Consumer Protection & Housing

MAJORITY recommendation: That Substitute Senate Bill No. 5477 be substituted therefor, and the substitute bill do pass. Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Haugen, Jacobsen and Kilmer

MINORITY recommendation: Do not pass. Signed by Senators Delvin, Honeyford and Tom

Passed to Committee on Ways & Means.

February 15, 2007

**SB 5531** Prime Sponsor, Jacobsen: Providing funding for parks and recreational facilities. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That Substitute Senate Bill No. 5531 be substituted therefor, and the substitute bill do pass. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

**SB 5550** Prime Sponsor, Weinstein: Concerning real property. Reported by Committee on Consumer Protection & Housing

MAJORITY recommendation: That Substitute Senate Bill No. 5550 be substituted therefor, and the substitute bill do pass. Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Haugen, Jacobsen, McCaslin and Tom

MINORITY recommendation: Do not pass. Signed by Senators Delvin, Honeyford and Kilmer

Passed to Committee on Rules for second reading.

February 13, 2007

**SB 5690** Prime Sponsor, Weinstein: Regarding the dissolution of a special taxing district. Reported by Committee on Judiciary

MAJORITY recommendation: That Substitute Senate Bill No. 5690 be substituted therefor, and the substitute bill do

FORTIETH DAY, FEBRUARY 16, 2007

pass. Signed by Senators Kline, Chair; Tom, Vice Chair; Carrell, Hargrove, McCaslin, Roach and Weinstein

Passed to Committee on Rules for second reading.

February 15, 2007

SB 5726 Prime Sponsor, Weinstein: Creating the insurance fair conduct act. Reported by Committee on Consumer Protection & Housing

MAJORITY recommendation: That Substitute Senate Bill No. 5726 be substituted therefor, and the substitute bill do pass. Signed by Senators Weinstein, Chair; Kauffman, Vice Chair; Haugen, Kilmer and Tom

MINORITY recommendation: Do not pass. Signed by Senators Delvin and Honeyford

Passed to Committee on Rules for second reading.

#### REPORTS OF STANDING COMMITTEES GUBERNATORIAL APPOINTMENTS

February 15, 2007

SGA 9210 FRED OLSON, appointed January 1, 2007, for the term ending December 31, 2012, as Member of the Parks and Recreation Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

SGA 9211 HAROLD ABBE, appointed August 11, 2004, for the term ending June 12, 2008, as Member of the Columbia River Gorge Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

SGA 9219 JANE L. JACOBSEN, reappointed June 13, 2003, for the term ending June 12, 2007, as Member of the Columbia River Gorge Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

SGA 9224 VAL OGDEN, reappointed January 4, 2006, for the term ending December 31, 2008, as a Chair of the Interagency Committee for Outdoor Recreation. Reported by Committee on Natural Resources, Ocean & Recreation

2007 REGULAR SESSION

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

SGA 9225 JEFF PARSONS, appointed February 10, 2005, for the term ending December 31, 2007, as Member of the Interagency Committee for Outdoor Recreation. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

SGA 9238 BILL RUCKELSHAUS, reappointed September 18, 2003, for the term ending July 15, 2007, as a Chair of the Salmon Recovery Funding Board. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

February 15, 2007

SGA 9248 JOE TALLER, reappointed January 1, 2007, for the term ending December 31, 2012, as Member of the Parks and Recreation Commission. Reported by Committee on Natural Resources, Ocean & Recreation

MAJORITY recommendation: That said appointment be confirmed. Signed by Senators Jacobsen, Chair; Rockefeller, Vice Chair; Fraser, Hargrove, Morton, Poulsen, Spanel and Stevens

Passed to Committee on Rules for second reading.

#### MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

#### MOTION

On motion of Senator Eide, the Senate advanced to the third order of business.

#### MESSAGE FROM THE GOVERNOR GUBERNATORIAL APPOINTMENTS

January 31, 2007

TO THE HONORABLE, THE SENATE OF THE STATE OF WASHINGTON

Ladies and Gentlemen:

I have the honor to submit the following appointment, subject to your confirmation.

STEVEN DRURY, appointed January 30, 2007, for the term ending October 1, 2010, as Member of the Small Business Export Finance Assistance Center Board of Directors.

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

Sincerely,  
CHRISTINE O. GREGOIRE, Governor  
Referred to Committee on Economic Development, Trade & Management.

AN ACT Relating to allowing attorneys to recover actual costs for service of process; amending RCW 4.84.010; and adding a new section to chapter 18.180 RCW.

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, the appointee listed on the gubernatorial appointment report was referred to the committee as designated.

SB 6060 by Senator Kline

AN ACT Relating to unlawful detainer action proceedings and notice for nonpayment of rent; amending RCW 59.18.375; and creating a new section.

Referred to Committee on Judiciary.

MOTION

On motion of Senator Eide, the Senate advanced to the fifth order of business.

SB 6061 by Senators Tom, Weinstein, Kohl-Welles, Prentice and Poulsen

AN ACT Relating to the confinement of a caged egg laying hen; amending RCW 16.52.185; adding a new section to chapter 16.52 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Agriculture & Rural Economic Development.

INTRODUCTION AND FIRST READING

SB 6054 by Senators Pridemore, Rockefeller, Kastama, Zarelli, Poulsen, Murray, Delvin, Keiser, Fairley, Fraser, Kohl-Welles, Regala, Shin, Marr, Oemig, Franklin, Berkey, Spanel and Kline

AN ACT Relating to tax expenditure reports; and amending RCW 43.06.400 and 43.88.030.

Referred to Committee on Ways & Means.

SB 6062 by Senators Tom, Weinstein, Kohl-Welles, Prentice and Poulsen

AN ACT Relating to the confinement of animals; amending RCW 16.52.185; adding a new section to chapter 16.52 RCW; prescribing penalties; and providing an effective date.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6055 by Senators Hewitt, Shin, Stevens, Schoesler, Rasmussen, Sheldon, Roach and Holmquist

AN ACT Relating to extending the expiration date for the tax deduction for certain businesses impacted by the ban on American beef products; amending RCW 82.04.4336; and providing an expiration date.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6063 by Senator Haugen

AN ACT Relating to property tax exemptions for nonprofit organizations and associations; amending RCW 84.36.030; and reenacting and amending RCW 84.36.805.

Referred to Committee on Ways & Means.

SB 6056 by Senators Clements, Rasmussen, Shin, Schoesler, Roach, Berkey and Holmquist

AN ACT Relating to evaluating the use of sugar beets for production of biofuel; creating new sections; and making appropriations.

Referred to Committee on Agriculture & Rural Economic Development.

SB 6064 by Senators Stevens, Holmquist, Morton, Swecker, Brandland and Roach

AN ACT Relating to the state expenditure limit; and amending RCW 43.135.010, 43.135.025, and 43.135.035.

Referred to Committee on Ways & Means.

SB 6057 by Senators Schoesler, Franklin, Carrell, Keiser, Regala, Marr, Fairley, Shin, Rasmussen and Roach

AN ACT Relating to improving safety in state hospitals; adding new sections to chapter 72.23 RCW; and creating new sections.

Referred to Committee on Human Services & Corrections.

SB 6065 by Senators Kline, Kohl-Welles, Murray, Marr, Franklin, McAuliffe and Sheldon

AN ACT Relating to providing funds to restore public school art programs; amending RCW 67.70.240; adding a new section to chapter 43.79 RCW; and adding a new section to chapter 43.46 RCW.

Referred to Committee on Early Learning & K-12 Education.

SB 6058 by Senator Kline

AN ACT Relating to the effect of settlement agreements; amending RCW 4.22.060 and 4.22.070; and creating a new section.

Referred to Committee on Judiciary.

SB 6066 by Senators Kohl-Welles, Kline, Franklin, Kauffman and Roach

AN ACT Relating to the training of and collective bargaining over the training of care providers; amending RCW 74.39A.050, 74.39A.270, 74.39A.300, 74.39A.310, 41.56.465, and 18.88A.085; adding a new section to chapter

SB 6059 by Senators Carrell, Kline and Roach

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

74.39A RCW; creating new sections; and repealing RCW 74.39A.190.

Referred to Committee on Labor, Commerce, Research & Development.

SJM 8017 by Senators Kline, Kohl-Welles, Weinstein, Spanel, Regala, Shin, Franklin and Poulsen

Requesting the President to use all necessary means to bring about a peaceful solution to the conflict in Darfur.

Referred to Committee on Government Operations & Elections.

#### MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

#### MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business.

#### STATEMENT ON STC VANCOUVER MEETING

February 16, 2007

The following Senators were excused from Senate floor action today to attend a joint meeting with members of the Oregon Legislature on transportation issues of mutual interest:

Senator Don Benton  
 Senator Mary Margaret Haugen  
 Senator Chris Marr  
 Senator Craig Pridemore  
 Senator Dan Swecker

As a result of this official Senate business, these Senators were unable to participate in debate and voting in the full Senate, and were excused from all votes, including but not limited to:

GA 9005 - Peggy Bierbaum - Gambling Commission  
 GA 9044 - Carol Moser - Gambling Commission  
 SB 5247 - Modifying provisions relating to superior court judicial positions.  
 SJM 8008 - Asking that the federal government provide veterans' benefits owed to Filipino veterans.  
 SB 5407 - Changing certificate of discharge requirements  
 ESSB 5040 - Creating a survivors' endowed scholarship program  
 SSB 5193 - Authorizing donation of unclaimed personal property to nonprofit charitable organizations.  
 ESB 5063 - Removing gender references  
 ESSB 5267 - Providing for the use of the school district capital projects funds for technology.

#### SECOND READING

CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Prentice moved that Gubernatorial Appointment No. 9005, Peggy Bierbaum, as a member of the Gambling Commission, be confirmed.

Senator Prentice spoke in favor of the motion.

#### MOTION

On motion of Senator Brandland, Senators Benton, Hewitt, McCaslin and Swecker were excused.

#### MOTION

On motion of Senator Regala, Senators Haugen, Marr and Pridemore were excused.

#### APPOINTMENT OF PEGGY BIERBAUM

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9005, Peggy Bierbaum as a member of the Gambling Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9005, Peggy Bierbaum as a member of the Gambling Commission and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 42

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

Gubernatorial Appointment No. 9005, Peggy Bierbaum, having received the constitutional majority was declared confirmed as a member of the Gambling Commission.

#### REMARKS BY THE PRESIDENT

President Owen: "Ladies and Gentlemen of the Senate, we all reach milestones in our life, today is one of those auspicious days where we can recognize and honor Senator Schoesler on his 50<sup>th</sup> birthday. Happy Birthday."

#### PERSONAL PRIVILEGE

Senator Roach: "Well, I wanted to bring to the attention of the Senate that we have four committee members who are on the Transportation Committee in Portland today for a committee meeting. They're not here because of that committee hearing-on the Senate Floor-and that would be Senator Haugen, Senator Swecker, Senator Benton, one other. I wanted to object to this. I realize that you may rule that it's ok to have a committee hearing during session. It would take a ruling I suppose to reiterate that but we do have a situation here in Olympia where we are being paid seven days a week, not just five and if we need to meet with our colleagues in Oregon that can be done on a Saturday or Sunday and not then requiring in some way or another that our members be absent from their floor votes so my point of order is to object to the fact that we are having a standing committee meeting then."

#### POINT OF ORDER

Senator Brown: "I'd like to clarify whether this is a point of personal privilege or a point of order and have it be addressed appropriately."

#### REPLY BY THE PRESIDENT

President Owen: "I was just asking the attorney whether you had approached that as a point of order or...."

#### POINT OF ORDER

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

Senator Roach: "Mr. President, a point of order."

REPLY BY THE PRESIDENT

President Owen: "That was a point of order, ok. The President understands that this is not a committee hearing, that they are meeting with some people in Portland on some important issues. Therefore, it's not necessary. It would be necessary, if it was a hearing, to suspend the rules to allow them to meet during the session. This is not a hearing, therefore it is not necessary. Excuse me, its not a suspension of the rules it's to invoke which only takes twenty-five votes but it's not a committee hearing therefore it would not be necessary to invoke the rule."

PERSONAL PRIVILEGE

Senator Parlette: "This will just take a second because I know we have a lot to do today but as you can see the white coats are up there and for those of you who did not have the opportunity to participate with Accounting for health when Harry Jasper was here, you may want to go down there and have your blood pressure checked and all those other good things that pharmacists are trained to do. They are in the Columbia Room and thank you for being here today."

REMARKS BY THE PRESIDENT

President Owen: "Have your blood pressure checked before and after the vote."

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator Delvin moved that Gubernatorial Appointment No. 9044, Carol Moser, as a member of the Transportation Commission, be confirmed.

Senator Delvin spoke in favor of the motion.

APPOINTMENT OF CAROL MOSER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9044, Carol Moser as a member of the Transportation Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9044, Carol Moser as a member of the Transportation Commission and the appointment was confirmed by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 42

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

Gubernatorial Appointment No. 9044, Carol Moser, having received the constitutional majority was declared confirmed as a member of the Transportation Commission.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced Mrs. Josie Delvin, the wife of Senator Jerome Delvin who was seated at the rostrum.

PERSONAL PRIVILEGE

Senator Delvin: "Well, thank you. It is indeed an honor to have my wife here today, it's the first Valentine that we, Valentines Day this week, that we celebrated together in twelve years because I'm always over here and she's always back there in the District. I just want to congratulate her also publicly on her she's the newly-elected Benton County Clerk. So there's two of us in politics in the family now. I'm not sure who wears the pants now."

REMARKS BY THE PRESIDENT

President Owen: "You'd better figure that one out."

PERSONAL PRIVILEGE

Senator Delvin: "I'm very proud of her and she's a great joy in my life and I really do appreciate all she's done to help me and love her very much."

REPLY BY THE PRESIDENT

President Owen: "Senator Delvin, I might just point out to you, a very good point that my father-in-law's made to me. If momma ain't happy, ain't nobody happy, ok?"

SECOND READING

SENATE BILL NO. 5247, by Senators Spanel and Haugen

Modifying provisions relating to superior court judicial positions.

The measure was read the second time.

MOTION

On motion of Senator Spanel, the rules were suspended, Senate Bill No. 5247 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Spanel spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5247.

MOTION

On motion of Senator Regala, Senator Sheldon was excused.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5247 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 42

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

SENATE BILL NO. 5247, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE JOINT MEMORIAL NO. 8008, by Senators Prentice, Rockefeller, Berkey, Weinstein, Kauffman, Marr, Oemig, Kline, Hobbs, Murray, Poulsen, Rasmussen, Kastama, Shin, Franklin, Hatfield, Sheldon, Kohl-Welles, Jacobsen, Fraser, Pridemore and Kilmer

Asking that the federal government provide veterans' benefits owed to Filipino veterans.

The measure was read the second time.

MOTION

On motion of Senator Prentice, the rules were suspended, Senate Joint Memorial No. 8008 was advanced to third reading, the second reading considered the third and the memorial was placed on final passage.

Senators Prentice, Shin, Kline, Rockefeller and Honeyford spoke in favor of passage of the memorial.

MOTION

On motion of Senator Brandland, Senator Zarelli was excused.

The President declared the question before the Senate to be the final passage of Senate Joint Memorial No. 8008.

ROLL CALL

The Secretary called the roll on the final passage of Senate Joint Memorial No. 8008 and the memorial passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom and Weinstein - 41

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore, Swecker and Zarelli - 8

SENATE JOINT MEMORIAL NO. 8008, having received the constitutional majority, was declared passed.

SECOND READING

SENATE BILL NO. 5407, by Senators Regala, Carrell, Hargrove and Brandland

Changing certificate of discharge requirements.

The measure was read the second time.

MOTION

On motion of Senator Regala, the rules were suspended, Senate Bill No. 5407 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Regala spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Senate Bill No. 5407.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 5407 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 0; Excused, 8.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom and Weinstein - 41

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore, Swecker and Zarelli - 8

SENATE BILL NO. 5407, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

SECOND READING

SENATE BILL NO. 5040, by Senators Eide, Franklin, Fairley, Shin, Rockefeller, Weinstein, Marr, Oemig, Hobbs, Haugen, Kilmer, Murray, Keiser, Rasmussen, Jacobsen, Kauffman and Kohl-Welles

Creating a survivors' endowed scholarship program.

MOTION

On motion of Senator Eide, Substitute Senate Bill No. 5040 was substituted for Senate Bill No. 5040 and the substitute bill was placed on the second reading and read the second time.

MOTION

Senator Morton moved that the following amendment by Senator Morton be adopted.

On page 2, beginning on line 26, after "GED;" strike all material through "(v)" on line 28 and insert "and (iv)"

Senators Morton and Eide spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Morton on page 2, line 26 to Substitute Senate Bill No. 5040.

The motion by Senator Morton carried and the amendment was adopted by voice vote.

MOTION

On motion of Senator Eide, the rules were suspended, Engrossed Substitute Senate Bill No. 5040 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Eide and Shin spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5040.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5040 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove,

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 42

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

ENGROSSED SUBSTITUTE SENATE BILL NO. 5040, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5193, by Senators Brandland, Hewitt, Parlette, Morton, Schoesler, Swecker, Clements, Stevens, McCaslin, Carrell, Keiser, Berkey and Kohl-Welles

Authorizing donation of unclaimed personal property to nonprofit charitable organizations.

#### MOTIONS

On motion of Senator Brandland, Substitute Senate Bill No. 5193 was substituted for Senate Bill No. 5193 and the substitute bill was placed on the second reading and read the second time.

On motion of Senator Brandland, the rules were suspended, Substitute Senate Bill No. 5193 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Brandland and Kline spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5193.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5193 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 42

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

SUBSTITUTE SENATE BILL NO. 5193, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5063, by Senators Kohl-Welles, Fairley, Rockefeller, Kline, Schoesler, Keiser, Parlette, Kauffman, Fraser and Shin

Removing gender references.

The measure was read the second time.

#### MOTION

Senator Kohl-Welles moved that the following striking amendment by Senators Kohl-Welles and Clements be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** It is the intent of the legislature to make technical changes throughout chapters 41.08, 41.12, 41.16, and 41.18 RCW with regard to gender-specific terminology. The legislature finds that gender-neutral terms must be used in accordance with RCW 44.04.210. This act is technical in nature and no substantive legal changes are intended or implied.

**Sec. 2.** RCW 41.08.020 and 1935 c 31 s 2 are each amended to read as follows:

If any of the cities or towns referred to in RCW 41.08.010 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for ~~((firemen))~~ firefighters as referred to in RCW 41.08.010, in that event this chapter shall apply to all of such cities and towns which have at any time abolished civil service for members of the fire department.

**Sec. 3.** RCW 41.08.030 and 1935 c 31 s 3 are each amended to read as follows:

There is hereby created in every city, town or municipality except those referred to in RCW 41.08.010, having a full paid fire department a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ the chief of a fire department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he or she resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party.

**Sec. 4.** RCW 41.08.075 and 1972 ex.s. c 37 s 4 are each amended to read as follows:

No city, town, or municipality shall require any person applying for or holding an office, place, position, or employment under the provisions of this chapter or under any local charter or other regulations described in RCW 41.08.010 to reside within the limits of such municipal corporation as a condition of employment, or to discriminate in any manner against any such person because of his or her residence outside of the limits of such city, town, or municipality.

**Sec. 5.** RCW 41.08.080 and 1935 c 31 s 8 are each amended to read as follows:

The tenure of every one holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

(1) Incompetency, inefficiency or inattention to or dereliction of duty;

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

(2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself or herself; or any willful violation of the provisions of this chapter or the rules and regulations to be adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, immoral or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the functions and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

**Sec. 6.** RCW 41.08.090 and 1935 c 31 s 9 are each amended to read as follows:

No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon the written accusation of the appointing power, or any citizen or taxpayer, a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten days from the time of his or her removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith (~~(for)~~) for cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his or her defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he or she resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with

such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: PROVIDED, HOWEVER, That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

**Sec. 7.** RCW 41.08.100 and 1935 c 31 s 11 are each amended to read as follows:

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him or her, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him or her unfit or unsatisfactory for service in the department. Whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete.

**Sec. 8.** RCW 41.08.150 and 1935 c 31 s 16 are each amended to read as follows:

No commissioner or any other person(;) shall, by himself or herself, or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his or her right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him or her, in connection with any examination or registration or application or request to be examined or registered.

**Sec. 9.** RCW 41.08.220 and 1935 c 31 s 24 are each amended to read as follows:

As used in this chapter, the following mentioned terms shall have the following described meanings:



FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term "city" includes all cities, towns and municipalities having a full paid fire department.

The term "full paid fire department" means that the officers and ~~((firemen))~~ firefighters employed in such are paid regularly by the city and devote their whole time to firefighting.

**Sec. 10.** RCW 41.12.020 and 1937 c 13 s 2 are each amended to read as follows:

If any of the cities or towns referred to in RCW 41.12.010 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for ~~((police men))~~ police officers as referred to in RCW 41.12.010, in that event this chapter shall apply to all of such cities and towns which have at any time abolished civil service for members of the police department.

**Sec. 11.** RCW 41.12.030 and 1937 c 13 s 3 are each amended to read as follows:

There is hereby created in every city, town or municipality except those referred to in RCW 41.12.010, having fully paid ~~((police men))~~ police officers a civil service commission which shall be composed of three persons.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with the power and authority to select, appoint, or employ the chief of a police department in any such city, prior to the enactment of this chapter. The members of such commission shall serve without compensation. No person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three years immediately preceding such appointment, and an elector of the county wherein he or she resides. The term of office of such commissioners shall be for six years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: PROVIDED, HOWEVER, That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this chapter. Two members of such commission shall constitute a quorum and the votes of any two members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this chapter. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required. At the time of any appointment not more than two commissioners shall be adherents of the same political party.

**Sec. 12.** RCW 41.12.075 and 1972 ex.s. c 37 s 5 are each amended to read as follows:

No city, town, or municipality shall require any person applying for or holding an office, place, position, or employment under the provisions of this chapter or under any local charter or other regulations described in RCW 41.12.010 to reside within the limits of such municipal corporation as a condition of employment or to discriminate in any manner against any such person because of his or her residence outside of the limits of such city, town, or municipality.

**Sec. 13.** RCW 41.12.080 and 1937 c 13 s 8 are each amended to read as follows:

The tenure of everyone holding an office, place, position or employment under the provisions of this chapter shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

(1) Incompetency, inefficiency or inattention to or dereliction of duty;

(2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other willful failure on the part of the employee to properly conduct himself or herself; or any willful violation of the provisions of this chapter or the rules and regulation to be adopted hereunder;

(3) Mental or physical unfitnes for the position which the employee holds;

(4) Dishonest, disgraceful, immoral or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

**Sec. 14.** RCW 41.12.090 and 1937 c 13 s 9 are each amended to read as follows:

No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this chapter, shall be removed, suspended, demoted or discharged except for cause, and only upon written accusation of the appointing power, or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten days from the time of his or her removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith ~~((for))~~ for cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement ~~((of for))~~ or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, ~~((for))~~ in lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to the provisions of this section shall be had by public hearing, after reasonable notice to the accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his or her defense. If such judgment or order be concurred in by the commission or a majority thereof, the

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he or she resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: PROVIDED, HOWEVER, That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

**Sec. 15.** RCW 41.12.100 and 1937 c 13 s 11 are each amended to read as follows:

Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three to six months' probationary service, as may be provided in the rules of the civil service commission during which the appointing power may terminate the employment of the person certified to him or her, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him or her unfit or unsatisfactory for service in the department, whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete.

**Sec. 16.** RCW 41.12.150 and 1937 c 13 s 16 are each amended to read as follows:

No commissioner or any other person(;) shall, by himself or herself, or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his or her right of examination or registration according to the rules and regulations of this chapter, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this chapter, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined,

registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him or her, in connection with any examination or registration of application or request to be examined or registered.

**Sec. 17.** RCW 41.12.220 and 1937 c 13 s 24 are each amended to read as follows:

As used in this chapter, the following mentioned terms shall have the following described meanings:

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, invested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

The term "city" includes all cities, towns and municipalities having a full paid police department.

The term "full paid police department" means that the officers and (~~police men~~) police officers employed in such are paid regularly by the city and devote their whole time to police duty: PROVIDED, "full paid police department" whenever used in this chapter shall also mean "full paid (~~police men~~) police officers."

**Sec. 18.** RCW 41.16.010 and 2003 c 30 s 1 are each amended to read as follows:

For the purpose of this chapter, unless clearly indicated by the context, words and phrases shall have the following meaning:

(1) "Beneficiary" shall mean any person or persons designated by a (~~fireman~~) firefighter in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased (~~fireman~~) firefighter under this chapter.

(2) "Board" shall mean the municipal (~~firemen's~~) firefighters' pension board.

(3) "Child or children" shall mean a child or children unmarried and under eighteen years of age.

(4) "Contributions" shall mean and include all sums deducted from the salary of (~~firemen~~) firefighters and paid into the fund as hereinafter provided.

(5) "Disability" shall mean and include injuries or sickness sustained as a result of the performance of duty.

(6) (~~"Fireman" or~~) "Firefighter" shall mean any person regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, who has passed a civil service examination for (~~fireman~~) firefighter and who is actively employed as a (~~fireman~~) firefighter; and shall include any "prior (~~fireman~~) firefighter."

(7) "Fire department" shall mean the regularly organized, full time, paid, and employed force of (~~firemen~~) firefighters of the municipality.

(8) "Fund" shall mean the (~~firemen's~~) firefighters' pension fund created herein.

(9) "Municipality" shall mean every city and town having a regularly organized full time, paid, fire department employing (~~firemen~~) firefighters.

(10) "Performance of duty" shall mean the performance of work and labor regularly required of (~~firemen~~) firefighters and shall include services of an emergency nature rendered while off regular duty, but shall not include time spent in traveling to work before answering roll call or traveling from work after dismissal at roll call.

(11) "Prior (~~fireman~~) firefighter" shall mean a (~~fireman~~) firefighter who was actively employed as a (~~fireman~~) firefighter of a fire department prior to the first day of January, 1947, and who continues such employment thereafter.

(12) "Retired (~~fireman~~) firefighter" shall mean and include a person employed as a (~~fireman~~) firefighter and retired under the provisions of chapter 50, Laws of 1909, as amended.

(13) "Widow or widower" means the surviving wife or husband of a retired (~~fireman~~) firefighter who was retired on

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

account of length of service and who was lawfully married to such ~~((fireman))~~ firefighter; and whenever that term is used with reference to the wife or former wife or husband or former husband of a retired ~~((fireman))~~ firefighter who was retired because of disability, it shall mean his or her lawfully married wife or husband on the date he or she sustained the injury or contracted the illness that resulted in his or her disability. Said term shall not mean or include a surviving wife or husband who by process of law within one year prior to the retired ~~((fireman's))~~ firefighter's death, collected or attempted to collect from him or her funds for the support of herself or himself or for his or her children.

**Sec. 19.** RCW 41.16.020 and 2003 c 30 s 2 are each amended to read as follows:

There is hereby created in each city and town a municipal ~~((firemen's))~~ firefighters' pension board to consist of the following five members, ex officio, the mayor, or in a city of the first class, the mayor or a designated representative who shall be an elected official of the city, who shall be ~~((chairman))~~ chairperson of the board, the city comptroller or clerk, the ~~((chairman))~~ chairperson of finance of the city council, or if there is no ~~((chairman))~~ chairperson of finance, the city treasurer, and in addition, two regularly employed or retired firefighters elected by secret ballot of those employed and retired firefighters who are subject to the jurisdiction of the board. The members to be elected by the firefighters shall be elected annually for a two year term. The two firefighters elected as members shall, in turn, select a third eligible member who shall serve as an alternate in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the firefighters or retired members, the members shall in the same manner elect a successor to serve the unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the ~~((chairman))~~ chairperson to act, the board may select a ~~((chairman))~~ chairperson pro tempore who shall during such absence or inability perform the duties and exercise the powers of the ~~((chairman))~~ chairperson. A majority of the members of the board shall constitute a quorum and have power to transact business.

**Sec. 20.** RCW 41.16.030 and 2002 c 15 s 1 are each amended to read as follows:

The board shall meet at least once quarterly, the date to be fixed by regulation of the board, at such other regular times as may be fixed by a regulation of the board; and at any time upon call of the ~~((chairman))~~ chairperson, of which due advance notice shall be given the other members of the board.

**Sec. 21.** RCW 41.16.040 and 1992 c 89 s 1 are each amended to read as follows:

The board shall have such general powers as are vested in it by the provisions of this chapter, and in addition thereto, the power to:

(1) Generally supervise and control the administration of this chapter and the ~~((firemen's))~~ firefighters' pension fund created hereby.

(2) Pass upon and allow or disallow all applications for pensions or other benefits provided by this chapter.

(3) Provide for payment from said fund of necessary expenses of maintenance and administration of said pension system and fund.

(4) Invest the moneys of the fund in a manner consistent with the investment policies outlined in RCW 35.39.060. Authorized investments shall include investment grade securities issued by the United States, state, municipal corporations, other public bodies, corporate bonds, and other investments authorized by RCW 35.39.030, 35.58.510, 35.81.070, 35.82.070, 36.29.020, 39.58.020, 39.58.080, 39.58.130, 39.60.010, 39.60.020, 68.52.060, 68.52.065, and 72.19.120.

(5) Employ such agents, employees and other personnel as the board may deem necessary for the proper administration of this chapter.

(6) Compel witnesses to appear and testify before it, in the same manner as is or may be provided by law for the taking of depositions in the superior court. Any member of the board may administer oaths to witnesses who testify before the board of a

nature and in a similar manner to oaths administered by superior courts of the state of Washington.

(7) Issue vouchers approved by the ~~((chairman))~~ chairperson and secretary and to cause warrants therefor to be issued and paid from said fund for the payment of claims allowed by it.

(8) Keep a record of all its proceedings, which record shall be public; and prepare and file with the city treasurer and city clerk or comptroller prior to the date when any payments are to be made from the fund, a list of all persons entitled to payment from the fund, stating the amount and purpose of such payment, said list to be certified to and signed by the ~~((chairman))~~ chairperson and secretary of the board and attested under oath.

(9) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same.

(10) Appoint one or more duly licensed and practicing physicians who shall examine and report to the board upon all applications for relief and pension under this chapter. Such physicians shall visit and examine all sick firefighters and ~~((disabled firemen))~~ firefighters who are disabled when, in their judgment, the best interests of the relief and pension fund require it or when ordered by the board. They shall perform all operations on such sick and injured ~~((firemen))~~ firefighters and render all medical aid and care necessary for the recovery of such ~~((firemen))~~ firefighters on account of sickness or disability received while in the performance of duty as defined in this chapter. Such physicians shall be paid from said fund, the amount of said fees or salary to be set and agreed upon by the board and the physicians. No physician not regularly appointed or specially appointed and employed, as hereinafter provided, shall receive or be entitled to any fees or compensation from said fund as attending physician to a sick or injured ~~((fireman))~~ firefighter. If any sick or injured ~~((fireman))~~ firefighter refuses the services of the appointed physicians, or the specially appointed and employed physician, he or she shall be personally liable for the fees of any other physician employed by him or her. No person shall have a right of action against the board or the municipality for negligence of any physician employed by it. The board shall have the power and authority to select and employ, besides the regularly appointed physician, such other physician, surgeon or specialist for consultation with, or assistance to the regularly appointed physician, or for the purpose of performing operations or rendering services and treatment in particular cases, as it shall deem advisable, and to pay fees for such services from said fund. Said board shall hear and decide all applications for such relief or pensions under this chapter, and its decisions on such applications shall be final and conclusive and not subject to revision or reversal except by the board.

**Sec. 22.** RCW 41.16.050 and 1999 c 117 s 3 are each amended to read as follows:

There is hereby created and established in the treasury of each municipality a fund which shall be known and designated as the ~~((firemen's))~~ firefighters' pension fund, which shall consist of: (1) All bequests, fees, gifts, emoluments, or donations given or paid thereto; (2) twenty-five percent of all moneys received by the state from taxes on fire insurance premiums; (3) taxes paid pursuant to the provisions of RCW 41.16.060; (4) interest on the investments of the fund; and (5) contributions by firefighters as provided for herein. The moneys received from the tax on fire insurance premiums under the provisions of this chapter shall be distributed in the proportion that the number of paid firefighters in the city, town, or fire protection district bears to the total number of paid firefighters throughout the state to be ascertained in the following manner: The secretary of the ~~((firemen's))~~ firefighters' pension board of each city, town, and fire protection district now or hereafter coming under the provisions of this chapter shall within thirty days after June 7, 1961, and on or before the fifteenth day of January thereafter, certify to the state treasurer the number of paid firefighters in the fire department in such city, town, or fire protection district. For any city or town annexed by a fire protection district at any time before, on, or after June 9, 1994, the city or town shall continue to certify to the state treasurer the number of paid firefighters in the city or town fire department immediately before annexation until all obligations against the ~~((firemen's))~~ firefighters' pension

fund in the city or town have been satisfied. For the purposes of the calculation in this section, the state treasurer shall subtract the number certified by the annexed city or town from the number of paid firefighters certified by an annexing fire protection district. The state treasurer shall on or before the first day of June of each year deliver to the treasurer of each city, town, and fire protection district coming under the provisions of this chapter his or her warrant, payable to each city, town, or fire protection district for the amount due such city, town or fire protection district ascertained as herein provided and the treasurer of each such city, town, or fire protection district shall place the amount thereof to the credit of the ~~((firemen's))~~ firefighters' pension fund of such city, town, or fire protection district.

**Sec. 23.** RCW 41.16.070 and 1947 c 91 s 7 are each amended to read as follows:

(1) Every ~~((fireman))~~ firefighter employed on and after January 1, 1947, shall contribute to the fund and there shall be deducted from his or her pay and placed in the fund an amount in accordance with the following table:

|  |                   |
|--|-------------------|
| <del>((Fireman))</del><br><u>Firefighter</u> whose |                   |
| age at last birthday                               | Contributions and |
| at time of entry                                   | deductions from   |
| of service was:                                    | salary            |
| 21 and under .....                                 | 5.00%             |
| 22 .....   | 5.24%             |
| 23 .....   | 5.50%             |
| 24 .....   | 5.77%             |
| 25 .....   | 6.07%             |
| 26 .....   | 6.38%             |
| 27 .....   | 6.72%             |
| 28 .....   | 7.09%             |
| 29 .....   | 7.49%             |
| 30 and over .....                                  | 7.92%             |

(2) Every ~~((fireman))~~ firefighter employed prior to January 1, 1947, and continuing active employment shall contribute to the fund and there shall be deducted from his or her salary and placed in the fund, five percent of his or her salary.

(3) Every ~~((fireman))~~ firefighter actively employed and eligible for retirement and not retired shall contribute to the fund and there shall be deducted from his or her salary and placed in the fund, four percent of his or her salary.

**Sec. 24.** RCW 41.16.080 and 1959 c 5 s 2 are each amended to read as follows:

Any ~~((fireman))~~ firefighter employed in a fire department on and before the first day of January, 1947, hereinafter in this section and RCW 41.16.090 to 41.16.190 inclusive, referred to as ~~(("fireman";))~~ "firefighter," and who shall have served twenty-five or more years and having attained the age of fifty-five years, as a member of the fire department, shall be eligible for retirement and shall be retired by the board upon his or her written request. Upon his or her retirement any ~~((fireman))~~ firefighter shall be paid a pension based upon the average monthly salary drawn for the five calendar years before retirement, the number of years of his or her service and a percentage factor based upon his or her age on entering service, as follows:

|                    |                   |
|--------------------|-------------------|
| Entrance age at    | Salary            |
| last birthday      | percentage factor |
| 20 and under ..... | 1.50%             |

|                   |       |
|-------------------|-------|
| 21 .....          | 1.55% |
| 22 .....          | 1.60% |
| 23 .....          | 1.65% |
| 24 .....          | 1.70% |
| 25 .....          | 1.75% |
| 26 .....          | 1.80% |
| 27 .....          | 1.85% |
| 28 .....          | 1.90% |
| 29 .....          | 1.95% |
| 30 and over ..... | 2.00% |

Said monthly pension shall be in the amount of his or her average monthly salary for the five calendar years before retirement, times the number of years of service, times the applicable percentage factor.

**Sec. 25.** RCW 41.16.100 and 1973 1st ex.s. c 154 s 62 are each amended to read as follows:

The widow or widower, child, children or beneficiary of any ~~((fireman))~~ firefighter retired under this chapter shall receive an amount equal to his or her accumulated contributions to the fund, plus earned interest thereon compounded semiannually: PROVIDED, That there shall be deducted from said sum the amount paid to decedent in pensions and the remainder shall be paid to his or her widow or widower, child, children or beneficiary: PROVIDED FURTHER, That the amount paid shall not be less than one thousand dollars.

**Sec. 26.** RCW 41.16.110 and 1959 c 5 s 5 are each amended to read as follows:

Whenever any ~~((fireman))~~ firefighter shall die while eligible to retirement on account of years of service, and shall not have been retired, benefits shall be paid in accordance with RCW 41.16.100.

**Sec. 27.** RCW 41.16.120 and 1973 1st ex.s. c 154 s 63 are each amended to read as follows:

Whenever any active ~~((fireman))~~ firefighter or ~~((fireman))~~ firefighter retired for disability shall die as the result of an accident or other fortuitous event occurring while in the performance of his or her duty, his widow or her widower may elect to accept a monthly pension equal to one-half the deceased ~~((fireman's))~~ firefighter's salary but in no case in excess of one hundred fifty dollars per month, or the sum of five thousand dollars cash. The right of election must be exercised within sixty days of the ~~((fireman's))~~ firefighter's death. If not so exercised, the pension benefits shall become fixed and shall be paid from the date of death. Such pension shall cease if, and when, he or she remarries. If there is no widow or widower, then such pension benefits shall be paid to his or her child or children.

**Sec. 28.** RCW 41.16.130 and 1959 c 5 s 7 are each amended to read as follows:

(1) Any ~~((fireman))~~ firefighter who shall become disabled as a result of the performance of his or her duty or duties as defined in this chapter, may be retired at the expiration of six months from the date of his or her disability, upon his or her written request filed with his or her retirement board. The board may upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physicians the board finds the applicant capable of performing his or her duties in the fire department, the board may refuse to recommend his or her retirement.

(2) If the board deems it for the good of the fire department or the pension fund, it may recommend the applicant's retirement without any request therefor by him or her, after giving him or her a thirty days' notice. Upon his or her retirement he or she shall be paid a monthly disability pension in amount equal to one-half of his or her monthly salary at date of retirement, but which shall not exceed one hundred fifty dollars

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

a month. If he or she recovers from his or her disability he or she shall thereupon be restored to active service, with the same rank he or she held when he or she retired.

(3) If the ~~((fireman))~~ firefighter dies during disability and not as a result thereof, RCW 41.16.160 shall apply.

**Sec. 29.** RCW 41.16.140 and 1973 1st ex.s. c 154 s 64 are each amended to read as follows:

Any ~~((fireman))~~ firefighter who has served more than fifteen years and sustains a disability not in the performance of his or her duty which renders him or her unable to continue his or her service, shall within sixty days exercise his or her choice either to receive his or her contribution to the fund, plus earned interest compounded semiannually, or be retired and paid a monthly pension based on the factor of his or her age shown in RCW 41.16.080, times his or her average monthly salary as a member of the fire department of his or her municipality at the date of his or her retirement, times the number of years of service rendered at the time he or she sustained such disability. If such ~~((fireman))~~ firefighter shall die leaving surviving him a wife or surviving her a husband, or child or children, then such wife or husband, or if he leaves no wife or she leaves no husband, then his or her child or children shall receive the sum of his or her contributions, plus accumulated compound interest, and such payment shall be reduced in the amount of the payments made to deceased.

**Sec. 30.** RCW 41.16.145 and 1975-'76 2nd ex.s. c 44 s 1 are each amended to read as follows:

The amount of all benefits payable under the provisions of RCW 41.16.080, 41.16.120, 41.16.130, 41.16.140 and 41.16.230 ~~((as now or hereafter amended.))~~ shall be increased annually as hereafter in this section provided. The local pension board shall meet subsequent to March 31st but prior to June 30th of each year for the purposes of adjusting benefit allowances payable pursuant to the aforementioned sections. The local board shall determine the increase in the consumer price index between January 1st and December 31st of the previous year and increase in dollar amount the benefits payable subsequent to July 1st of the year in which said board makes such determination by a dollar amount proportionate to the increase in the consumer price index: PROVIDED, That regardless of the change in the consumer price index, such increase shall be at least two percent each year such adjustment is made.

Each year effective with the July payment all benefits specified herein, shall be increased by this section. This benefit increase shall be paid monthly as part of the regular pension payment and shall be cumulative. The increased benefits authorized by this section shall not affect any benefit payable under the provisions of chapter 41.16 RCW in which the benefit payment is attached to a current salary of the rank held at time of retirement. A beneficiary of benefit increases provided for pursuant to this section is hereby authorized to appeal a decision on such increases or the failure of the local pension board to order such increased benefits or the amount of such benefits to the Washington law enforcement officers' and firefighters' system retirement board provided for in RCW 41.26.050.

For the purpose of this section the term

"Consumer price index" shall mean, for any calendar year, the consumer price index for the Seattle, Washington area as compiled by the bureau of labor statistics of the United States department of labor.

**Sec. 31.** RCW 41.16.150 and 1973 1st ex.s. c 154 s 65 are each amended to read as follows:

(1) Any ~~((fireman))~~ firefighter who has served twenty years or more and who shall resign or be dismissed, shall have the option of receiving all his or her contributions plus earned interest compounded semiannually, or a monthly pension in the amount of his or her average monthly salary times the number of years of service rendered, times one and one-half percent. Payment of such pension shall commence at the time of severance from the fire department, or at the age of fifty-five years, whichever shall be later. The ~~((fireman))~~ firefighter shall have sixty days from the severance date to elect which option he or she will take. In the event he or she fails to exercise his or her right of election then he or she shall receive the amount of

his or her contributions plus accrued compounded interest. In the event he or she elects such pension, but dies before attaining the age of fifty-five, his widow or her widower, or if he leaves no widow or she leaves no widower, then his or her child or children shall receive only his or her contribution, plus accrued compounded interest. In the event he or she elects to take a pension and dies after attaining the age of fifty-five, his widow or her widower, or if he leaves no widow or she leaves no widower, then child or children shall receive his or her contributions, plus accrued compounded interest, less the amount of pension payments made to such ~~((fireman))~~ firefighter during his or her lifetime.

(2) Any ~~((fireman))~~ firefighter who shall have served for a period of less than twenty years, and shall resign or be dismissed, shall be paid the amount of his or her contributions, plus accrued compounded interest.

**Sec. 32.** RCW 41.16.160 and 1973 1st ex.s. c 154 s 66 are each amended to read as follows:

Whenever any ~~((fireman))~~ firefighter, after four years of service, shall die from natural causes, or from an injury not sustained in the performance of his or her duty and for which no pension is provided in this chapter, and who has not been retired on account of disability, his widow or her widower, if he or she was his wife or her husband at the time he or she was stricken with his or her last illness, or at the time he or she received the injuries from which he or she died; or if there is no such widow, then his or her child or children shall be entitled to the amount of his or her contributions, plus accrued compounded interest, or the sum of one thousand dollars, whichever sum shall be the greater. In case of death as above stated, before the end of four years of service, an amount based on the proportion of the time of service to four years shall paid such beneficiaries.

**Sec. 33.** RCW 41.16.170 and 1973 1st ex.s. c 154 s 67 are each amended to read as follows:

Whenever a ~~((fireman))~~ firefighter dies leaving no widow or widower or children, the amount of his or her accumulated contributions, plus accrued compounded interest only, shall be paid his or her beneficiary.

**Sec. 34.** RCW 41.16.180 and 1959 c 5 s 12 are each amended to read as follows:

Upon the death of any active firefighter, ~~((disabled))~~ firefighter who is disabled, or retired ~~((fireman))~~ firefighter, the board shall pay from the fund the sum of two hundred dollars to assist in defraying the funeral expenses of such ~~((fireman))~~ firefighter.

**Sec. 35.** RCW 41.16.190 and 1959 c 5 s 13 are each amended to read as follows:

No ~~((fireman))~~ firefighter disabled in the performance of duty shall receive a pension until six months has elapsed after such disability was sustained. Therefore, whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a ~~((fireman))~~ firefighter has been disabled while in the performance of his or her duties, it shall declare him or her inactive. For a period of six months from the time he or she became disabled, he or she shall continue to draw full pay from his or her municipality and in addition thereto he or she shall, at the expense of the municipality, be provided with such medical, hospital and nursing care as the retirement board deems proper. If the board finds at the expiration of six months that the ~~((fireman))~~ firefighter is unable to return to and perform his or her duties, then he or she shall be retired as herein provided.

**Sec. 36.** RCW 41.16.200 and 1947 c 91 s 9 are each amended to read as follows:

The board shall require all ~~((firemen))~~ firefighters receiving disability pensions to be examined every six months. All such examinations shall be made by physicians duly appointed by the board. If a ~~((fireman))~~ firefighter shall fail to submit to such examination within ten days of having been so ordered in writing by said retirement board all pensions or benefits paid to said ~~((fireman))~~ firefighter under this chapter, shall immediately cease and the disbursing officer in charge of such payments shall issue no further payments to such ~~((fireman))~~ firefighter. If such ~~((fireman))~~ firefighter fails to present himself or herself for examination within thirty days after being ordered so to do, he

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

or she shall forfeit all rights under this chapter. If such ((fireman)) firefighter, upon examination as aforesaid, shall be found fit for service, he or she shall be restored to duty in the same rank held at the time of his or her retirement, or if unable to perform the duties of said rank, then, at his or her request, in such other rank, the duties of which he or she is then able to perform. The board shall thereupon so notify the ((fireman)) firefighter and shall require him or her to resume his or her duties as a member of the fire department. If, upon being so notified, such member shall fail to report for employment within ten days, he or she shall forfeit all rights to any benefits under this chapter.

**Sec. 37.** RCW 41.16.210 and 1947 c 91 s 10 are each amended to read as follows:

(1) Funds or assets on hand in the ((firemen's)) firefighters' relief and pension fund of any municipality established under the provisions of chapter 50, Laws of 1909, as amended, after payment of warrants drawn upon and payable therefrom, shall, by the city treasurer, be transferred to and placed in the ((firemen's)) firefighters' pension fund created by this chapter; and the ((firemen's)) firefighters' pension fund created by this chapter shall be liable for and there shall be paid therefrom in the order of their issuance any and all unpaid warrants drawn upon said ((firemen's)) firefighters' relief and pension fund.

(2) Any moneys loaned or advanced by a municipality from the general or any other fund of such municipality to the ((firemen's)) firefighters' relief and pension fund created under the provisions of chapter 50, Laws of 1909, as amended, and not repaid shall be an obligation of the ((firemen's)) firefighters' pension fund created under this chapter, and shall at such times and in such amounts as is directed by the board be repaid.

**Sec. 38.** RCW 41.16.220 and 1969 ex.s. c 269 s 7 are each amended to read as follows:

Any person who was a member of the fire department and within the provisions of chapter 50, Laws of 1909, as amended, at the time he or she entered, and who is a veteran, as defined in RCW 41.04.005, shall have added and accredited to his or her period of employment as a ((fireman)) firefighter as computed under this chapter his or her period of war service in such armed forces upon payment by him or her of his or her contribution for the period of his or her absence, at the rate provided by chapter 50, Laws of 1909, as amended, for other members: PROVIDED, HOWEVER, Such accredited service shall not in any case exceed five years.

**Sec. 39.** RCW 41.16.230 and 1973 1st ex.s. c 154 s 68 are each amended to read as follows:

Chapter 50, Laws of 1909; chapter 196, Laws of 1919; chapter 86, Laws of 1929, and chapter 39, Laws of 1935 (secs. 9559 to 9578, incl., Rem. Rev. Stat., secs. 396-1 to 396-43, incl., PPC) and all other acts or parts of acts in conflict herewith are hereby repealed: PROVIDED, That the repeal of said laws shall not affect any ("prior fireman";) "prior firefighter," his widow, her widower, child or children, any ((fireman)) firefighter eligible for retirement but not retired, his widow, her widower, child or children, or the rights of any retired ((fireman)) firefighter, his widow, her widower, child or children, to receive payments and benefits from the ((firemen's)) firefighters' pension fund created under this chapter, in the amount, and in the manner provided by said laws which are hereby repealed and as if said laws had not been repealed.

**Sec. 40.** RCW 41.16.250 and 1963 c 63 s 1 are each amended to read as follows:

If all or any portion of a fire protection district is annexed to or incorporated into a city or town, or is succeeded by a metropolitan municipal corporation or county fire department, no full time paid ((fireman)) firefighter affected by such annexation, incorporation or succession shall receive a reduction in his or her retirement and job security rights: PROVIDED, That this section shall not apply to any retirement and job security rights authorized under chapter 41.24 RCW.

**Sec. 41.** RCW 41.18.010 and 1973 1st ex.s. c 154 s 69 are each amended to read as follows:

For the purpose of this chapter, unless clearly indicated otherwise by the context, words and phrases shall have the meaning hereinafter ascribed.

(1) "Beneficiary" shall mean any person or persons designated by a ((fireman)) firefighter in a writing filed with the board, and who shall be entitled to receive any benefits of a deceased ((fireman)) firefighter under this chapter.

(2) ("Fireman") "Firefighter" means any person hereafter regularly or temporarily, or as a substitute newly employed and paid as a member of a fire department, who has passed a civil service examination for ((fireman)) firefighters and who is actively employed as a ((fireman)) firefighter or, if provided by the municipality by appropriate local legislation, as a fire dispatcher: PROVIDED, Nothing in this 1969 amendatory act shall impair or permit the impairment of any vested pension rights of persons who are employed as fire dispatchers at the time this 1969 amendatory act takes effect; and any person heretofore regularly or temporarily, or as a substitute, employed and paid as a member of a fire department, and who has contributed under and been covered by the provisions of chapter 41.16 RCW as now or hereafter amended and who has come under the provisions of this chapter in accordance with RCW 41.18.170 and who is actively engaged as a ((fireman)) firefighter or as a member of the fire department as a ((fireman)) firefighter or fire dispatcher.

(3) "Retired ((fireman)) firefighter" means and includes a person employed as a ((fireman)) firefighter and retired under the provisions of this chapter.

(4) "Basic salary" means the basic monthly salary, including longevity pay, attached to the rank held by the retired ((fireman)) firefighter at the date of his or her retirement, without regard to extra compensation which such ((fireman)) firefighter may have received for special duties assignments not acquired through civil service examination: PROVIDED, That such basic salary shall not be deemed to exceed the salary of a battalion chief.

(5) "Widow or widower" means the surviving spouse of a ((fireman)) firefighter and shall include the surviving wife or husband of a ((fireman)) firefighter, retired on account of length of service, who was lawfully married to him or to her for a period of five years prior to the time of his or her retirement; and the surviving wife or husband of a ((fireman)) firefighter, retired on account of disability, who was lawfully married to him or her at and prior to the time he or she sustained the injury or contracted the illness resulting in his or her disability. The word shall not mean the divorced wife or husband of an active or retired ((fireman)) firefighter.

(6) "Child" or "children" means a ((fireman's)) firefighter's child or children under the age of eighteen years, unmarried, and in the legal custody of such ((fireman)) firefighter at the time of his death or her death.

(7) "Earned interest" means and includes all annual increments to the ((firemen's)) firefighters' pension fund from income earned by investment of the fund. The earned interest payable to any ((fireman)) firefighter when he or she leaves the service and accepts his or her contributions, shall be that portion of the total earned income of the fund which is directly attributable to each individual ((fireman's)) firefighter's contributions. Earnings of the fund for the preceding year attributable to individual contributions shall be allocated to individual ((firemen's)) firefighters' accounts as of January 1st of each year.

(8) "Board" shall mean the municipal ((firemen's)) firefighters' pension board.

(9) "Contributions" shall mean and include all sums deducted from the salary of ((firemen)) firefighters and paid into the fund as hereinafter provided.

(10) "Disability" shall mean and include injuries or sickness sustained by a ((fireman)) firefighter.

(11) "Fire department" shall mean the regularly organized, full time, paid, and employed force of ((firemen)) firefighters of the municipality.

(12) "Fund" shall have the same meaning as in RCW 41.16.010 as now or hereafter amended. Such fund shall be created in the manner and be subject to the provisions specified in chapter 41.16 RCW as now or hereafter amended.

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

(13) "Municipality" shall mean every city, town and fire protection district having a regularly organized full time, paid, fire department employing ~~((firemen))~~ firefighters.

(14) "Performance of duty" shall mean the performance of work or labor regularly required of ~~((firemen))~~ firefighters and shall include services of an emergency nature normally rendered while off regular duty.

**Sec. 42.** RCW 41.18.015 and 1992 c 6 s 1 are each amended to read as follows:

There is hereby created in each fire protection district which qualifies under this chapter, a ~~((firemen's))~~ firefighters' pension board to consist of the following five members, the ~~((chairman))~~ chairperson of the fire commissioners for said district who shall be ~~((chairman))~~ chairperson of the board, the county auditor, county treasurer, and in addition, two regularly employed or retired firefighters elected by secret ballot of the employed and retired firefighters. Retired members who are subject to the jurisdiction of the pension board have both the right to elect and the right to be elected under this section. The first members to be elected by the firefighters shall be elected annually for a two-year term. The two firefighter elected members shall, in turn, select a third eligible member who shall serve in the event of an absence of one of the regularly elected members. In case a vacancy occurs in the membership of the firefighter or retired members, the members shall in the same manner elect a successor to serve the unexpired term. The board may select and appoint a secretary who may, but need not be a member of the board. In case of absence or inability of the ~~((chairman))~~ chairperson to act, the board may select a ~~((chairman))~~ chairperson pro tempore who shall during such absence or inability perform the duties and exercise the powers of the ~~((chairman))~~ chairperson. A majority of the members of said board shall constitute a quorum and have power to transact business.

**Sec. 43.** RCW 41.18.020 and 1955 c 382 s 2 are each amended to read as follows:

The board, in addition to such general and special powers as are vested in it by the provisions of chapter 41.16 RCW, which powers the board shall have with respect to this chapter shall have power to:

(1) Generally supervise and control the administration of this chapter;

(2) Pass upon and allow or disallow applications for pensions or other benefits provided by this chapter;

(3) Provide for payment from the ~~((firemen's))~~ firefighters' pension fund of necessary expenses of maintenance and administration required by the provisions of this chapter;

(4) Make rules and regulations not inconsistent with this chapter for the purpose of carrying out and effecting the same;

(5) Require the physicians appointed under the provisions of chapter 41.16 RCW, to examine and report to the board upon all applications for relief and pensions under this chapter; and

(6) Perform such acts, receive such compensation and enjoy such immunity as provided in RCW 41.16.040.

**Sec. 44.** RCW 41.18.030 and 1961 c 255 s 2 are each amended to read as follows:

Every ~~((fireman))~~ firefighter to whom this chapter applies shall contribute to the ~~((firemen's))~~ firefighters' pension fund a sum equal to six percent of his or her basic salary which shall be deducted therefrom and placed in the fund.

**Sec. 45.** RCW 41.18.040 and 1973 1st ex.s. c 154 s 70 are each amended to read as follows:

Whenever any ~~((fireman))~~ firefighter, at the time of taking effect of this act or thereafter, shall have been appointed under civil service rules and have served for a period of twenty-five years or more as a member in any capacity of the regularly constituted fire department of any city, town or fire protection district which may be subject to the provisions of this chapter, and shall have attained the age of fifty years, he or she shall be eligible for retirement and shall be retired by the board upon his or her written request. Upon his or her retirement such ~~((fireman))~~ firefighter shall be paid a monthly pension which shall be equal to fifty percent of the basic salary now or hereafter attached to the same rank and status held by the said ~~((fireman))~~ firefighter at the date of his or her retirement:

PROVIDED, That a ~~((fireman))~~ firefighter hereafter retiring who has served as a member for more than twenty-five years, shall have his or her pension payable under this section increased by two percent of the basic salary per year for each full year of such additional service to a maximum of five additional years.

Upon the death of any such retired ~~((fireman))~~ firefighter, his or her pension shall be paid to his widow or her widower, at the same monthly rate that the retired ~~((fireman))~~ firefighter would have received had he or she lived, if such widow or widower was his wife or her husband for a period of five years prior to the time of his or her retirement. If there be no widow or widower, then such monthly payments shall be distributed to and divided among his or her children, share and share alike, until they reach the age of eighteen or are married, whichever occurs first.

**Sec. 46.** RCW 41.18.045 and 1973 1st ex.s. c 154 s 71 are each amended to read as follows:

Upon the death of a ~~((fireman))~~ firefighter who is eligible to retire under RCW 41.18.040 as now or hereafter amended, but who has not retired, a pension shall be paid to his widow or her widower at the same monthly rate that he or she was eligible to receive at the time of his or her death, if such widow or widower was his wife or her husband for a period of five years prior to his or her death. If there be no widow or widower, then such monthly payments shall be distributed to and divided among his or her children, share and share alike, until they reach the age of eighteen or are married, whichever comes first.

This section shall apply retroactively for the benefit of all widows or widowers and survivors of ~~((firemen))~~ firefighters who died after January 1, 1967, if such ~~((firemen))~~ firefighters were otherwise eligible to retire on the date of death.

**Sec. 47.** RCW 41.18.050 and 1955 c 382 s 5 are each amended to read as follows:

Every ~~((fireman))~~ firefighter who shall become disabled as a result of the performance of duty may be retired at the expiration of six months from the date of his or her disability, upon his or her written request filed with his or her retirement board. The board may, upon such request being filed, consult such medical advice as it sees fit, and may have the applicant examined by such physicians as it deems desirable. If from the reports of such physicians the board finds the applicant capable of performing his or her duties in the fire department, the board may refuse to recommend his or her retirement. If, after the expiration of six months from the date of his or her disability, the board deems it for the good of the fire department or the pension fund it may recommend the retirement of a ~~((fireman))~~ firefighter disabled as a result of the performance of duty without any request for the same by him or her, and after having been given by the board a thirty days' written notice of such recommendation he or she shall be retired.

**Sec. 48.** RCW 41.18.060 and 1992 c 22 s 1 are each amended to read as follows:

Whenever the retirement board, pursuant to examination by the board's physician and such other evidence as it may require, shall find a firefighter has been disabled while in the performance of his or her duties it shall declare the firefighter inactive. For a period of six months from the time of the disability the firefighter shall draw from the pension fund a disability allowance equal to his or her basic monthly salary and, in addition, shall be provided with medical, hospital and nursing care as long as the disability exists. The board may, at its discretion, elect to reimburse the ~~((disabled))~~ firefighter who is disabled for premiums the firefighter has paid for medical insurance that supplements medicare, including premiums the firefighter has paid for medicare part B coverage. If the board finds at the expiration of six months that the firefighter is unable to return to and perform his or her duties, the firefighter shall be retired at a monthly sum equal to fifty percent of the amount of his or her basic salary at any time thereafter attached to the rank which he or she held at the date of retirement: PROVIDED, That where, at the time of retirement hereafter for disability under this section, the firefighter has served honorably for a period of more than twenty-five years as a member, in any capacity of the regularly constituted fire department of a

FORTIETH DAY, FEBRUARY 16, 2007

municipality, the firefighter shall have his or her pension payable under this section increased by two percent of his or her basic salary per year for each full year of additional service to a maximum of five additional years.

**Sec. 49.** RCW 41.18.080 and 1973 1st ex.s. c 154 s 72 are each amended to read as follows:

Any ~~((fireman))~~ firefighter who has completed his or her probationary period and has been permanently appointed, and sustains a disability not in the performance of his or her duty which renders him or her unable to continue his or her service, may request to be retired by filing a written request with his or her retirement board within sixty days from the date of his or her disability. The board may, upon such request being filed, consult such medical advice as it deems fit and proper. If the board finds the ~~((fireman))~~ firefighter capable of performing his or her duties, it may refuse to recommend retirement and order the ~~((fireman))~~ firefighter back to duty. If no request for retirement has been received after the expiration of sixty days from the date of his or her disability, the board may recommend retirement of the ~~((fireman))~~ firefighter. The board shall give the ~~((fireman))~~ firefighter a thirty-day written notice of its recommendation, and he or she shall be retired upon expiration of said notice. Upon retirement he or she shall receive a pension equal to fifty percent of his or her basic salary. For a period of ninety days following such disability the ~~((fireman))~~ firefighter shall receive an allowance from the fund equal to his or her basic salary. He or she shall during said ninety days be provided with such medical, hospital, and nursing care as the board deems proper. No funds shall be expended for such disability if the board determines that the ~~((fireman))~~ firefighter was gainfully employed or engaged for compensation in other than fire department duty when the disability occurred, or if such disability was the result of dissipation or abuse. Whenever any ~~((fireman))~~ firefighter shall die as a result of a disability sustained not in the line of duty, his widow or her widower shall receive a monthly pension equal to one-third of his or her basic salary until remarried; if such widow or widower has dependent upon her or him for support a child or children of such deceased ~~((fireman))~~ firefighter, he or she shall receive an additional pension as follows: One child, one-eighth of the deceased's basic salary; two children, one-seventh; three or more children, one-sixth. If there be no widow or widower, monthly payments equal to one-third of the deceased ~~((fireman's))~~ firefighter's basic salary shall be made to his or her child or children. The widow or widower may elect at any time in writing to receive a cash settlement, and if the board after hearing finds it financially beneficial to the pension fund, he or she may receive the sum of five thousand dollars cash in lieu of all future monthly pension payments, and other benefits, including benefits to any child and/or children.

**Sec. 50.** RCW 41.18.090 and 1955 c 382 s 15 are each amended to read as follows:

The board shall require all ~~((firemen))~~ firefighters receiving disability pensions to be examined every six months: PROVIDED, That no such examinations shall be required if upon certification by physicians the board shall formally enter upon its records a finding of fact that the disability is and will continue to be of such a nature that return to active duty can never reasonably be expected. All examinations shall be made by physicians duly appointed by the board. If a ~~((fireman))~~ firefighter shall willfully fail to present himself or herself for examination, within thirty days after being ordered so to do, he or she shall forfeit all rights under this chapter. If such ~~((fireman))~~ firefighter, upon examination as aforesaid, shall be found fit for service, he or she shall be restored to duty in the same rank held at the time of his or her retirement, or if unable to perform the duties of said rank then, at his or her request, in such other like or lesser rank as may be or become open and available, the duties of which he or she is then able to perform. The board shall thereupon so notify the ~~((fireman))~~ firefighter and shall require him or her to resume his or her duties as a member of the fire department. If, upon being so notified, such member shall willfully fail to report for employment within ten days, he or she shall forfeit all rights to any benefit under this chapter.

**Sec. 51.** RCW 41.18.100 and 1975 1st ex.s. c 178 s 4 are each amended to read as follows:

In the event a ~~((fireman))~~ firefighter is killed in the performance of duty, or in the event a ~~((fireman))~~ firefighter retired on account of service connected disability shall die from any cause, his widow or her widower shall receive a monthly pension under one of the following applicable provisions: (1) If a ~~((fireman))~~ firefighter is killed in the line of duty his widow or her widower shall receive a monthly pension equal to fifty percent of his or her basic salary at the time of his or her death; (2) if a ~~((fireman))~~ firefighter who has retired on account of a service connected disability dies, his widow or her widower shall receive a monthly pension equal to the amount of the monthly pension such retired ~~((fireman))~~ firefighter was receiving at the time of his or her death. If she or he at any time so elects in writing and the board after hearing finds it to be financially beneficial to the pension fund, he or she may receive in lieu of all future monthly pension and other benefits, including benefits to child or children, the sum of five thousand dollars in cash. If there be no widow or widower at the time of such ~~((fireman's))~~ firefighter's death or upon the widow's or widower's death the monthly pension benefits hereinabove provided for shall be paid to and divided among his or her child or children share and share alike, until they reach the age of eighteen or are married, whichever occurs first. The widow's or widower's monthly pension benefit, including increased benefits to his or her children shall cease if and when he or she remarries: PROVIDED, That no pension payable under the provisions of this section shall be less than that specified under RCW 41.18.200.

**Sec. 52.** RCW 41.18.102 and 1969 ex.s. c 209 s 32 are each amended to read as follows:

The provisions of RCW 41.18.040 and 41.18.100 shall be applicable to all ~~((firemen))~~ firefighters employed prior to March 1, 1970, but shall not apply to any former ~~((fireman))~~ firefighter who has terminated his or her employment prior to July 1, 1969.

**Sec. 53.** RCW 41.18.130 and 1969 ex.s. c 209 s 31 are each amended to read as follows:

Any ~~((fireman))~~ firefighter who shall have served for a period of less than twenty-five years, or who shall be less than fifty years of age, and shall resign, or be dismissed from the fire department for a reason other than conviction for a felony, shall be paid the amount of his or her contributions to the fund plus earned interest: PROVIDED, That in the case of any ~~((fireman))~~ firefighter who has completed twenty years of service, such ~~((fireman))~~ firefighter, upon termination for any cause except for a conviction of a felony, shall have the option of electing, in lieu of recovery of his or her contributions as herein provided, to be classified as a vested ~~((fireman))~~ firefighter in accordance with the following provisions:

(1) Written notice of such election shall be filed with the board within thirty days after the effective date of such ~~((fireman's))~~ firefighter's termination;

(2) During the period between the date of his or her termination and the date upon which he or she becomes a retired ~~((fireman))~~ firefighter as hereinafter provided, such vested ~~((fireman))~~ firefighter and his or her spouse or dependent children shall be entitled to all benefits available under chapter 41.18 RCW to a retired ~~((fireman))~~ firefighter and his or her spouse or dependent children with the exception of the service retirement allowance as herein provided for: PROVIDED, That any claim for medical coverage under RCW 41.18.060 shall be attributable to service connected illness or injury;

(3) Any ~~((fireman))~~ firefighter electing to become a vested ~~((fireman))~~ firefighter shall be entitled at such time as he or she otherwise would have completed twenty-five years of service had he or she not terminated, to receive a service retirement allowance computed on the following basis: Two percent of the amount of salary attached to the position held by the vested ~~((fireman))~~ firefighter for the year preceding the date of his or her termination, for each year of service rendered prior to the date of his or her termination.

**Sec. 54.** RCW 41.18.140 and 1961 c 255 s 7 are each amended to read as follows:



FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

The board shall pay from the ~~((firemen's))~~ firefighters' pension fund upon the death of any active or retired ~~((fireman))~~ firefighter the sum of five hundred dollars, to assist in defraying the funeral expenses of such ~~((fireman))~~ firefighter.

**Sec. 55.** RCW 41.18.150 and 1955 c 382 s 14 are each amended to read as follows:

Every person who was a member of the fire department at the time he or she entered and served in the armed forces of the United States in time of war, whether as a draftee, or inductee, and who shall have been discharged from such armed forces under conditions other than dishonorable, shall have added and accredited to his or her period of employment as a ~~((fireman))~~ firefighter his or her period of war or peacetime service in the armed forces: PROVIDED, That such added and accredited service shall not as to any individual exceed five years.

**Sec. 56.** RCW 41.18.160 and 1955 c 382 s 17 are each amended to read as follows:

Every ~~((fireman))~~ firefighter as defined in this chapter heretofore employed as a member of a fire department, whether or not as a prior ~~((fireman))~~ firefighter as defined in chapter 41.16 RCW, who desires to make the contributions and avail himself or herself of the pension and other benefits of said chapter 41.16 RCW, can do so by handing to and leaving with the ~~((firemen's))~~ firefighters' pension board of his or her municipality a written notice of such intention within sixty days of the effective date of this chapter, or if he or she was on disability retirement under chapter 41.16 RCW, at the effective date of this chapter and has been recalled to active duty by the retirement board, shall give such notice within sixty days of his or her return to active duty, and not otherwise.

**Sec. 57.** RCW 41.18.165 and 1959 c 69 s 1 are each amended to read as follows:

Every person who was a member of a fire-fighting organization operated by a private enterprise, which fire-fighting organization shall be hereafter acquired before September 1, 1959, by a municipality as its fire department as a matter of public convenience or necessity, where it is in the public interest to retain the trained personnel of such fire-fighting organization, shall have added and accredited to his or her period of employment as a ~~((fireman))~~ firefighter his or her period of service with said private enterprise, except that this shall apply only to those persons who are in the service of such fire-fighting organization at the time of its acquisition by the municipality and who remain in the service of that municipality until this chapter shall become applicable to such persons.

No such person shall have added and accredited to his or her period of employment as a ~~((fireman))~~ firefighter his or her period of service with said private enterprise unless he, she, or a third party shall pay to the municipality his or her contribution for the period of such service with the private enterprise at the rate provided in RCW 41.18.030, or, if he or she shall be entitled to any private pension or retirement benefits as a result of such service with the private enterprise, unless he or she agrees at the time of his or her employment by the municipality to accept a reduction in the payment of any benefits payable under this chapter that are based in whole or in part on such added and accredited service by the amount of those private pension or retirement benefits received. For the purposes of RCW 41.18.030, the date of entry of service shall be deemed the date of entry into service with the private enterprise, which service is accredited by this section, and the amount of contributions for the period of accredited service shall be based on the wages or salary of such person during that added and accredited period of service with the private enterprise.

The city may receive payments for these purposes from a third party and shall make from such payments contributions with respect to such prior service as may be necessary to enable the fund to assume its obligations.

**Sec. 58.** RCW 41.18.170 and 1955 c 382 s 16 are each amended to read as follows:

The provisions of this chapter governing contributions, pensions, and benefits shall have exclusive application (1) to ~~((firemen))~~ firefighters as defined in this chapter hereafter becoming members of a fire department, (2) to ~~((firemen))~~ firefighters as defined in this chapter heretofore employed in a

department who have not otherwise elected as provided for in RCW 41.18.160, and (3) to ~~((firemen))~~ firefighters on disability retirement under chapter 41.16 RCW, at the effective date of this chapter, who thereafter shall have been returned to active duty by the retirement board, and who have not otherwise elected as provided for in RCW 41.18.160 within sixty days after return to active duty.

**Sec. 59.** RCW 41.18.180 and 1961 c 255 s 12 are each amended to read as follows:

Any ~~((fireman))~~ firefighter who has made contributions under any prior act may elect to avail himself or herself of the benefits provided by this chapter or under such prior act by filing written notice with the board within sixty days from the effective date of this 1961 amendatory act: PROVIDED, That any ~~((fireman))~~ firefighter who has received refunds by reason of selecting the benefits of prior acts shall return the amount of such refunds as a condition to coverage under this 1961 amendatory act.

**Sec. 60.** RCW 41.18.190 and 1969 ex.s. c 209 s 41 are each amended to read as follows:

Any ~~((fireman))~~ firefighter as defined in RCW 41.18.010 who has prior to July 1, 1969 been employed as a member of a fire department and who desires to make contributions and avail himself or herself of the pension and other benefits of chapter 41.18 RCW as now law or hereafter amended, may transfer his or her membership from any other pension fund, except the Washington law enforcement officers' and firefighters' retirement system, to the pension fund provided in chapter 41.18 RCW: PROVIDED, That such ~~((fireman))~~ firefighter transmits written notice of his or her intent to transfer to the pension board of his or her municipality prior to September 1, 1969.

**Sec. 61.** RCW 41.18.210 and 1974 ex.s. c 148 s 1 are each amended to read as follows:

Any former employee of a department of a city of the first class, who (1) was a member of the employees' retirement system of such city, and (2) is now employed within the fire department of such city, may transfer his or her former membership credit from the city employees' retirement system to the ~~((fireman's))~~ firefighter's pension system created by chapters 41.16 and 41.18 RCW by filing a written request with the board of administration and the municipal ~~((fireman's))~~ firefighters' pension board, respectively.

Upon the receipt of such request, the transfer of membership to the city's ~~((fireman's))~~ firefighter's pension system shall be made, together with a transfer of all accumulated contributions credited to such member. The board of administration shall transmit to the municipal ~~((fireman's))~~ firefighters' pension board a record of service credited to such member which shall be computed and credited to such member as a part of his or her period of employment in the city's ~~((fireman's))~~ firefighter's pension system. For the purpose of the transfer contemplated by this section, those affected individuals who have formerly withdrawn funds from the city employees' retirement system shall be allowed to restore contributions withdrawn from that retirement system directly to the ~~((fireman's))~~ firefighter's pension system and receive credit in the ~~((fireman's))~~ firefighter's pension system for their former membership service in the prior system.

Any employee so transferring shall have all the rights, benefits, and privileges that he or she would have been entitled to had he or she been a member of the city's ~~((fireman's))~~ firefighter's pension system from the beginning of his or her employment with the city.

No person so transferring shall thereafter be entitled to any other public pension, except that provided by chapter 41.26 RCW or social security, which is based upon such service with the city.

The right of any employee to file a written request for transfer of membership as set forth in this section shall expire December 31, 1974.

**Sec. 62.** RCW 9.40.130 and 1971 ex.s. c 302 s 5 are each amended to read as follows:

RCW 9.40.120, as now or hereafter amended, shall not prohibit the authorized use or possession of any material, substance, or device described therein by a member of the armed forces of the United States or by ~~((firemen))~~ firefighters, or

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

peace officers, nor shall these sections prohibit the use or possession of any material, substance, or device described therein when used solely for scientific research or educational purposes or for any lawful purpose. RCW 9.40.120, as now or hereafter amended, shall not prohibit the manufacture or disposal of an incendiary device for the parties or purposes described in this section.

**Sec. 63.** RCW 9A.48.020 and 1981 c 203 s 2 are each amended to read as follows:

(1) A person is guilty of arson in the first degree if he or she knowingly and maliciously:

(a) Causes a fire or explosion which is manifestly dangerous to any human life, including ((firemen)) firefighters; or

(b) Causes a fire or explosion which damages a dwelling; or

(c) Causes a fire or explosion in any building in which there shall be at the time a human being who is not a participant in the crime; or

(d) Causes a fire or explosion on property valued at ten thousand dollars or more with intent to collect insurance proceeds.

(2) Arson in the first degree is a class A felony.

**Sec. 64.** RCW 19.09.100 and 1994 c 287 s 2 are each amended to read as follows:

The following conditions apply to solicitations as defined by RCW 19.09.020:

(1) A charitable organization, whether or not required to register pursuant to this chapter, that directly solicits contributions from the public in this state shall make the following clear and conspicuous disclosures at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The identity of the charitable organization and the city of the principal place of business of the charitable organization;

(c) If requested by the solicitee, the published number in the office of the secretary for the donor to obtain additional financial disclosure information on file with the secretary.

(2) A commercial fund raiser shall clearly and conspicuously disclose at the point of solicitation:

(a) The name of the individual making the solicitation;

(b) The name of the entity for which the fund raiser is an agent or employee and the name and city of the charitable organization for which the solicitation is being conducted; and

(c) If requested by the solicitee, the published number in the office of the secretary for the donor to obtain additional financial disclosure information on file with the secretary. The disclosure must be made during an oral solicitation of a contribution, and at the same time at which a written request for a contribution is made.

(3) A person or organization soliciting charitable contributions by telephone shall make the disclosures required under subsection (1) or (2) of this section in the course of the solicitation but prior to asking for a commitment for a contribution from the solicitee, and in writing to any solicitee that makes a pledge within five working days of making the pledge. If the person or organization sends any materials to the person or organization solicited before the receipt of any contribution, those materials shall include the disclosures required in subsection (1) or (2) of this section, whichever is applicable.

(4) In the case of a solicitation by advertisement or mass distribution, including posters, leaflets, automatic dialing machines, publication, and audio or video broadcasts, it shall be clearly and conspicuously disclosed in the body of the solicitation material that:

(a) The solicitation is conducted by a named commercial fund raiser, if it is;

(b) The notice of solicitation required by the charitable solicitation act is on file with the secretary's office; and

(c) The potential donor can obtain additional financial disclosure information at a published number in the office of the secretary.

(5) A container or vending machine displaying a solicitation must also display in a clear and conspicuous manner the name of the charitable organization for which funds are solicited, the name, business address, and telephone number of the individual

and any commercial fund raiser responsible for collecting funds placed in the containers or vending machines, and the following statement: "This charity is currently registered with the secretary's office under the charitable solicitation act, registration number . . . ."

(6) A commercial fund raiser shall not represent that tickets to any fund raising event will be donated for use by another person unless all the following requirements are met:

(a) The commercial fund raiser prior to conducting a solicitation has written commitments from persons stating that they will accept donated tickets and specifying the number of tickets they will accept;

(b) The written commitments are kept on file by the commercial fund raiser for three years and are made available to the secretary, attorney general, or county prosecutor on demand;

(c) The contributions solicited for donated tickets may not be more than the amount representing the number of ticket commitments received from persons and kept on file under (a) of this subsection; and

(d) Not later than seven calendar days prior to the date of the event for which ticket donations are solicited, the commercial fund raiser shall give all donated tickets to the persons who made the written commitments to accept them.

(7) Each person or organization soliciting charitable contributions shall not represent orally or in writing that:

(a) The charitable contribution is tax deductible unless the charitable organization for which charitable contributions are being solicited or to which tickets for fund raising events or other services or goods will be donated, has applied for and received from the internal revenue service a letter of determination granting tax deductible status to the charitable organization;

(b) The person soliciting the charitable contribution is a volunteer or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor unless such person is unpaid for his or her services;

(c) The person soliciting the charitable contribution is a member, staffer, helper, or employee of the charitable organization or words of similar meaning or effect that create the impression that the person soliciting is not a paid solicitor if the person soliciting is employed, contracted, or paid by a commercial fund raiser.

(8) If the charitable organization is associated with, or has a name that is similar to, any unit of government each person or organization soliciting contributions shall disclose to each person solicited whether the charitable organization is or is not part of any unit of government and the true nature of its relationship to the unit of government. This subsection does not apply to a foundation or other charitable organization that is organized, operated, or controlled by or in connection with a registered public charity, including any governmental agency or unit, from which it derives its name.

(9) No person may, in conducting any solicitation, use the name "police," "sheriff," "fire fighter," ((~~"firemen,"~~)) "firefighters," or a similar name unless properly authorized by a bona fide police, sheriff, or fire fighter organization or police, sheriff, or fire department. A proper authorization shall be in writing and signed by two authorized officials of the organization or department and shall be filed with the secretary.

(10) A person may not, in conducting any solicitation, use the name of a federally chartered or nationally recognized military veterans' service organization as determined by the United States veterans' administration unless authorized in writing by the highest ranking official of that organization in this state.

(11) A charitable organization shall comply with all local governmental regulations that apply to soliciting for or on behalf of charitable organizations.

(12) The advertising material and the general promotional plan for a solicitation shall not be false, misleading, or deceptive, and shall afford full and fair disclosure.

(13) Solicitations shall not be conducted by a charitable organization or commercial fund raiser that has, or if a corporation, its officers, directors, or principals have, been convicted of a crime involving solicitations for or on behalf of a charitable organization in this state, the United States, or any

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

other state or foreign country within the past ten years or has been subject to any permanent injunction or administrative order or judgment under RCW 19.86.080 or 19.86.090, involving a violation or violations of RCW 19.86.020, within the past ten years, or of restraining a false or misleading promotional plan involving solicitations for charitable organizations.

(14) No charitable organization or commercial fund raiser subject to this chapter may use or exploit the fact of registration under this chapter so as to lead the public to believe that registration constitutes an endorsement or approval by the state, but the use of the following is not deemed prohibited: "Currently registered with the Washington state secretary of state as required by law. Registration number . . ."

(15) No entity may engage in any solicitation for contributions for or on behalf of any charitable organization or commercial fund raiser unless the charitable organization or commercial fund raiser is currently registered with the secretary.

(16) No entity may engage in any solicitation for contributions unless it complies with all provisions of this chapter.

(17)(a) No entity may place a telephone call for the purpose of charitable solicitation that will be received by the solicitee before eight o'clock a.m. or after nine o'clock p.m.

(b) No entity may, while placing a telephone call for the purpose of charitable solicitation, engage in any conduct the natural consequence of which is to harass, intimidate, or torment any person in connection with the telephone call.

(18) Failure to comply with subsections (1) through (17) of this section is a violation of this chapter.

**Sec. 65.** RCW 35.17.100 and 1965 c 7 s 35.17.100 are each amended to read as follows:

Every member of the city commission, before qualifying, shall give a good and sufficient bond to the city in a sum equivalent to five times the amount of his or her annual salary, conditioned for the faithful performance of the duties of his or her office. The bonds must be approved by a judge of the superior court for the county in which the city is located and filed with the clerk thereof. The commission, by resolution, may require any of its appointees to give bond to be fixed and approved by the commission and filed with the mayor.

**Sec. 66.** RCW 35A.11.020 and 1993 c 83 s 8 are each amended to read as follows:

The legislative body of each code city shall have power to organize and regulate its internal affairs within the provisions of this title and its charter, if any; and to define the functions, powers, and duties of its officers and employees; within the limitations imposed by vested rights, to fix the compensation and working conditions of such officers and employees and establish and maintain civil service, or merit systems, retirement and pension systems not in conflict with the provisions of this title or of existing charter provisions until changed by the people: PROVIDED, That nothing in this section or in this title shall permit any city, whether a code city or otherwise, to enact any provisions establishing or respecting a merit system or system of civil service for ~~((firemen))~~ firefighters and ~~((policemen))~~ police officers which does not substantially accomplish the same purpose as provided by general law in chapter 41.08 RCW for ~~((firemen))~~ firefighters and chapter 41.12 RCW for ~~((policemen))~~ police officers now or as hereafter amended, or enact any provision establishing or respecting a pension or retirement system for ~~((firemen))~~ firefighters or ~~((policemen))~~ police officers which provides different pensions or retirement benefits than are provided by general law for such classes.

Such body may adopt and enforce ordinances of all kinds relating to and regulating its local or municipal affairs and appropriate to the good government of the city, and may impose penalties of fine not exceeding five thousand dollars or imprisonment for any term not exceeding one year, or both, for the violation of such ordinances, constituting a misdemeanor or gross misdemeanor as provided therein. However, the punishment for any criminal ordinance shall be the same as the punishment provided in state law for the same crime. Such a body alternatively may provide that violation of such ordinances

constitutes a civil violation subject to monetary penalty, but no act which is a state crime may be made a civil violation.

The legislative body of each code city shall have all powers possible for a city or town to have under the Constitution of this state, and not specifically denied to code cities by law. By way of illustration and not in limitation, such powers may be exercised in regard to the acquisition, sale, ownership, improvement, maintenance, protection, restoration, regulation, use, leasing, disposition, vacation, abandonment or beautification of public ways, real property of all kinds, waterways, structures, or any other improvement or use of real or personal property, in regard to all aspects of collective bargaining as provided for and subject to the provisions of chapter 41.56 RCW, as now or hereafter amended, and in the rendering of local social, cultural, recreational, educational, governmental, or corporate services, including operating and supplying of utilities and municipal services commonly or conveniently rendered by cities or towns.

In addition and not in limitation, the legislative body of each code city shall have any authority ever given to any class of municipality or to all municipalities of this state before or after the enactment of this title, such authority to be exercised in the manner provided, if any, by the granting statute, when not in conflict with this title. Within constitutional limitations, legislative bodies of code cities shall have within their territorial limits all powers of taxation for local purposes except those which are expressly preempted by the state as provided in RCW 66.08.120, 82.36.440, 48.14.020, and 48.14.080.

**Sec. 67.** RCW 35.27.240 and 1987 c 3 s 13 are each amended to read as follows:

The department of police in a town shall be under the direction and control of the marshal subject to the direction of the mayor. He or she may pursue and arrest violators of town ordinances beyond the town limits.

~~((He))~~ The marshal's lawful orders shall be promptly executed by deputies, police officers and ~~((watchmen))~~ watchpersons. Every citizen shall lend him or her aid, when required, for the arrest of offenders and maintenance of public order. He or she may appoint, subject to the approval of the mayor, one or more deputies, for whose acts he and his ~~((bondsmen))~~ or her bondspersons shall be responsible, whose compensation shall be fixed by the council. With the concurrence of the mayor, ~~((he))~~ the marshal may appoint additional ~~((policemen))~~ police officers for one day only when necessary for the preservation of public order.

~~((He))~~ The marshal shall have the same authority as that conferred upon sheriffs for the suppression of any riot, public tumult, disturbance of the peace, or resistance against the laws or public authorities in the lawful exercise of their functions and shall be entitled to the same protection.

~~((He))~~ The marshal shall execute and return all process issued and directed to him or her by any legal authority and for his or her services shall receive the same fees as are paid to constables. ~~((He))~~ The marshal shall perform such other services as the council by ordinance may require.

**Sec. 68.** RCW 35.66.040 and 1965 c 7 s 35.66.040 are each amended to read as follows:

A police matron must be paid such compensation for her services as shall be fixed by the city council and at such time as may be appointed for the payment of ~~((policemen))~~ police officers.

**Sec. 69.** RCW 35.75.050 and 1965 c 7 s 35.75.050 are each amended to read as follows:

The city or town council shall by ordinance provide that the whole amount or any amount not less than seventy-five percent of all license fees, penalties or other moneys collected under the authority of this chapter shall be paid into and placed to the credit of a special fund to be known as the "bicycle road fund." The moneys in the bicycle road fund shall not be transferred to any other fund and shall be paid out for the sole purpose of building and maintaining bicycle paths and roadways authorized to be constructed and maintained by this chapter or for special ~~((policemen))~~ police officers, bicycle tags, stationery and other expenses growing out of the regulating and licensing of the riding of bicycles and other vehicles and the construction,

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

maintenance and regulation of the use of bicycle paths and roadways.

**Sec. 70.** RCW 35.88.020 and 1965 c 7 s 35.88.020 are each amended to read as follows:

Every city and town may by ordinance prescribe what acts shall constitute offenses against the purity of its water supply and the punishment or penalties therefor and enforce them. The mayor of each city and town may appoint special (~~police~~) police officers, with such compensation as the city or town may fix, who shall, after taking oath, have the powers of constables, and who may arrest with or without warrant any person committing, within the territory over which any city or town is given jurisdiction by this chapter, any offense declared by law or by ordinance, against the purity of the water supply, or which violate any rule or regulation lawfully promulgated by the state board of health for the protection of the purity of such water supply. Every special (~~police~~) police officer whose appointment is authorized herein may take any person arrested for any such offense or violation before any court having jurisdiction thereof to be proceeded with according to law. Every such special (~~police~~) police officer shall, when on duty wear in plain view a badge or shield bearing the words "special police" and the name of the city or town by which he or she has been appointed.

**Sec. 71.** RCW 41.44.060 and 1951 c 275 s 3 are each amended to read as follows:

(~~Police~~) Police officers in first class cities and all city (~~firemen~~) firefighters shall be excluded from the provisions of this chapter, except those employees of the fire department who are not eligible to the benefits of any (~~firemen's~~) firefighters' pension system established by or pursuant to state law, and who shall be included in the miscellaneous personnel.

**Sec. 72.** RCW 41.48.030 and 1971 ex.s. c 257 s 19 are each amended to read as follows:

(1) The governor is hereby authorized to enter on behalf of the state into an agreement with the secretary of health, education, and welfare consistent with the terms and provisions of this chapter, for the purpose of extending the benefits of the federal old-age and survivors insurance system to employees of the state or any political subdivision not members of an existing retirement system, or to members of a retirement system established by the state or by a political subdivision thereof or by an institution of higher learning with respect to services specified in such agreement which constitute "employment" as defined in RCW 41.48.020. Such agreement may contain such provisions relating to coverage, benefits, contributions, effective date, modification and termination of the agreement, administration, and other appropriate provisions as the governor and secretary of health, education, and welfare shall agree upon, but, except as may be otherwise required by or under the social security act as to the services to be covered, such agreement shall provide in effect that--

(a) Benefits will be provided for employees whose services are covered by the agreement (and their dependents and survivors) on the same basis as though such services constituted employment within the meaning of title II of the social security act;

(b) The state will pay to the secretary of the treasury, at such time or times as may be prescribed under the social security act, contributions with respect to wages (as defined in RCW 41.48.020), equal to the sum of the taxes which would be imposed by the federal insurance contributions act if the services covered by the agreement constituted employment within the meaning of that act;

(c) Such agreement shall be effective with respect to services in employment covered by the agreement or modification thereof performed after a date specified therein but in no event may it be effective with respect to any such services performed prior to the first day of the calendar year immediately preceding the calendar year in which such agreement or modification of the agreement is accepted by the secretary of health, education and welfare.

(d) All services which constitute employment as defined in RCW 41.48.020 and are performed in the employ of the state by employees of the state, shall be covered by the agreement;

(e) All services which (i) constitute employment as defined in RCW 41.48.020, (ii) are performed in the employ of a political subdivision of the state, and (iii) are covered by a plan which is in conformity with the terms of the agreement and has been approved by the governor under RCW 41.48.050, shall be covered by the agreement; and

(f) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals to whom section 218(c)(3)(C) of the social security act is applicable, and shall provide that the service of any such individual shall continue to be covered by the agreement in case he thereafter becomes eligible to be a member of a retirement system; and

(g) As modified, the agreement shall include all services described in either paragraph (d) or paragraph (e) of this subsection and performed by individuals in positions covered by a retirement system with respect to which the governor has issued a certificate to the secretary of health, education, and welfare pursuant to subsection (5) of this section.

(h) Law enforcement officers and (~~firemen~~) firefighters of each political subdivision of this state who are covered by the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Act (chapter 209, Laws of 1969 ex. sess.) as now in existence or hereafter amended shall constitute a separate "coverage group" for purposes of the agreement entered into under this section and for purposes of section 218 of the social security act. To the extent that the agreement between this state and the federal secretary of health, education, and welfare in existence on the date of adoption of this subsection is inconsistent with this subsection, the governor shall seek to modify the inconsistency.

(2) Any instrumentality jointly created by this state and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (a) to enter into an agreement with the secretary of health, education, and welfare whereby the benefits of the federal old-age and survivors insurance system shall be extended to employees of such instrumentality, (b) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under RCW 41.48.040(1) if they were covered by an agreement made pursuant to subsection (1) of this section, and (c) to make payments to the secretary of the treasury in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of subsection (1) and other provisions of this chapter.

(3) The governor is empowered to authorize a referendum, and to designate an agency or individual to supervise its conduct, in accordance with the requirements of section 218(d)(3) of the social security act, and subsection (4) of this section on the question of whether service in all positions covered by a retirement system established by the state or by a political subdivision thereof should be excluded from or included under an agreement under this chapter. If a retirement system covers positions of employees of the state of Washington, of the institutions of higher learning, and positions of employees of one or more of the political subdivisions of the state, then for the purpose of the referendum as provided herein, there may be deemed to be a separate retirement system with respect to employees of the state, or any one or more of the political subdivisions, or institutions of higher learning and the governor shall authorize a referendum upon request of the subdivisions' or institutions' of higher learning governing body: PROVIDED HOWEVER, That if a referendum of state employees generally fails to produce a favorable majority vote then the governor may authorize a referendum covering positions of employees in any state department who are compensated in whole or in part from grants made to this state under title III of the federal social security act: PROVIDED, That any city or town affiliated with the statewide city employees retirement system organized under chapter 41.44 RCW may at its option agree to a plan submitted by the board of trustees of said statewide city employees retirement system for inclusion under an agreement under this chapter if the

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

referendum to be held as provided herein indicates a favorable result: PROVIDED FURTHER, That the teachers' retirement system be considered one system for the purpose of the referendum except as applied to the several colleges of education. The notice of referendum required by section 218(d)(3)(C) of the social security act to be given to employees shall contain or shall be accompanied by a statement, in such form and such detail as the agency or individual designated to supervise the referendum shall deem necessary and sufficient, to inform the employees of the rights which will accrue to them and their dependents and survivors, and the liabilities to which they will be subject, if their services are included under an agreement under this chapter.

(4) The governor, before authorizing a referendum, shall require the following conditions to be met:

(a) The referendum shall be by secret written ballot on the question of whether service in positions covered by such retirement system shall be excluded from or included under the agreement between the governor and the secretary of health, education, and welfare provided for in RCW 41.48.030(1);

(b) An opportunity to vote in such referendum shall be given and shall be limited to eligible employees;

(c) Not less than ninety days' notice of such referendum shall be given to all such employees;

(d) Such referendum shall be conducted under the supervision (of the governor or) of an agency or individual designated by the governor;

(e) The proposal for coverage shall be approved only if a majority of the eligible employees vote in favor of including services in such positions under the agreement;

(f) The state legislature, in the case of a referendum affecting the rights and liabilities of state employees covered under the state employees' retirement system and employees under the teachers' retirement system, and in all other cases the local legislative authority or governing body, shall have specifically approved the proposed plan and approved any necessary structural adjustment to the existing system to conform with the proposed plan.

(5) Upon receiving satisfactory evidence that with respect to any such referendum the conditions specified in subsection (4) of this section and section 218(d)(3) of the social security act have been met, the governor shall so certify to the secretary of health, education, and welfare.

(6) If the legislative body of any political subdivision of this state certifies to the governor that a referendum has been held under the terms of RCW 41.48.050(1)(i) and gives notice to the governor of termination of social security for any coverage group of the political subdivision, the governor shall give two years advance notice in writing to the federal department of health, education, and welfare of such termination of the agreement entered into under this section with respect to said coverage group.

**Sec. 73.** RCW 46.37.185 and 1987 c 330 s 709 are each amended to read as follows:

~~(Firemen)~~ **Firefighters**, when approved by the chief of their respective service, shall be authorized to use a green light on the front of their private cars when on emergency duty only. Such green light shall be visible for a distance of two hundred feet under normal atmospheric conditions and shall be of a type and mounting approved by the Washington state patrol. The use of the green light shall only be for the purpose of identification and the operator of a vehicle so equipped shall not be entitled to any of the privileges provided in RCW 46.61.035 for the operators of authorized emergency vehicles.

**Sec. 74.** RCW 81.28.080 and 1973 1st ex.s. c 154 s 117 are each amended to read as follows:

No common carrier shall charge, demand, collect or receive a greater or less or different compensation for transportation of persons or property, or for any service in connection therewith, than the rates, fares and charges applicable to such transportation as specified in its schedules filed and in effect at the time; nor shall any such carrier refund or remit in any manner or by any device any portion of the rates, fares, or charges so specified excepting upon order of the commission as hereinafter provided, nor extend to any shipper or person any

privileges or facilities in the transportation of passengers or property except such as are regularly and uniformly extended to all persons and corporations under like circumstances. No common carrier shall, directly or indirectly, issue or give any free ticket, free pass or free or reduced transportation for passengers between points within this state, except its employees and their families, surgeons and physicians and their families, its officers, agents and attorneys at law; to ministers of religion, traveling secretaries of railroad Young Men's Christian Associations, inmates of hospitals, charitable and eleemosynary institutions and persons exclusively engaged in charitable and eleemosynary work; to indigent, destitute and homeless persons and to such persons when transported by charitable societies or hospitals, and the necessary agents employed in such transportation; to inmates of the national homes or state homes for disabled volunteer soldiers and of soldiers' and sailors' homes, including those about to enter and those returning home after discharge; to necessary caretakers of livestock, poultry, milk and fruit; to employees of sleeping car companies, express companies, and to ~~(firemen)~~ lineworkers of telegraph and telephone companies; to railway mail service employees, post office inspectors, customs inspectors and immigration inspectors; to ~~(newsboys)~~ newspaper delivery persons on trains; baggage agents, witnesses attending any legal investigation in which the common carrier is interested; to persons injured in accidents or wrecks and physicians and nurses attending such persons; to the National Guard of Washington when on official duty, and students going to and returning from state institutions of learning: PROVIDED, That this provision shall not be construed to prohibit the interchange of passes for the officers, attorneys, agents and employees and their families, of railroad companies, steamboat companies, express companies and sleeping car companies with other railroad companies, steamboat companies, express companies and sleeping car companies, nor to prohibit any common carrier from carrying passengers free with the object of providing relief in cases of general epidemic, pestilence, or other calamitous visitation: AND PROVIDED, FURTHER, That this provision shall not be construed to prohibit the exchange of passes or franks for the officers, attorneys, agents, employees, and their families of such telegraph, telephone and cable lines, and the officers, attorneys, agents, employees, and their families of other telegraph, telephone or cable lines, or with railroad companies, express companies or sleeping car companies: PROVIDED, FURTHER, That the term "employee" as used in this section shall include furloughed, pensioned, and superannuated employees, persons who have become disabled or infirm in the service of any such common carrier, and the remains of a person killed or dying in the employment of a carrier, those entering or leaving its service and ex-employees traveling for the purpose of entering the service of any such common carrier; and the term "families" as used in this section shall include the families of those persons named in this proviso, also the families of persons killed and the surviving spouses prior to remarriage and minor children during minority, of persons who died while in the service of any such common carrier: AND PROVIDED, FURTHER, That nothing herein contained shall prevent the issuance of mileage, commutation tickets or excursion passenger tickets: AND PROVIDED, FURTHER, That nothing in this section shall be construed to prevent the issuance of free or reduced transportation by any street railroad company for mail carriers, or ~~(policemen)~~ police officers or members of fire departments, city officers, and employees when engaged in the performance of their duties as such city employees.

Common carriers subject to the provisions of this title may carry, store or handle, free or at reduced rates, property for the United States, state, county or municipal governments, or for charitable purposes, or to or from fairs and exhibitions for exhibition thereat, and may carry, store or handle, free or at reduced rates, the household goods and personal effects of its employees and those entering or leaving its service and those killed or dying while in its service.

Nothing in this title shall be construed to prohibit the making of a special contract providing for the mutual exchange of service between any railroad company and any telegraph or

FORTIETH DAY, FEBRUARY 16, 2007

telephone company, where the line of such telegraph or telephone company is situated upon or along the railroad right of way and used by both of such companies.

**Sec. 75.** RCW 35.23.121 and 1995 c 301 s 36 are each amended to read as follows:

The city clerk shall keep a full and true record of every act and proceeding of the city council and keep such books, accounts and make such reports as may be required by the state auditor. The city clerk shall record all ordinances, annexing thereto his or her certificate giving the number and title of the ordinance, stating that the ordinance was published and posted according to law and that the record is a true and correct copy thereof. The record copy with the clerk's certificate shall be prima facie evidence of the contents of the ordinance and of its passage and publication and shall be admissible as such evidence in any court or proceeding.

The city clerk shall be custodian of the seal of the city and shall have authority to acknowledge the execution of all instruments by the city which require acknowledgment.

The city clerk may appoint a deputy for whose acts he or she and his or her (~~(bondsmen)~~) bondspersons shall be responsible, and he or she and his or her deputy shall have authority to take all necessary affidavits to claims against the city and certify them without charge.

The city clerk shall perform such other duties as may be required by statute or ordinance.

**Sec. 76.** RCW 35.27.220 and 1965 c 7 s 35.27.220 are each amended to read as follows:

The town clerk shall be custodian of the seal of the town. (~~(He)~~) The town clerk may appoint a deputy for whose acts he or she and his (~~(bondsmen)~~) or her bondspersons shall be responsible(~~(-he)~~). The town clerk and his or her deputy may administer oaths or affirmations and certify to them, and may take affidavits and depositions to be used in any court or proceeding in the state.

(~~(He)~~) The town clerk shall make a quarterly statement in writing showing the receipts and expenditures of the town for the preceding quarter and the amount remaining in the treasury.

At the end of every fiscal year (~~(he)~~) the town clerk shall make a full and detailed statement of receipts and expenditures of the preceding year and a full statement of the financial condition of the town which shall be published.

(~~(He)~~) The town clerk shall perform such other services as may be required by statute or by ordinances of the town council.

(~~(He)~~) The town clerk shall keep a full and true account of all the proceedings of the council.

**Sec. 77.** RCW 59.12.110 and 1905 c 86 s 4 are each amended to read as follows:

The plaintiff or defendant at any time, upon two days' notice to the adverse party, may apply to the court or any judge thereof for an order raising or lowering the amount of any bond in this chapter provided for. Either party may, upon like notice, apply to the court or any judge thereof for an order requiring additional or other surety or sureties upon any such bond. Upon the hearing or any application made under the provisions of this section evidence may be given. The judge after hearing any such application shall make such an order as shall be just in the premises. The (~~(bondsmen)~~) bondspersons may be required to be present at such hearing if so required in the notice thereof, and shall answer under oath all questions that may be asked them touching their qualifications as (~~(bondsmen)~~) bondspersons, and in the event the (~~(bondsmen)~~) bondspersons shall fail or refuse to appear at such hearing and so answer such questions the bond shall be stricken. In the event the court shall order a new or additional bond to be furnished by defendant, and the same shall not be given within twenty-four hours, the court shall order the sheriff to forthwith execute the writ. In the event the defendant shall file a second or additional bond and it shall also be found insufficient after hearing, as above provided, the right to retain the premises by bond shall be lost and the sheriff shall forthwith put the plaintiff in possession of the premises.

**Sec. 78.** RCW 82.38.230 and 1998 c 176 s 77 are each amended to read as follows:

Whenever any licensee is delinquent in the payment of any obligation imposed hereunder, and such delinquency continues after notice and demand for payment by the department, the department shall proceed to collect the amount due from the licensee in the following manner: The department shall seize any property subject to the lien of said excise tax, penalty, and interest and thereafter sell it at public auction to pay said obligation and any and all costs that may have been incurred on account of the seizure and sale. Notice of such intended sale and the time and place thereof shall be given to such delinquent licensee and to all persons appearing of record to have an interest in such property. The notice shall be given in writing at least ten days before the date set for the sale by enclosing it in an envelope addressed to the licensee at the licensee's address as the same appears in the records of the department and, in the case of any person appearing of record to have an interest in such property, addressed to such person at his or her last known residence or place of business, and depositing such envelope in the United States mail, postage prepaid. In addition, the notice shall be published for at least ten days before the date set for the sale in a newspaper of general circulation published in the county in which the property seized is to be sold. If there is no newspaper of general circulation in such county, the notice shall be posted in three public places in the county for a period of ten days. The notice shall contain a description of the property to be sold, together with a statement of the amount due under this chapter, the name of the licensee and the further statement that unless such amount is paid on or before the time fixed in the notice the property will be sold in accordance with law.

The department shall then proceed to sell the property in accordance with the law and the notice, and shall deliver to the purchaser a bill of sale or deed which shall vest title in the purchaser. If upon any such sale the moneys received exceed the amount due to the state under this chapter from the delinquent licensee, the excess shall be returned to the licensee and the licensee's receipt obtained for the excess. If any person having an interest in or lien upon the property has filed with the department prior to such sale, notice of such interest or lien, the department shall withhold payment of any such excess to the licensee pending a determination of the rights of the respective parties thereto by a court of competent jurisdiction. If for any reason the receipt of the licensee is not available, the department shall deposit such excess with the state treasurer as trustee for the licensee or the licensee's heirs, successors, or assigns: PROVIDED, That prior to making any seizure of property as provided for in this section, the department may first serve upon the licensee's (~~(bondsmen)~~) bondsperson a notice of the delinquency, with a demand for the payment of the amount due.

**Sec. 79.** RCW 87.03.020 and 1988 c 127 s 40 are each amended to read as follows:

For the purpose of organizing an irrigation district, a petition, signed by the required number of holders of title or evidence of title to land within the proposed district, shall be presented to the board of county commissioners of the county in which the lands, or the greater portion thereof, are situated, which petition shall contain the following:

(1) A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which said lands are situated.

(2) The signature and post office address of each petitioner, together with the legal description of the particular lands within the proposed district owned by said respective petitioners.

(3) A general statement of the probable source or sources of water supply and a brief outline of the plan of improvement, which may be in the alternative, contemplated by the organization of the district.

(4) A statement of the number of directors, either three or five, desired for the administration of the district and of the name by which the petitioners desire the district to be designated.

(5) Any other matter deemed material.

(6) A prayer requesting the board to take the steps necessary to organize the district.

The petition must be accompanied by a good and sufficient bond, to be approved by the board of county commissioners, in

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

double the amount of the probable cost of organizing the district, and conditioned that the ((bondsmen)) bondspersons will pay all of the cost in case such organization shall not be effected. Said petition shall be presented at a regular meeting of the said board, or at any special meeting ordered to consider and act upon said petition, and shall be published once a week, for at least two weeks (three issues) before the time at which the same is to be presented, in some newspaper of general circulation printed and published in the county where said petition is to be presented, together with a notice signed by the clerk of the board of county commissioners stating the time of the meeting at which the same will be presented. There shall also be published a notice of the hearing on said petition in a newspaper published at Olympia, Washington, to be designated by the director of ecology from year to year, which said notice shall be published for at least two weeks (three issues) prior to the date of said meeting and shall contain the name of the county or counties and the number of each township and range in which the lands embraced within the boundaries of the proposed district are situated, also the time, place and purpose for said meeting, which said notice shall be signed by the petitioner whose name first appears upon the said petition. If any portion of the lands within said proposed district lie within another county or counties, then the said petition and notice shall be published for the time above provided in one newspaper printed and published in each of said counties. The said notice, together with a map of the district, shall also be served by registered mail at least thirty days before the said hearing upon the state director of ecology at Olympia, Washington, who shall, at the expense of the district in case it is later organized, otherwise at the expense of the petitioners' ((bondsmen)) bondspersons, make such investigation of the sufficiency of the source and supply of water for the purposes of the proposed district, as he or she may deem necessary, and file a report of his or her findings, together with a statement of his or her costs, with the board of county commissioners at or prior to the time set for said hearing. When the petition is presented, the board of county commissioners shall hear the same, shall receive such evidence as it may deem material, and may adjourn such hearing from time to time, not exceeding four weeks in all, and on the final hearing shall establish and define the boundaries of the district along such lines as in the judgment of the board will best reclaim the lands involved and enter an order to that effect: PROVIDED, That said board shall not modify the boundaries so as to except from the operation of the district any territory within the boundaries outlined in the petition, which is susceptible of irrigation by the same system of works applicable to other lands in such proposed district and for which a water supply is available; nor shall any lands which, in the judgment of said board, will not be benefited, be included within such district; any lands included within any district, which have a partial or full water right shall be given equitable credit therefor in the apportionment of the assessments in this act provided for: AND PROVIDED FURTHER, That any owner, whose lands are susceptible of irrigation from the same source, and in the judgment of the board it is practicable to irrigate the same by the proposed district system, shall, upon application to the board at the time of the hearing, be entitled to have such lands included in the district.

At said hearing the board shall also give the district a name and shall order that an election be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this act and for the purpose of electing directors.

The clerk of the board of county commissioners shall then give notice of the election ordered to be held as aforesaid, which notice shall describe the district boundaries as established, and shall give the name by which said proposed district has been designated, and shall state the purposes and objects of said election, and shall be published once a week, for at least two weeks (three issues) prior to said election, in a newspaper of general circulation published in the county where the petition aforesaid was presented; and if any portion of said proposed district lies within another county or counties, then said notice shall be published in like manner in a newspaper within each of

said counties. Said election notice shall also require the electors to cast ballots which shall contain the words "Irrigation District--Yes," and "Irrigation District--No," and also the names of persons to be voted for as directors of the district: PROVIDED, That where in this act publication is required to be made in a newspaper of any county, the same may be made in a newspaper of general circulation in such county, selected by the person or body charged with making the publication and such newspaper shall be the official paper for such purpose.

**Sec. 80.** RCW 87.84.020 and 1961 c 226 s 3 are each amended to read as follows:

A petition to convert an existing irrigation district to an irrigation and rehabilitation district shall be signed by at least fifty holders of title or evidence of title to land within the district. The petition shall contain the following:

- (1) The legal description of the property to be served.
- (2) The signature and address of each petitioner, together with the legal description of the lands within the district owned by each.
- (3) Any other matter deemed material.

The petition shall be accompanied by a bond, to be approved by the board, in double the amount of the probable cost of organizing the district, and conditioned that the ((bondsmen)) bondsperson will pay all the costs if the organization is not effected.

**Sec. 81.** RCW 19.29.010 and 1989 c 12 s 3 are each amended to read as follows:

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

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

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

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

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

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

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

Rule 5. Transformers, either single or in bank, that exceed a total capacity of over ten K.W. shall be supported by a double cross-arm, or some fixture equally as strong. No transformer shall be placed, erected, maintained or used on any cross-arm or other appliance on a pole upon which is placed a series electric arc lamp or arc light: PROVIDED, This shall not apply to a span wire supporting a lamp only. All aerial and underground transformers used for low potential distribution shall be subjected to an insulation test in accordance with the standardized rules of the American Institute of Electrical Engineers. In addition to this each transformer shall be tested at rated line voltage prior to each installation and shall have attached to it a tag showing the date on which the test was made, and the name of the person making the test.

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

Rule 7. The neutral point or wire of all transformer secondaries strung or erected for use in low potential distributing systems shall be grounded in all cases where the normal maximum difference of potential between the ground and any point in the secondary circuit will not exceed one hundred and fifty volts. When no neutral point or wire is

accessible one side of the secondary circuit shall be grounded in the case of single phase transformers, and any one common point in the case of interconnected polyphase bank or banks of transformers. Where the maximum difference of potential between the ground and any point in the secondary circuit will, when grounded, exceed one hundred fifty volts, grounding shall be permitted. Such grounding shall be done in the manner provided in Rule 30.

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

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

Rule 10. No guy wire or cable shall be placed, run, erected, maintained or used within the incorporate limits of any city or town on any pole or appliance to which is attached any wire or cable used to conduct electricity without causing said guy wire or cable to be efficiently insulated with circuit breakers at all times at a distance of not less than eight feet nor more than ten feet measured along the line of said guy wire or cable from each end thereof: PROVIDED, No circuit breaker shall be required at the lower end of the guy wire or cable where the same is attached to a ground anchor, nor shall any circuit breaker be required where said guy wire or cable runs direct from a grounded messenger wire to a grounded anchor rod.

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

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

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

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

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

Rule 16. Suitable insulated platforms or mats shall be provided for the use of all persons while working on any live



FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

part of switchboards on which any wire or appliance carries a potential in excess of three hundred volts.

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

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

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

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

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

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

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

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

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

Rule 26. No manhole shall have an opening which is, at the surface of the ground, within a distance of three feet at any point from any rail of any railway or street car track: PROVIDED, That this shall not apply where satisfactory proof shall be submitted to the proper authorities that it is impracticable or physically impossible to comply with the provisions of this paragraph: PROVIDED, That in complying with the provisions of this rule only the construction last in point of time performed, placed or erected shall be held to be in violation thereof.

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

Rule 28. All persons employed in manholes shall be furnished with insulated platforms so as to protect the workers

while at work in the manholes: PROVIDED, That this paragraph shall not apply to manholes containing only telephone, telegraph or signal wires or cables.

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

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

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

**Sec. 82.** RCW 22.09.860 and 1963 c 124 s 27 are each amended to read as follows:

All railroad companies and ~~((warehousemen))~~ warehouse workers operating in the cities provided for inspection by this chapter shall furnish ample and sufficient police protection to all their several terminal yards and terminal tracks to securely protect all cars containing commodities while the same are in their possession. They shall prohibit and restrain all unauthorized persons, whether under the guise of sweepers, or under any other pretext whatever, from entering or loitering in or about their railroad yards or tracks and from entering any car of commodities under their control, or removing commodities therefrom, and shall employ and detail such number of ~~((watchmen))~~ watchpersons as may be necessary for the purpose of carrying out the provisions of this section.

**Sec. 83.** RCW 81.40.095 and 1961 c 14 s 81.40.095 are each amended to read as follows:

The utilities and transportation commission shall adopt and enforce rules and regulations relating to sanitation and adequate shelter as it affects the health of all railroad employees, including but not limited to railroad ~~((trainmen, enginemen, yardmen))~~ workers, maintenance of way employees, highway crossing ~~((watchmen))~~ watchpersons, clerical, platform, freight house and express employees.

**Sec. 84.** RCW 19.28.261 and 2003 c 399 s 302 are each amended to read as follows:

(1) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to require that a person obtain a license or a certified electrician in order to do electrical work at his or her residence or farm or place of business or on other property owned by him or her unless the electrical work is on the construction of a new building intended for rent, sale, or lease. However, if the construction is of a new residential building with up to four units intended for rent, sale, or lease, the owner may receive an exemption from the requirement to obtain a license or use a certified electrician if he or she provides a signed affidavit to the department stating that he or she will be performing the work

FORTIETH DAY, FEBRUARY 16, 2007

and will occupy one of the units as his or her principal residence. The owner shall apply to the department for this exemption and may only receive an exemption once every twenty-four months. It is intended that the owner receiving this exemption shall occupy the unit as his or her principal residence for twenty-four months after completion of the units.

(2) Nothing in RCW 19.28.161 through 19.28.271 shall be intended to derogate from or dispense with the requirements of any valid electrical code enacted by a city or town pursuant to RCW 19.28.010(3), except that no code shall require the holder of a certificate of competency to demonstrate any additional proof of competency or obtain any other license or pay any fee in order to engage in the electrical construction trade.

(3) RCW 19.28.161 through 19.28.271 shall not apply to common carriers subject to Part I of the Interstate Commerce Act, nor to their officers and employees.

(4) Nothing in RCW 19.28.161 through 19.28.271 shall be deemed to apply to the installation or maintenance of telephone, telegraph, radio, or television wires and equipment; nor to any electrical utility or its employees in the installation, repair, and maintenance of electrical wiring, circuits, and equipment by or for the utility, or comprising a part of its plants, lines or systems.

(5) The licensing provisions of RCW 19.28.161 through 19.28.271 shall not apply to:

(a) Persons making electrical installations on their own property or to regularly employed employees working on the premises of their employer, unless the electrical work is on the construction of a new building intended for rent, sale, or lease;

(b) Employees of an employer while the employer is performing utility type work of the nature described in RCW 19.28.091 so long as such employees have registered in the state of Washington with or graduated from a state-approved outside (~~lineman~~) lineworker apprenticeship course that is recognized by the department and that qualifies a person to perform such work;

(c) Any work exempted under RCW 19.28.091(6); and

(d) Certified plumbers, certified residential plumbers, or plumber trainees meeting the requirements of chapter 18.106 RCW and performing exempt work under RCW 19.28.091(8).

(6) Nothing in RCW 19.28.161 through 19.28.271 shall be construed to restrict the right of any householder to assist or receive assistance from a friend, neighbor, relative or other person when none of the individuals doing the electrical installation hold themselves out as engaged in the trade or business of electrical installations.

(7) Nothing precludes any person who is exempt from the licensing requirements of this chapter under this section from obtaining a journeyman or specialty certificate of competency if they otherwise meet the requirements of this chapter.

**Sec. 85.** RCW 19.28.321 and 2001 c 211 s 21 are each amended to read as follows:

The director of labor and industries of the state of Washington and the officials of all incorporated cities and towns where electrical inspections are required by local ordinances shall have power and it shall be their duty to enforce the provisions of this chapter in their respective jurisdictions. The director of labor and industries shall appoint a chief electrical inspector and may appoint other electrical inspectors as the director deems necessary to assist the director in the performance of the director's duties. The chief electrical inspector, subject to the review of the director, shall be responsible for providing the final interpretation of adopted state electrical standards, rules, and policies for the department and its inspectors, assistant inspectors, electrical plan examiners, and other individuals supervising electrical program personnel. If a dispute arises within the department regarding the interpretation of adopted state electrical standards, rules, or policies, the chief electrical inspector, subject to the review of the director, shall provide the final interpretation of the disputed standard, rule, or policy. All electrical inspectors appointed by the director of labor and industries shall have not less than: Four years experience as (~~journeyman~~) journeyperson electricians in the electrical construction trade installing and maintaining electrical wiring and equipment, or two years electrical training in a college of electrical engineering of recognized standing and four

years continuous practical electrical experience in installation work, or four years of electrical training in a college of electrical engineering of recognized standing and two years continuous practical electrical experience in electrical installation work; or four years experience as a (~~journeyman~~) journeyperson electrician performing the duties of an electrical inspector employed by the department or a city or town with an approved inspection program under RCW 19.28.141, except that for work performed in accordance with the national electrical safety code and covered by this chapter, such inspections may be performed by a person certified as an outside (~~journeyman-lineman~~) journeyperson lineworker, under RCW 19.28.261(~~(2)~~) (~~5~~)(b), with four years experience or a person with four years experience as a certified outside (~~journeyman-lineman~~) journeyperson lineworker performing the duties of an electrical inspector employed by an electrical utility. Such state inspectors shall be paid such salary as the director of labor and industries shall determine, together with their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. As a condition of employment, inspectors hired exclusively to perform inspections in accordance with the national electrical safety code must possess and maintain certification as an outside (~~journeyman-lineman~~) journeyperson lineworker. The expenses of the director of labor and industries and the salaries and expenses of state inspectors incurred in carrying out the provisions of this chapter shall be paid entirely out of the electrical license fund, upon vouchers approved by the director of labor and industries.

**Sec. 86.** RCW 50.04.240 and 1945 c 35 s 25 are each amended to read as follows:

The term "employment" shall not include service as a (~~newsboy~~) newspaper delivery person selling or distributing newspapers on the street or from house to house.

**NEW SECTION. Sec. 87.** The code reviser must recommend legislation correcting gender-specific references in all existing statutes by December 1, 2007, and advise the legislature of gender-specific language changes that would result in substantive changes to the law."

Senators Kohl-Welles and Clements spoke in favor of adoption of the striking amendment.

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kohl-Welles and Clements to Senate Bill No. 5063.

The motion by Senator Kohl-Welles carried and the striking amendment was adopted by voice vote.

#### MOTION

There being no objection, the following title amendment was adopted:

On page 1, line 1 of the title, after "references;" strike the remainder of the title and insert "amending RCW 41.08.020, 41.08.030, 41.08.075, 41.08.080, 41.08.090, 41.08.100, 41.08.150, 41.08.220, 41.12.020, 41.12.030, 41.12.075, 41.12.080, 41.12.090, 41.12.100, 41.12.150, 41.12.220, 41.16.010, 41.16.020, 41.16.030, 41.16.040, 41.16.050, 41.16.070, 41.16.080, 41.16.100, 41.16.110, 41.16.120, 41.16.130, 41.16.140, 41.16.145, 41.16.150, 41.16.160, 41.16.170, 41.16.180, 41.16.190, 41.16.200, 41.16.210, 41.16.220, 41.16.230, 41.16.250, 41.18.010, 41.18.015, 41.18.020, 41.18.030, 41.18.040, 41.18.045, 41.18.050, 41.18.060, 41.18.080, 41.18.090, 41.18.100, 41.18.102, 41.18.130, 41.18.140, 41.18.150, 41.18.160, 41.18.165, 41.18.170, 41.18.180, 41.18.190, 41.18.210, 9.40.130, 9A.48.020, 19.09.100, 35.17.100, 35A.11.020, 35.27.240, 35.66.040, 35.75.050, 35.88.020, 41.44.060, 41.48.030, 46.37.185, 81.28.080, 35.23.121, 35.27.220, 59.12.110, 82.38.230, 87.03.020, 87.84.020, 19.29.010, 22.09.860, 81.40.095, 19.28.261, 19.28.321, and 50.04.240; and creating new sections."

#### MOTION

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed Senate Bill No. 5063 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kohl-Welles spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 5063.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 5063 and the bill passed the Senate by the following vote: Yeas, 41; Nays, 1; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Tom, Weinstein and Zarelli - 41

Voting nay: Senator Stevens - 1

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

ENGROSSED SENATE BILL NO. 5063, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### SECOND READING

SENATE BILL NO. 5267, by Senators McAuliffe, Eide, Brandland, Fairley and Kohl-Welles

Providing for the use of the school district capital projects funds for technology.

#### MOTION

On motion of Senator McAuliffe, Substitute Senate Bill No. 5267 was substituted for Senate Bill No. 5267 and the substitute bill was placed on the second reading and read the second time.

#### MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Holmquist be adopted.

On page 4, line 21, after "authorized" insert "PROVIDED FURTHER, That a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district"

Senator McAuliffe spoke in favor of adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators McAuliffe and Holmquist on page 4, line 21 to Substitute Senate Bill No. 5267.

The motion by Senator McAuliffe carried and the amendment was adopted by voice vote.

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute Senate Bill No. 5267 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Clements spoke in favor of passage of the bill.

#### POINT OF ORDER

Senator Roach: "I have passed for members of the Senate an invitation or a committee meeting announcement from the Oregon State Legislature. In Oregon, Senate Committee on Business, Transportation and Workforce Development. Where there, according to this, there's going to be a joint meeting of the Washington State Transportation Committee, excuse me, Washington Senate Transportation Committee and the Oregon Senate Business, Transportation, Workforce Committee today at 11:30. Of course, it's not 11:30 now but it's impossible for our members to be at this meeting at 11:30 and be here on the floor. Mr. President, my point of order would be that I believe that there should be a simple majority vote to suspend the rules and allow this standing committee to in fact meet with the standing committee in the State of Oregon today during our session when our members should and could have been here voting."

#### POINT OF ORDER

Senator Eide: "I'm very sympathetic and I understand what the good Senator is saying but we will be off the floor by 11:30 today."

#### POINT OF ORDER

Senator Roach: "My point of order would be that we are not finished voting. There's still one bill left. I brought this issue up several bills ago and took the opportunity to get this before the members. I think that it is unreasonable to think that an individual can be here to 11:20 a.m. and yet still be in Portland at 11:30 a.m. So, in fact, this is out of order that these two meetings are overlapping by anyone's understanding of transportation, although there are those in this state that would claim that we have none."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Roach, in responding to your point of order the President has two thoughts on this matter. First off, the practice has been that the issue is not taken up until there is a time when in fact there is a conflict between the senate being on the floor and the committee actually taking place so, the President believes, that the timeliness of it would be at that point when there would be a conflict between the committee meeting and the senate. But, even at that, the President would note that this notice that you provided is from the Senate Committee on Business Transportation Workforce Development of the Oregon State Legislature not Washington State. The Washington State Senate Transportation Committee as a whole is not in Oregon at this time. There are approximately three or four members that have gone down there. They have notified us that this is not a committee meeting but rather a participation in their meeting and therefore information gathering. The President does not believe that this constitutes an official meeting of the Senate Transportation Committee therefore your point of order is not well taken."

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5267.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5267 and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 0; Excused, 7.

Voting yea: Senators Berkey, Brandland, Brown, Carrell, Clements, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Holmquist, Honeyford, Jacobsen, Kastama,

FORTIETH DAY, FEBRUARY 16, 2007

Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, McAuliffe, Morton, Murray, Oemig, Parlette, Pflug, Poulsen, Prentice, Rasmussen, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Spanel, Stevens, Tom, Weinstein and Zarelli - 42

Excused: Senators Benton, Haugen, Hewitt, Marr, McCaslin, Pridemore and Swecker - 7

ENGROSSED SUBSTITUTE SENATE BILL NO. 5267, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 11:15 a.m., on motion of Senator Eide, the Senate adjourned until 12:00 noon, Monday, February 19, 2007.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

|                     |                             |    |
|---------------------|-----------------------------|----|
| 5040                | Introduction & 1st Reading  | 3  |
| 5040-S              | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 6  |
|                     | Third Reading Final Passage | 7  |
| 5063                | Introduction & 1st Reading  | 3  |
|                     | Other Action                | 26 |
|                     | Second Reading              | 7  |
|                     | Third Reading Final Passage | 27 |
| 5193                | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 7  |
| 5193-S              | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 7  |
|                     | Third Reading Final Passage | 7  |
| 5247                | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 5  |
|                     | Third Reading Final Passage | 5  |
| 5267                | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 27 |
| 5267-S              | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 27 |
|                     | Third Reading Final Passage | 28 |
| 5344                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5379                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5407                | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 6  |
|                     | Third Reading Final Passage | 6  |
| 5461                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5463                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5477                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5531                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5550                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5690                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 1  |
| 5726                | Introduction & 1st Reading  | 3  |
|                     | Committee Report            | 2  |
| 6054                | Introduction & 1st Reading  | 3  |
| 6055                | Introduction & 1st Reading  | 3  |
| 6056                | Introduction & 1st Reading  | 3  |
| 6057                | Introduction & 1st Reading  | 3  |
| 6058                | Introduction & 1st Reading  | 3  |
| 6059                | Introduction & 1st Reading  | 3  |
| 6060                | Introduction & 1st Reading  | 3  |
| 6061                | Introduction & 1st Reading  | 3  |
| 6062                | Introduction & 1st Reading  | 3  |
| 6063                | Introduction & 1st Reading  | 3  |
| 6064                | Introduction & 1st Reading  | 3  |
| 6065                | Introduction & 1st Reading  | 3  |
| 6066                | Introduction & 1st Reading  | 3  |
| 8008                | Introduction & 1st Reading  | 3  |
|                     | Second Reading              | 6  |
|                     | Third Reading Final Passage | 6  |
| 8017                | Introduction & 1st Reading  | 4  |
| 9005 Peggy Bierbaum | Confirmed                   | 4  |
| 9044 Carol Moser    | Confirmed                   | 5  |
| 9210                | Committee Report            | 2  |
| 9211                | Committee Report            | 2  |
| 9219                | Committee Report            | 2  |
| 9224                | Committee Report            | 2  |
| 9225                | Committee Report            | 2  |
| 9238                | Committee Report            | 2  |
| 9248                | Committee Report            | 2  |
|                     | MESSAGE FROM GOVERNOR       |    |

FORTIETH DAY, FEBRUARY 16, 2007

2007 REGULAR SESSION

Gubernatorial Appointments ..... 2

PRESIDENT OF THE SENATE

Intro. Special Guest, Josie Delvin ..... 5

Remarks by the President ..... 4, 5

Reply by the President ..... 4, 5, 27

WASHINGTON STATE SENATE

Personal Privilege, Senator Delvin ..... 5

Personal Privilege, Senator Parlette ..... 5

Personal Privilege, Senator Roach ..... 4

Point of Order, Senator Brown ..... 4

Point of Order, Senator Eide ..... 27

Point of Order, Senator Roach ..... 5, 27

