

Title 43

STATE GOVERNMENT—EXECUTIVE

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Chapter 43.01

STATE OFFICERS—GENERAL PROVISIONS

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43.01.010 Terms of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall hold office for the term of four years, and until their successors are elected and qualified; and the term shall commence on the Wednesday after the second Monday of January following their election. [1965 c 8 § 43.01.010. Prior: 1891 c 82 § 1; RRS § 10980.]

Term of person elected to fill vacancy: RCW 42.12.030.

Terms of office: State Constitution Art. 3 § 3.

Vacancies in office: Chapter 42.12 RCW.

43.01.015 Governor, lieutenant governor—Terms limited. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for governor who, by the end of the then current term of office will have served, or but for resignation would have served, as governor during eight of the previous fourteen years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for lieutenant governor who, by the end of the then current term of office will have served, or but for resignation would have served, as lieutenant governor during eight of the previous fourteen years. [1993 c 1 § 2 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—1993 c 1 (Initiative Measure No. 573): "The people of the state of Washington find that:

(1) The people will best be served by citizen legislators who are subject to a reasonable degree of rotation in office;

(2) Entrenched incumbents have become indifferent to the conditions and concerns of the people;

(3) Entrenched incumbents have an inordinate advantage in elections because of their control of campaign finance laws and gerrymandering of electoral districts;

(4) Entrenched incumbency has discouraged qualified citizens from seeking public office;

(5) Entrenched incumbents have become preoccupied with their own reelection and devote more effort to campaigning than to making legislative decisions for the benefit of the people;

(6) Entrenched incumbents have become closely aligned with special interest groups who provide contributions and support for their reelection campaigns, give entrenched incumbents special favors, and lobby office holders for special interest legislation to the detriment of the people of this state, and may create corruption or the appearance of corruption of the legislative system;

(7) The people of Washington have a compelling interest in preventing the self-perpetuating monopoly of elective office by a dynastic ruling class.

The people of the state of Washington therefore adopt this act to limit ballot access of candidates for state and federal elections." [1993 c 1 § 1 (Initiative Measure No. 573, approved November 3, 1992).] For codification of "this act" [1993 c 1], see Codification Tables, this volume.

Severability—1993 c 1 (Initiative Measure No. 573): "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 1 § 10 (Initiative Measure No. 573, approved November 3, 1992).]

43.01.020 Oath of office. The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and insurance commissioner, shall, before entering upon the duties of their respective offices, take and subscribe an oath or affirmation in substance as follows: I do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the state of Washington, and that I will faithfully discharge the duties of the office of (name of office) to the best of my ability.

The oath or affirmation shall be administered by one of the justices of the supreme court at the capitol. A certificate shall be affixed thereto by the person administering the oath, and the oath or affirmation so-certified shall be filed in the office of the secretary of state before the officer shall be qualified to discharge any official duties: **PROVIDED**, That the oath of the secretary of state shall be filed in the office of the state auditor. [1965 c 8 § 43.01.020. Prior: 1909 c 43 § 1; RRS § 10981.]

Attorney general, oath of office: RCW 43.10.010.

Commissioner of public lands, oaths of employees: RCW 79.01.056, 79.01.068.

Court commissioners, oath of office: RCW 2.24.020.

Election officials, oaths required: RCW 29.45.080 through 29.45.110.

Engineers and land surveyors' board of registration, oath required: RCW 18.43.030.

Horse racing commission, oath of office: RCW 67.16.012.

Judges of superior court, oath of office: State Constitution Art. 4 § 28; RCW 2.08.080, 2.08.180.

Judges of supreme court, oath of office: State Constitution Art. 4 § 28; RCW 2.04.080.

Liquor control board, oath of office: RCW 66.08.014.

Militia, oath of office: RCW 38.12.150, 38.12.160.

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State treasurer, oath of office: RCW 43.08.020.

Subversive activities, oath required of public officers and employees: RCW 9.81.070.

University of Washington, board of regents, oath required: RCW 28B.10.520.

Utilities and transportation commission: RCW 80.01.020.

Washington State University, board of regents: RCW 28B.10.520.

43.01.035 Reports—Periods to be covered. All biennial reports to the legislature and the governor shall cover the period comprising the first full fiscal year of the then current biennium and the last full fiscal year of the biennium immediately preceding. All annual reports to the governor shall cover the full fiscal year immediately preceding the date of said report. [1965 c 8 § 43.01.035. Prior: 1953 c 184 § 3.]

43.01.040 Vacations—Computation and accrual—Transfer—Statement of necessity required for extension of unused leave. Each subordinate officer and employee of the several offices, departments, and institutions of the state government shall be entitled under their contract of employment with the state government to not less than one working day of vacation leave with full pay for each month of employment if said employment is continuous for six months.

Each such subordinate officer and employee shall be entitled under such contract of employment to not less than one additional working day of vacation with full pay each year for satisfactorily completing the first two, three and five continuous years of employment respectively.

Such part time officers or employees of the state government who are employed on a regular schedule of duration of not less than one year shall be entitled under their contract of employment to that fractional part of the vacation leave that the total number of hours of such employment bears to the total number of hours of full time employment.

Each subordinate officer and employee of the several offices, departments and institutions of the state government shall be entitled under his contract of employment with the state government to accrue unused vacation leave not to exceed thirty working days. Officers and employees transferring within the several offices, departments and institutions of the state government shall be entitled to transfer such accrued vacation leave to each succeeding state office, department or institution. All vacation leave shall be taken at the time convenient to the employing office, department or institution: **PROVIDED**, That if a subordinate officer's or employee's request for vacation leave is deferred by reason of the convenience of the employing office, department or institution, and a statement of the necessity therefor is filed by such employing office, department or institution with the appropriate personnel board or other state agency or officer, then the aforesaid maximum thirty working days of accrued unused vacation leave shall be extended for each month said leave is so deferred. [1984 c 184 § 19; 1982 1st ex.s. c 51 § 2; 1965 ex.s. c 13 § 1; 1965

c 8 § 43.01.040. Prior: 1955 c 140 § 1; 1921 c 7 § 133; RRS § 10891.]

Severability—1984 c 184: See note following RCW 41.50.150.

Savings—1982 1st ex.s. c 51: "This act shall not have the effect of terminating or modifying any rights acquired under a contract in existence prior to the effective date of this act." [1982 1st ex.s. c 51 § 4.]

Effective date—1982 1st ex.s. c 51: "This act shall take effect July 1, 1982." [1982 1st ex.s. c 51 § 5.]

Severability—1982 1st ex.s. c 51: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 51 § 6.]

Military leaves of absence: RCW 38.40.060.

43.01.041 Accrued vacation leave—Payment upon termination of employment. Officers and employees referred to in RCW 43.01.040 whose employment is terminated by their death, reduction in force, resignation, dismissal, or retirement, and who have accrued vacation leave as specified in RCW 43.01.040 or 43.01.044, shall be paid therefor under their contract of employment, or their estate if they are deceased, or if the employee in case of voluntary resignation has provided adequate notice of termination. Annual leave accumulated under RCW 43.01.044 is not to be included in the computation of retirement benefits.

Should the legislature revoke any benefits or rights provided under *this 1985 act, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right. [1985 c 292 § 1; 1984 c 184 § 20; 1982 1st ex.s. c 51 § 3; 1965 c 8 § 43.01.041. Prior: 1955 c 140 § 2.]

***Reviser's note:** The term "this 1985 act" consists of the 1985 c 292 amendment to RCW 43.01.041.

Severability—1984 c 184: See note following RCW 41.50.150.

Savings—Effective date—Severability—1982 1st ex.s. c 51: See notes following RCW 43.01.040.

43.01.042 Vacations—State institutions of higher learning. State institutions of higher learning may prescribe such rules and regulations as they may determine governing vacation leave for academic and professional personnel. [1965 c 8 § 43.01.042. Prior: 1955 c 140 § 3.]

43.01.043 Vacations—Rules and regulations. The several offices, departments and institutions of the state government may prescribe supplemental rules and regulations that are not inconsistent with the provisions of RCW 43.01.040 through 43.01.043 with respect to vacation leave of subordinate officers and employees thereof. [1965 c 8 § 43.01.043. Prior: 1955 c 140 § 4.]

43.01.044 Vacations—Accumulation of leave in excess of thirty days authorized without statement of necessity—Requirements of statement of necessity. As an alternative, in addition to the provisions of RCW 43.01.040 authorizing the accumulation of vacation leave in excess of thirty days with the filing of a statement of necessity, vacation leave in excess of thirty days may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave days between the time thirty days is accrued and his or her anniversary date of state employment.

(2) All vacation days accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department or institution by filing a statement of necessity under the provisions of RCW 43.01.040.

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave, shall as a minimum, include the following: (a) the specific number of days of excess leave; and (b) the date on which it was authorized. A copy of any such authorization shall be sent to the department of retirement systems. [1983 c 283 § 1.]

43.01.045 Vacations—Provisions not applicable to officers and employees of state convention and trade center. The provisions of RCW 43.01.040 through 43.01.044 shall not be applicable to the officers and employees of the nonprofit corporation formed under chapter 67.40 RCW. [1984 c 210 § 4.]

Savings—Severability—1984 c 210: See notes following RCW 67.40.020.

43.01.050 Daily remittance of moneys to treasury—Undistributed receipts account—Use. Each state officer or other person, other than county treasurer, who is authorized by law to collect or receive moneys which are required by statute to be deposited in the state treasury shall transmit to the state treasurer each day, all such moneys collected by him on the preceding day: PROVIDED, That the state treasurer may in his discretion grant exceptions where such daily transfers would not be administratively practical or feasible. In the event that remittances are not accompanied by a statement designating source and fund, the state treasurer shall deposit these moneys in an account hereby created in the state treasury to be known as the undistributed receipts account. These moneys shall be retained in the account until such time as the transmitting agency provides a statement in duplicate of the source from which each item of money was derived and the fund into which it is to be transmitted. The director of financial management in accordance with RCW 43.88.160 shall promulgate regulations designed to assure orderly and efficient administration of this account. In the event moneys are deposited in this

account that constitute overpayments, refunds may be made by the remitting agency without virtue of a legislative appropriation. [1985 c 57 § 26; 1981 2nd ex.s. c 4 § 5; 1979 c 151 § 80; 1967 c 212 § 1; 1965 c 8 § 43.01.050. Prior: 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

Commissioner of public lands and department of natural resources, deposit of funds: RCW 43.85.130.

State depositaries: Chapter 43.85 RCW.

43.01.060 Daily remittance of moneys to treasury—Treasurer's duty on default. The state treasurer shall inform the governor of any failure on the part of any officer to comply with the provisions of RCW 43.01.050. [1965 c 8 § 43.01.060. Prior: 1907 c 96 § 2; RRS § 5502.]

43.01.070 Daily remittance of moneys to treasury—Liability of officers for noncompliance. If any officer fails to comply with the provisions of RCW 43.01.050, he shall be liable to the state upon his official bond in a sum equal to ten percent annual interest on the funds for such time as he retained them. [1965 c 8 § 43.01.070. Prior: 1907 c 96 § 3; RRS § 5503.]

43.01.072 Refund of fees or other payments collected by state. Whenever any law which provides for the collection of fees or other payments by a state agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the state agency which collected the fees or payments of all such amounts received by the state agency in consequence of error, either of fact or of law as to: (1) The proper amount of such fee or payments; (2) The necessity of making or securing a permit, filing, examination or inspection; (3) The sufficiency of the credentials of an applicant; (4) The eligibility of an applicant for any other reason; (5) The necessity for the payment. [1965 c 8 § 43.01.072. Prior: 1955 c 224 § 1.]

Refunds of fees or other payments, budget and accounting system: RCW 43.88.170.

43.01.073 Refund of fees or other payments collected by state—Voucher. Any state agency desiring to authorize such a refund shall file with the state treasurer a voucher naming the payee and giving full particulars as to the reason for the refund and the fund in the treasury to which it was credited. [1965 c 8 § 43.01.073. Prior: 1955 c 224 § 2.]

43.01.074 Refund of fees or other payments collected by state—Warrant. Payment of such refunds shall be by warrant issued by the state treasurer against the fund in the state treasury to which the erroneous or excessive payment was credited or from any other appropriation made for such refund. [1965 c 8 § 43.01.074. Prior: 1955 c 224 § 3.]

Appropriation, when not required for refunds: RCW 43.88.180.

43.01.075 Refund of fees or other payments collected by state—Limitation where amount is two dollars or less. No such refund shall be authorized by a state agency where the amount is two dollars or less unless demand for the refund is made within six months from the date the erroneous or excessive payment was made. [1965 c 8 § 43.01.075. Prior: 1955 c 224 § 4.]

43.01.090 Departments to share occupancy costs—Capital projects surcharge. The director of general administration may assess a charge or rent against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportionate share of costs for occupancy of buildings, structures, or facilities including but not limited to all costs of acquiring, constructing, operating, and maintaining such buildings, structures, or facilities and the repair, remodeling, or furnishing thereof and for the rendering of any service or the furnishing or providing of any supplies, equipment, or materials.

The director of general administration may recover the full costs including appropriate overhead charges of the foregoing by periodic billings as determined by the director including but not limited to transfers upon accounts and advancements into the general administration facilities and services revolving fund. Charges related to the rendering of real estate services under RCW 43.82.010 and to the operation of nonassigned public spaces in Thurston county shall be allocated separately from other charges assessed under this section. Rates shall be established by the director of general administration after consultation with the director of financial management. The director of general administration may allot, provide, or furnish any of such facilities, structures, services, equipment, supplies, or materials to any other public service type occupant or user at such rates or charges as are equitable and reasonably reflect the actual costs of the services provided: PROVIDED, HOWEVER, That the legislature, its duly constituted committees, interim committees and other committees shall be exempted from the provisions of this section.

Upon receipt of such bill, each entity, occupant, or user shall cause a warrant or check in the amount thereof to be drawn in favor of the department of general administration which shall be deposited in the state treasury to the credit of the general administration facilities and services revolving fund established in RCW 43.19.500 unless the director of financial management has authorized another method for payment of costs.

Beginning July 1, 1995, the director of general administration shall assess a capital projects surcharge upon each agency or other user occupying a facility owned and managed by the department of general administration in Thurston county. The capital projects surcharge does not apply to agencies or users that agree to pay all future repairs, improvements, and renovations to the buildings they occupy and a proportional share, as determined by the office of financial management, of all other campus repairs, installations, improvements, and renovations that provide a benefit to the buildings they occupy or that have an agreement with the department of general administration that contains a charge for a similar purpose, including but not limited to RCW 43.01.091, in an amount greater than the capital

projects surcharge. The director, after consultation with the director of financial management, shall adopt differential capital project surcharge rates to reflect the differences in facility type and quality. The initial payment structure for this surcharge shall be one dollar per square foot per year. The surcharge shall increase over time to an amount that when combined with the facilities and service charge equals the market rate for similar types of lease space in the area or equals five dollars per square foot per year, whichever is less. The capital projects surcharge shall be in addition to other charges assessed under this section. Proceeds from the capital projects surcharge shall be deposited into the Thurston county capital facilities account created in RCW 43.19.501. [1994 c 219 § 16; 1991 sp.s. c 31 § 10; 1979 c 151 § 81; 1973 1st ex.s. c 82 § 1; 1971 ex.s. c 159 § 1; 1965 c 8 § 43.01.090. Prior: (i) 1951 c 131 § 1; 1941 c 228 § 1; Rem. Supp. 1941 § 10964-30. (ii) 1951 c 131 § 1; 1941 c 228 § 2; Rem. Supp. 1941 § 10964-31.]

Findings—Purpose—1994 c 219: "The legislature finds that there is inequitable distribution among state programs of capital costs associated with maintaining and rehabilitating state facilities. The legislature finds that there are insufficient available resources to support even minor capital improvements other than debt financing. The legislature further finds that little attention is focused on efficient facility management because in many cases capital costs are not factored into the ongoing process of allocating state resources. The purpose of sections 16 through 18, chapter 219, Laws of 1994 is to create a mechanism to distribute capital costs among the agencies and programs occupying facilities owned and managed by the department of general administration in Thurston county that will foster increased accountability for facility decisions and more efficient use of the facilities." [1994 c 219 § 15.]

Finding—1994 c 219: See note following RCW 43.88.030.

Severability—1991 sp.s. c 31: See RCW 43.991.900.

Effective date—1973 1st ex.s. c 82: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1973." [1973 1st ex.s. c 82 § 2.]

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration facilities and services revolving fund: RCW 43.19.500.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

43.01.091 Departments to share debt service costs.

It is hereby declared to be the policy of the state of Washington that each agency or other occupant of newly constructed or substantially renovated facilities owned and operated by the department of general administration in Thurston county shall proportionally share the debt service costs associated with the original construction or substantial renovation of the facility. Beginning July 1, 1995, each state agency or other occupant of a facility constructed or substantially renovated after July 1, 1992, and owned and operated by the department of general administration in Thurston county, shall be assessed a charge to pay the principal and interest payments on any bonds or other financial contract issued to finance the construction or renovation or an equivalent charge for similar projects financed by cash sources. In recognition that full payment of debt service costs may be higher than market rates for similar types of facilities or higher than existing agreements for similar charges entered into prior to June 9, 1994, the initial charge may be less than the full cost of principal and interest payments. The charge shall be assessed to all occupants of

the facility on a proportional basis based on the amount of occupied space or any unique construction requirements. The office of financial management, in consultation with the department of general administration, shall develop procedures to implement this section and report to the legislative fiscal committees, by October 1994, their recommendations for implementing this section. The office of financial management shall separately identify in the budget document all payments and the documentation for determining the payments required by this section for each agency and fund source during the current and the two past and future fiscal biennia. The charge authorized in this section is subject to annual audit by the state auditor. [1994 c 219 § 19.]

Finding—1994 c 219: See note following RCW 43.88.030.

Budget document: RCW 43.88.030.

General administration services: RCW 43.19.500.

43.01.100 Application forms—Employment—Licenses—Mention of race or religion prohibited. The inclusion of any question relative to an applicant's race or religion in any application blank or form for employment or license required to be filled in and submitted by an applicant to any department, board, commission, officer, agent, or employee of this state or the disclosure on any license of the race or religion of the licensee is hereby prohibited. [1965 c 8 § 43.01.100. Prior: 1955 c 87 § 1.]

Discrimination—Human rights commission: Chapter 49.60 RCW.

Subversive activities, public officials and employees: Chapter 9.81 RCW.

43.01.110 Penalty for violation of RCW 43.01.100. Any person who shall violate RCW 43.01.100 shall be guilty of a misdemeanor. [1965 c 8 § 43.01.110. Prior: 1955 c 87 § 2.]

43.01.120 Accidental death and dismemberment coverage during aircraft flights for state officers, employees, and legislators. The departments of state government are authorized to procure at state expense accidental death and dismemberment coverage not to exceed one hundred thousand dollars per person for the benefit of state employees and state elected officials, including legislators, while they are, in the course of their employment, passengers on or crew members of any nonscheduled aircraft flight. [1967 ex.s. c 6 § 1; 1965 ex.s. c 68 § 1.]

43.01.125 Duty to identify employees whose performance warrants termination from employment. It is the responsibility of each agency head to institute management procedures designed to identify any agency employee, either supervisory or nonsupervisory, whose performance is so inadequate as to warrant termination from state employment. In addition, it is the responsibility of each agency head to remove from a supervisory position any supervisor within the agency who has tolerated the continued employment of any employee under his or her supervision whose performance has warranted termination from state employment. [1985 c 461 § 15.]

Severability—1985 c 461: See note following RCW 41.06.020.

Adoption of rules to remove supervisors tolerating deficient employees: RCW 41.06.196.

43.01.150 Power to employ or appoint personnel not to include authority to provide state owned or leased motor vehicle. Notwithstanding any other provision of law, whenever any state agency, institution of higher education, or other appointing authority is empowered to employ or appoint administrators or other personnel and to fix their compensation, such power, in the absence of a specific contrary statutory authorization to the agency, institution of higher education, or appointing authority, shall not extend to the power to provide a state owned or leased motor vehicle for any use other than official state business. [1975 1st ex.s. c 33 § 1.]

Providing motor vehicle transportation services for public employees: RCW 43.19.560 through 43.19.635.

43.01.160 State publications to be in gender-neutral terms—Exception—Effect of noncompliance. (1) All rules and directory or advisory publications issued, adopted, or amended by state officers or agencies, as defined by RCW 41.06.020, after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No rule or publication is invalid because it does not comply with this section. [1983 c 20 § 2.]

Intent—1983 c 20: "It is the intent of the legislature to have the state's statutes, rules, and official communications expressed in gender-neutral terms." [1983 c 20 § 1.]

Statutes, memorials, and resolutions: RCW 44.04.210.

43.01.170 Hiring of early retirees by state agencies prohibited—Expiration of section. In order to ensure that the state derives the expected benefits from the early retirement provisions of chapter 234, Laws of 1992, chapter 86, Laws of 1993, and chapter 519, Laws of 1993, no state agency may hire persons who retire from service under the provisions of chapter 234, Laws of 1992, and chapter 86, Laws of 1993, or chapter 519, Laws of 1993, as temporary or project employees, as defined by the Washington personnel resources board for employees covered under chapter 41.06 RCW, and by the employer for persons not covered under *chapter 28B.16 RCW who are employed by institutions of higher education or community or technical colleges. Exceptions to this section may be granted by written approval from the director of the office of financial management if the director finds that the temporary or project employment of a retiree is necessary to protect the public safety, protect against the loss of federal certification or loss of critical federal funds, or carry out functions so essential to the agency that even temporary suspension or delay of services would have a significant negative impact on the public. At the end of each three-month period in which exceptions are approved, the director shall forward a copy of any approvals, together with justification for the exceptions, to the fiscal committees of the legislature. Each forwarded approval shall include the name of the temporary or project employee, the agency and division or department requesting the employment, duration and cost of the proposed employment, and specific functions and duties to be carried out during the employment. This section shall expire June 30, 1995. [1993 c 519 § 13; 1993 c 281 § 44; 1993 c 86 § 7; 1992 c 234 § 11.]

Reviser's note: (1) This section was amended by 1993 c 86 § 7, 1993 c 281 § 44, and by 1993 c 519 § 13, each without reference to the

other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

* (2) Chapter 28B.16 RCW was repealed by 1993 c 281 § 68. The powers, duties, and functions of the higher education personnel board are transferred to the Washington personnel resources board.

Part headings not law—Effective date—1993 c 519: See notes following RCW 41.32.4871.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective date—1993 c 86: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 21, 1993]." [1993 c 86 § 9.]

43.01.200 Facilitating recovery from Mt. St. Helens eruption—Legislative findings—Purpose. (1) The legislature finds that:

(a) The May 1980 eruption of Mount St. Helens has caused serious economic and physical damage to the land surrounding the mountain;

(b) There are continuing siltation problems which could severely affect the Toutle, Cowlitz, Coweeman, and Columbia rivers areas;

(c) There is an immediate need for sites for dredging, dredge spoils, flood control works, sediment retention, and bank protection and funds for dredging, dredge sites, dredge spoils sites, flood control works, sediment retention sites, and bank protection and to continue the rehabilitation of the areas affected by the natural disaster; and

(d) Failure to dredge and dike along the rivers and failure to cooperate with the federal government in sediment retention would directly affect the lives and property of the forty-five thousand residents in the Cowlitz and Toutle River valleys with severe negative impacts on local, state, and national transportation systems, public utilities, public and private property, and the Columbia river which is one of the major navigation channels for world-wide commerce.

(2) The intent of RCW 36.01.150, 43.01.210, 43.21A.500, 43.21C.500, 75.20.300, 89.16.500, and 90.58.500, their 1983 amendments, and RCW 43.01.215 is to authorize and direct maximum cooperative effort to meet the problems noted in subsection (1) of this section. [1985 c 307 § 1; 1983 1st ex.s. c 1 § 1; 1982 c 7 § 1.]

Severability—1983 1st ex.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 1st ex.s. c 1 § 10.]

Severability—1982 c 7: See note following RCW 36.01.150.

43.01.210 Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action. State agencies shall take action as follows to facilitate recovery from the devastation of the eruption of Mt. St. Helens:

(1) The department of transportation may secure any lands or interest in lands by purchase, exchange, lease, eminent domain, or donation for dredge sites, dredge spoils sites, flood control works, sediment retention works, or bank protection;

(2) The commissioner of public lands may by rule declare any public lands found to be damaged by the eruption of Mt. St. Helens, directly or indirectly, as surplus to the needs of the state and may dispose of such lands pursuant to Title 79 RCW to public or private entities for

development, park and recreation uses, open space, or fish and wildlife habitat;

(3) All state agencies shall cooperate with local governments, the United States army corps of engineers, and other agencies of the federal government in planning for dredge site selection and dredge spoils removal, and in all other phases of recovery operations;

(4) The department of transportation shall work with the counties concerned on site selection and site disposition in cooperation with the army corps of engineers; and

(5) State agencies may assist the army corps of engineers in the dredging and dredge spoils deposit operations. [1985 c 307 § 2; 1983 1st ex.s. c 1 § 2; 1982 c 7 § 2.]

Severability—1983 1st ex.s. c 1: See note following RCW 43.01.200.

Severability—1982 c 7: See note following RCW 36.01.150.

Facilitating recovery from Mt. St. Helens eruption—Scope of local government action: RCW 36.01.150.

43.01.215 Facilitating recovery from Mt. St. Helens eruption—Precedence of court proceedings under RCW 43.01.210—Finality of order under RCW 8.04.070—Appeal. (1) Court proceedings necessary to acquire property or property rights for purposes of RCW 43.01.210 take precedence over all other causes, including those expedited under the provisions of RCW 47.52.060, in all courts to the end that the provision of lands for dredge sites, dredge spoils sites, flood control works, or bank protection may be expedited.

(2) An order entered under RCW 8.04.070 relating to the acquisition of land under RCW 43.01.210 is final unless review of the order is taken to the supreme court within five days after entry of the order. Such an appeal shall be certified by the trial court to the supreme court. Upon certification, the supreme court shall assign the appeal for hearing at the earliest possible date, and it shall expedite its review and decision in every way possible. [1983 1st ex.s. c 1 § 8.]

Severability—1983 1st ex.s. c 1: See note following RCW 43.01.200.

43.01.220 Commute trip reduction—Parking revenue—Definitions. The definitions in this section apply throughout this chapter.

(1) "Guaranteed ride home" means an assured ride home for commuters participating in a commute trip reduction program who are not able to use their normal commute mode because of personal emergencies.

(2) "Pledged" means parking revenue designated through any means, including moneys received from the natural resource building, which is used for the debt service payment of bonds issued for parking facilities. [1993 c 394 § 2.]

Finding—Purpose—1993 c 394: "The legislature finds that reducing the number of commute trips to work is an effective way of reducing automobile-related air pollution, traffic congestion, and energy use. The legislature intends that state agencies shall assume a leadership role in implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting, under RCW 70.94.521 through 70.94.551.

The legislature has established and directed an interagency task force to consider mechanisms for funding state agency commute trip reduction programs; and to consider and recommend policies for employee incentives

for commuting by other than single-occupant vehicles, and policies for the use of state-owned vehicles.

It is the purpose of this act to provide state agencies with the authority to provide employee incentives, including subsidies for use of high occupancy vehicles to meet commute trip reduction goals, and to remove existing statutory barriers for state agencies to use public funds, including parking revenue, to operate, maintain, lease, or construct parking facilities at state-owned and leased facilities, to reduce parking subsidies, and to support commute trip reduction programs." [1993 c 394 § 1.]

43.01.225 Commute trip reduction—Parking revenue—State capitol vehicle parking account. There is hereby established an account in the state treasury to be known as the "state capitol vehicle parking account." All parking rental income collected from rental of parking space at state-owned or leased property shall be deposited in the "state capitol vehicle parking account." Revenue deposited in the "state capitol vehicle parking account" shall be first applied to pledged purposes. Unpledged parking revenues deposited in the "state capitol vehicle parking account" may be used to:

(1) Pay costs incurred in the operation, maintenance, regulation, and enforcement of vehicle parking and parking facilities on state-owned or leased properties;

(2) Support the lease costs and/or capital investment costs of vehicle parking and parking facilities at agency-owned and leased facilities off the capitol campus; and

(3) Support commute trip reduction programs under RCW 70.94.521 through 70.94.551.

Distribution of funds from the "state capitol vehicle parking account" are subject to appropriation by the legislature and will be made by the office of financial management after considering recommendations from the director of general administration and the interagency task force for commute trip reduction, under RCW 70.94.551. [1993 c 394 § 5.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.230 Commute trip reduction—Use of public funds. State agencies may, subject to appropriation and under the internal revenue code rules, use public funds to financially assist agency-approved incentives for alternative commute modes, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs, if the financial assistance is an element of the agency's commute trip reduction program as required under RCW 70.94.521 through 70.94.551. This section does not permit any payment for the use of state-owned vehicles for commuter ride sharing. [1993 c 394 § 6.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

43.01.235 Commute trip reduction—Higher education institutions—Exemption. All state higher education institutions are exempt from RCW 43.01.225. [1993 c 394 § 7.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Chapter 43.03
SALARIES AND EXPENSES

Sections

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- 43.03.220 Compensation of members of part-time boards and commissions—Class one groups.
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- 43.03.300 Salaries of elected state officials—Legislative declaration—Purpose.
- 43.03.305 Washington citizens' commission on salaries for elected officials—Generally.
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Compensation for unofficial services permitted: RCW 42.04.070.

Compensation not to be changed during term: State Constitution Art. 2 § 25, Art. 3 § 25, Art. 28 § 1.

Free transportation prohibited: State Constitution Art. 2 § 39, Art. 12 § 20.

Salaries of state officers, payable semimonthly: RCW 42.16.010.

43.03.010 Salaries of elective state officers. The annual salaries of the following named state elected officials shall be prescribed by the Washington citizens' commission on salaries for elected officials: Governor; lieutenant governor: PROVIDED, That in arriving at the annual salary of the lieutenant governor the commission shall prescribe a

fixed amount plus a sum equal to 1/260th of the difference between the annual salary of the lieutenant governor and the annual salary of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor; secretary of state; state treasurer; state auditor; attorney general; superintendent of public instruction; commissioner of public lands; and state insurance commissioner. Members of the legislature shall receive for their service per annum the amount prescribed by the Washington citizens' commission on salaries for elected officials; and in addition, reimbursement for mileage for travel to and from legislative sessions as provided in RCW 43.03.060. [1989 c 10 § 8. Prior: 1986 c 161 § 1; 1986 c 155 § 8; 1983 1st ex.s. c 29 § 3; 1979 ex.s. c 255 § 1; 1977 ex.s. c 318 § 1; 1975-'76 2nd ex.s. c 113 § 1; 1975 1st ex.s. c 263 § 1; 1974 ex.s. c 149 § 2 (Initiative Measure No. 282, approved November 6, 1973); 1967 ex.s. c 100 § 1; 1965 ex.s. c 127 § 4; 1965 c 8 § 43.03.010; prior: 1965 c 1 § 2; 1961 c 5 § 1; 1959 c 316 § 1; 1949 c 48 § 1; Rem. Supp. 1949 § 10965-1; prior: 1947 c 79 § .02.04; 1945 c 116 § 1; 1939 c 226 § 1; 1925 ex.s. c 163 § 1; 1925 ex.s. c 90 § 1; 1919 c 124 §§ 1, 2; 1907 c 94 § 1.]

Effective date—1986 c 161 § 1: "Section 1 of this act shall take effect on January 1, 1987." [1986 c 161 § 3.] "Section 1 of this act" is the 1986 c 161 amendment to RCW 43.03.010.

Severability—1986 c 161: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 161 § 5.]

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Effective date—1979 ex.s. c 255: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1979." [1979 ex.s. c 255 § 11.]

Effective date—1977 ex.s. c 318: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1977." [1977 ex.s. c 318 § 7.]

Severability—1975 1st ex.s. c 263: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 263 § 7.]

Effective date—1975 1st ex.s. c 263: "This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1975." [1975 1st ex.s. c 263 § 8.]

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1974 ex.s. c 149 § 7 (Initiative Measure No. 282).]

Construction—1965 ex.s. c 127: "The salary increases provided for herein shall take effect at the earliest time allowable by the Constitution of the state of Washington, including Article II, section 13, Article II, section 25, Article IV, section 13, and Article XXVIII: PROVIDED, That it is the intent of the legislature that nothing in this act shall render a member of the legislature or of the judiciary ineligible to file for and be elected to the legislature or the judiciary respectively." [1965 ex.s. c 127 § 5.]

Salaries of elected officials: State Constitution Art. 28 § 1.

Washington citizens' commission on salaries for elected officials: RCW 43.03.305.

43.03.011 Salaries of state elected officials of the executive branch. Pursuant to Article XXVIII, section 1 of

the state Constitution and RCW 43.03.010 and 43.03.310, the annual salaries of the state elected officials of the executive branch shall be as follows:

- (1) Effective September 3, 1992:
- | | |
|--|------------|
| (a) Governor | \$ 121,000 |
| (b) Lieutenant governor | \$ 62,700 |
| (c) Secretary of state | \$ 64,300 |
| (d) Treasurer | \$ 79,500 |
| (e) Auditor | \$ 84,100 |
| (f) Attorney general | \$ 92,000 |
| (g) Superintendent of public instruction | \$ 86,600 |
| (h) Commissioner of public lands | \$ 86,600 |
| (i) Insurance commissioner | \$ 77,200 |
- (2) Effective September 1, 1993:
- | | |
|--|------------|
| (a) Governor | \$ 121,000 |
| (b) Lieutenant governor | \$ 62,700 |
| (c) Secretary of state | \$ 64,300 |
| (d) Treasurer | \$ 79,500 |
| (e) Auditor | \$ 84,100 |
| (f) Attorney general | \$ 92,000 |
| (g) Superintendent of public instruction | \$ 86,600 |
| (h) Commissioner of public lands | \$ 86,600 |
| (i) Insurance commissioner | \$ 77,200 |

(3) The lieutenant governor shall receive the fixed amount of his salary plus 1/260th of the difference between his salary and that of the governor for each day that the lieutenant governor is called upon to perform the duties of the governor by reason of the absence from the state, removal, resignation, death, or disability of the governor. [1993 sp.s. c 26 § 1; 1991 sp.s. c 1 § 1; 1989 2nd ex.s. c 4 § 1; 1987 1st ex.s. c 1 § 1, part.]

43.03.012 Salaries of judges. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 2.04.092, 2.06.062, 2.08.092, 3.58.010, and 43.03.310, the annual salaries of the judges of the state shall be as follows:

- (1) Effective September 3, 1992:
- | | |
|--|------------|
| (a) Justices of the supreme court | \$ 107,200 |
| (b) Judges of the court of appeals | \$ 101,900 |
| (c) Judges of the superior court | \$ 96,600 |
| (d) Full-time judges of the district court | \$ 91,900 |
- (2) Effective September 1, 1993:
- | | |
|--|------------|
| (a) Justices of the supreme court | \$ 107,200 |
| (b) Judges of the court of appeals | \$ 101,900 |
| (c) Judges of the superior court | \$ 96,600 |
| (d) Full-time judges of the district court | \$ 91,900 |

(3) The salary for a part-time district court judge shall be the proportion of full-time work for which the position is authorized, multiplied by the salary for a full-time district court judge. [1993 sp.s. c 26 § 2; 1991 sp.s. c 1 § 2; 1989 2nd ex.s. c 4 § 2; 1987 1st ex.s. c 1 § 1, part.]

43.03.013 Salaries of members of the legislature. Pursuant to Article XXVIII, section 1 of the state Constitution and RCW 43.03.010 and 43.03.310, the annual salary of members of the legislature shall be:

- (1) Effective September 3, 1992:
- | | |
|----------------------------|-----------|
| (a) Legislator | \$ 25,900 |
| (b) Speaker of the house | \$ 33,900 |
| (c) Senate majority leader | \$ 29,900 |
| (d) Senate minority leader | \$ 29,900 |

- (e) House minority leader \$ 29,900
 (2) Effective September 1, 1993:
 (a) Legislator \$ 25,900
 (b) Speaker of the house \$ 33,900
 (c) Senate majority leader \$ 29,900
 (d) Senate minority leader \$ 29,900
 (e) House minority leader \$ 29,900

[1993 sp.s. c 26 § 3; 1991 sp.s. c 1 § 3; 1989 2nd ex.s. c 4 § 3; 1987 1st ex.s. c 1 § 1, part.]

43.03.015 Emoluments of office for appointees to office of state legislator. Any person appointed to fill a vacancy that may occur in either the senate or house of representatives of the state legislature, prior to his qualification at the next succeeding regular or special session of the legislature shall be entitled to the same emoluments of office as the duly elected member whom he succeeded. [1967 ex.s. c 100 § 2.]

Eligibility of member of legislature to appointment or election to office of official whose salary was increased during legislator's term: RCW 3.58.010.

43.03.020 Expenses of lieutenant governor acting as governor. Whenever by reason of the absence from the state or the disability of the governor, the lieutenant governor is called upon temporarily to perform the duties of the office of governor, he shall be paid upon his personal voucher therefor the sum of ten dollars per day for expenses. [1965 c 8 § 43.03.020. Prior: 1919 c 118 § 1; RRS § 10979.]

43.03.027 Salaries of public officials—State policy enunciated. It is hereby declared to be the public policy of this state to base the salaries of public officials on realistic standards in order that such officials may be paid according to the true value of their services and the best qualified citizens may be attracted to public service. It is the purpose of RCW 43.03.027, 43.03.028, 43.03.040, 43.03.045 and 43.03.047 to effectuate this policy by utilizing the expert knowledge of citizens having access to pertinent facts concerning proper salaries for public officials, thus removing and dispelling any thought of political consideration in fixing the appropriateness of the amount of such salaries. [1970 ex.s. c 43 § 1.]

Severability—1970 ex.s. c 43: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1970 ex.s. c 43 § 7.]

43.03.028 State committee on agency officials' salaries—Members—Duties—Reports. (1) There is hereby created a state committee on agency officials' salaries to consist of seven members, or their designees, as follows: The president of the University of Puget Sound; the chairperson of the council of presidents of the state's four-year institutions of higher education; the chairperson of the Washington personnel resources board; the president of the Association of Washington Business; the president of the Pacific Northwest Personnel Managers' Association; the president of the Washington State Bar Association; and the president of the Washington State Labor Council. If any of the titles or positions mentioned in this subsection are

changed or abolished, any person occupying an equivalent or like position shall be qualified for appointment by the governor to membership upon the committee.

(2) The committee shall study the duties and salaries of the directors of the several departments and the members of the several boards and commissions of state government, who are subject to appointment by the governor or whose salaries are fixed by the governor, and of the chief executive officers of the following agencies of state government:

The arts commission; the human rights commission; the board of accountancy; the board of pharmacy; the eastern Washington historical society; the Washington state historical society; the interagency committee for outdoor recreation; the criminal justice training commission; the department of personnel; the state finance committee; the state library; the traffic safety commission; the horse racing commission; the advisory council on vocational education; the public disclosure commission; the state conservation commission; the commission on Hispanic affairs; the commission on Asian-American affairs; the state board for volunteer fire fighters; the transportation improvement board; the public employment relations commission; the forest practices appeals board; and the energy facilities site evaluation council.

The committee shall report to the governor or the chairperson of the appropriate salary fixing authority at least once in each fiscal biennium on such date as the governor may designate, but not later than seventy-five days prior to the convening of each regular session of the legislature during an odd-numbered year, its recommendations for the salaries to be fixed for each position.

(3) Committee members shall be reimbursed by the department of personnel for travel expenses under RCW 43.03.050 and 43.03.060. [1993 c 281 § 45; 1993 c 101 § 14; 1991 c 3 § 294; 1988 c 167 § 9. Prior: 1987 c 504 § 15; 1987 c 249 § 7; 1986 c 155 § 9; 1982 c 163 § 21; 1980 c 87 § 20; prior: 1977 ex.s. c 127 § 1; 1977 c 75 § 36; 1970 ex.s. c 43 § 2; 1967 c 19 § 1; 1965 c 8 § 43.03.028; prior: 1961 c 307 § 1; 1955 c 340 § 1.]

Reviser's note: This section was amended by 1993 c 101 § 14 and by 1993 c 281 § 45, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 c 281: See note following RCW 41.06.022.

Findings—1993 c 101: See note following RCW 27.34.010.

Severability—Effective date—1993 c 101: See RCW 27.34.915 and 27.34.916.

Savings—Severability—1988 c 167: See notes following RCW 47.26.121.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.030 Increase or reduction of appointees' compensation. (1) Wherever the compensation of any appointive state officer or employee is fixed by statute, it may be hereafter increased or decreased in the manner provided by law for the fixing of compensation of other

appointive state officers or employees; but this subsection shall not apply to the heads of state departments.

(2) Wherever the compensation of any state officer appointed by the governor, or of any employee in any office or department under the control of any such officer, is fixed by statute, such compensation may hereafter, from time to time, be changed by the governor, and he shall have power to fix such compensation at any amount not to exceed the amount fixed by statute. [1965 c 8 § 43.03.030. Prior: (i) 1921 c 49 § 1; RRS § 10896. (ii) 1933 c 47 § 1; RRS § 10976-1.]

43.03.040 Salaries of certain directors and chief executive officers. The directors of the several departments and members of the several boards and commissions, whose salaries are fixed by the governor and the chief executive officers of the agencies named in RCW 43.03.028(2) as now or hereafter amended shall each severally receive such salaries, payable in monthly installments, as shall be fixed by the governor or the appropriate salary fixing authority, in an amount not to exceed the recommendations of the committee on agency officials' salaries. Beginning July 1, 1993, through June 30, 1995, the salary paid to such directors and members of boards and commissions shall not exceed the amount paid as of April 1, 1993. [1993 sp.s. c 24 § 914; 1986 c 155 § 12; 1977 ex.s. c 127 § 2; 1970 ex.s. c 43 § 3; 1965 c 8 § 43.03.040. Prior: 1961 c 307 § 2; 1955 c 340 § 2; 1949 c 111 § 1; 1937 c 224 § 1; Rem. Supp. 1949 § 10776-1.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Severability—1970 ex.s. c 43: See note following RCW 43.03.027.

43.03.050 Subsistence, lodging and refreshment, and per diem allowance for officials, employees, and members of boards, commissions, or committees. (1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for

meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature. [1990 c 30 § 1; 1983 1st ex.s. c 29 § 1; 1979 c 151 § 83; 1977 ex.s. c 312 § 1; 1975-'76 2nd ex.s. c 34 § 94; 1970 ex.s. c 34 § 1; 1965 ex.s. c 77 § 1; 1965 c 8 § 43.03.050. Prior: 1961 c 220 § 1; 1959 c 194 § 1; 1953 c 259 § 1; 1949 c 17 § 1; 1943 c 86 § 1; Rem. Supp. 1949 § 10981-1.]

Effective date—Construction—1977 ex.s. c 312: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately except that any new schedule of allowances under either RCW 43.03.050 and 43.03.060 as now or hereafter amended shall not be effective until July 1, 1977 or later." [1977 ex.s. c 312 § 5.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.03.060 Mileage allowance. (1) Whenever it becomes necessary for elective or appointive officials or employees of the state to travel away from their designated posts of duty while engaged on official business, and it is found to be more advantageous or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be

based on the method deemed most advantageous or economical to the state.

(3) The mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature. [1990 c 30 § 2; 1983 1st ex.s. c 29 § 2; 1979 c 151 § 84; 1977 ex.s. c 312 § 2; 1975-'76 2nd ex.s. c 34 § 95; 1974 ex.s. c 157 § 1; 1967 ex.s. c 16 § 4; 1965 c 8 § 43.03.060. Prior: 1949 c 17 § 2; 1943 c 86 § 2; Rem. Supp. 1949 § 10981-2.]

Effective date—Construction—1977 ex.s. c 312: See note following RCW 43.03.050.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.03.062 State convention and trade center employees—Travel expenses. Notwithstanding any provision of this chapter, employees of the corporation formed under RCW 67.40.020 shall be reimbursed for actual and reasonable travel and subsistence expenses incurred out of state for the purpose of marketing the convention center as may be requested or performed by the chief executive officer of the corporation subject to approval of the office of financial management. Reimbursement under this section may not be for promotional hosting expenditures. [1985 c 233 § 4.]

43.03.065 Subsistence and lodging expenses—Direct payment to suppliers authorized. The allowances prescribed pursuant to RCW 43.03.050 as now or hereafter amended may be paid as reimbursements to individuals for subsistence and lodging expenses during official travel. Alternatively, amounts not exceeding those allowances may be paid directly to appropriate suppliers of subsistence and lodging, when more economical and advantageous to the state, under general rules and regulations adopted by the director of financial management with the advice of the state auditor. Payments to suppliers for subsistence and lodging expenses of individuals in travel status shall not result in a cost to the state in excess of what would be payable by way of reimbursements to the individuals involved. [1979 c 151 § 85; 1977 ex.s. c 312 § 4.]

Effective date—Construction—1977 ex.s. c 312: See note following RCW 43.03.050.

43.03.110 Moving expenses of employees. Whenever it is reasonably necessary to the successful performance of the required duty of a state office, commission, department or institution to transfer a deputy or other employee from one station to another within the state, thereby necessitating a change of such deputy's or employee's domicile, it shall be lawful for such office, commission, department or institution to move such deputy's or employee's household goods and effects to the new station at the expense of the state, or to defray the actual cost of such removal by common carrier, or otherwise, at the expense of the state, in which latter event reimbursement to the deputy or employee shall be upon voucher submitted by him and approved by the department head. [1967 ex.s. c 16 § 1; 1965 c 8 § 43.03.110. Prior: 1943 c 128 § 1; Rem. Supp. 1943 § 9948-1.]

43.03.120 Moving expenses of new employees. Any state office, commission, department or institution may also pay the moving expenses of a new employee, necessitated by his acceptance of state employment, pursuant to mutual agreement with such employee in advance of his employment: PROVIDED, That if such employee is in the classified service as defined in chapter 41.06 RCW, that said employee has been duly certified from an eligible register. No such offer or agreement for such payment shall be made to a prospective member of the classified service, prior to such certification, except through appropriate public announcement by the department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW. Payment for all expenses authorized by RCW 43.03.060, 43.03.110 through 43.03.210 including moving expenses of new employees, exempt or classified, and others, shall be subject to reasonable regulations promulgated by the director of financial management, including regulations defining allowable moving costs: PROVIDED, That, if the new employee terminates or causes termination of his employment with the state within one year of the date of employment, the state shall be entitled to reimbursement for the moving costs which have been paid and may withhold such sum as necessary therefor from any amounts due the employee. [1979 c 151 § 86; 1967 ex.s. c 16 § 2.]

43.03.130 Travel expenses of prospective employees. Any state office, commission, department or institution may agree to pay the travel expenses of a prospective employee as an inducement for such applicant to travel to a designated place to be interviewed by and for the convenience of such agency: PROVIDED, That if such employment is to be in the classified service, such offer may be made only on the express authorization of the state department of personnel, or other corresponding personnel agency as provided by chapter 41.06 RCW, to applicants reporting for a merit system examination or to applicants from an eligible register reporting for a pre-employment interview. Travel expenses authorized for prospective employees called for interviews shall be payable at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. When an applicant is called to be interviewed by or on behalf of more than one agency, the authorized travel expenses may be paid directly by the authorizing personnel department or agency, subject to reimbursement from the interviewing agencies on a pro rata basis.

In the case of both classified and exempt positions, such travel expenses will be paid only for applicants being considered for the positions of director, deputy director, assistant director, or supervisor of state departments, boards or commissions; or equivalent or higher positions; or engineers, or other personnel having both executive and professional status. In the case of four-year institutions of higher education, such travel expenses will be paid only for applicants being considered for academic positions above the rank of instructor or professional or administrative employees in supervisory positions. In the case of community and technical colleges, such travel expenses may be paid for applicants being considered for full-time faculty positions or administrative employees in supervisory positions. [1993 c 93 § 1; 1975-'76 2nd ex.s. c 34 § 96; 1967 ex.s. c 16 § 3.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.03.150 Advance payment of travel expenses—Authorized. Whenever it becomes necessary for an elective or appointive official or employee of the state to travel and to incur expenses for which reimbursement may be made, it shall be the policy of the state to make reasonable allowances to such officers and employees in advance of expenditure, on request of such officer or employee, under appropriate rules and regulations prescribed by the director of financial management. [1979 c 151 § 87; 1967 ex.s. c 16 § 6.]

43.03.160 Advance payment of travel expenses—"Department" defined. "Department", as used herein, shall mean every department, office, agency or institution of state government. [1967 ex.s. c 16 § 7.]

43.03.170 Advance payment of travel expenses—Advance warrants—Issuance—Limitations. The head of any state department may issue an advance warrant on the request of any officer or employee for the purpose of defraying his anticipated reimbursable expenses while traveling on business of such state department away from his designated post of duty, except expenses in connection with the use of a personal automobile. The amount of such advance shall not exceed the amount of such reasonably anticipated expenses of the officer or employee to be necessarily incurred in the course of such business of the state for a period of not to exceed ninety days. Department heads shall establish written policies prescribing a reasonable amount for which such warrants may be written. [1979 ex.s. c 71 § 1; 1967 ex.s. c 16 § 8.]

43.03.180 Advance payment of travel expenses—Itemized travel expense voucher to be submitted—Repayment of unexpended portion of advance—Default. On or before the tenth day following each month in which such advance was furnished to the officer or employee, he shall submit to the head of his department a fully itemized travel expense voucher fully justifying the expenditure of such advance or whatever part thereof has been expended, for legally reimbursable items on behalf of the state. Any unexpended portion of such advance shall be returned to the agency at the close of the authorized travel period. Payment shall accompany such itemized voucher at the close of the travel period; and may be made by check or similar instrument payable to the department. Any default in accounting for or repaying an advance shall render the full amount which is unpaid immediately due and payable with interest at the rate of ten percent per annum from the date of default until paid. [1967 ex.s. c 16 § 9.]

43.03.190 Advance payment of travel expenses—Lien against and right to withhold funds payable until proper accounting or repaying of advance made. To protect the state from any losses on account of advances made as provided in RCW 43.03.150 through 43.03.210, the state shall have a prior lien against and a right to withhold any and all funds payable or to become payable by the state to such officer or employee to whom such advance has been

given as provided in RCW 43.03.150 through 43.03.210, up to the amount of such advance and interest at the rate of ten percent per annum, until such time as repayment or justification has been made. [1979 ex.s. c 71 § 2; 1967 ex.s. c 16 § 10.]

43.03.200 Advance payment of travel expenses—Advances construed. An advance made under RCW 43.03.150 through 43.03.210 shall be considered as having been made to such officer or employee to be expended by him as an agent of the state for state purposes only, and specifically to defray necessary costs while performing his official duties. No such advance shall be considered for any purpose as a loan to such officer or employee, and any unauthorized expenditure of such funds shall be considered a misappropriation of state funds by a custodian of such funds. [1967 ex.s. c 16 § 11.]

43.03.210 Advance payment of travel expenses—Director of financial management to prescribe rules and regulations to carry out RCW 43.03.150 through 43.03.210. The director of financial management may prescribe rules and regulations to assist in carrying out the purposes of RCW 43.03.150 through 43.03.210 including regulation of travel by officers and employees and the conditions under which per diem and mileage shall be paid, so as to improve efficiency and conserve funds and to insure proper use and accountability of travel advances strictly in the public interest and for public purposes only. [1979 c 151 § 88; 1967 ex.s. c 16 § 12.]

43.03.220 Compensation of members of part-time boards and commissions—Class one groups. (1) Any part-time board, commission, council, committee, or other similar group which is established by the executive, legislative, or judicial branch to participate in state government and which functions primarily in an advisory, coordinating, or planning capacity shall be identified as a class one group.

(2) Absent any other provision of law to the contrary, no money beyond the customary reimbursement or allowance for expenses may be paid by or through the state to members of class one groups for attendance at meetings of such groups. [1984 c 287 § 2.]

Legislative findings—1984 c 287: "The legislature finds that members of part-time boards, commissions, councils, committees, and other similar groups established by the executive, legislative, or judicial branches of state government make a valuable contribution to the public welfare. This time and talent so generously donated to the state is gratefully acknowledged.

The legislature further finds that membership on certain part-time groups involves responsibility for major policy decisions and represents a significant demand on the time and resources of members. The demands and responsibilities are well beyond reasonable expectations of an individual's gratuitous contribution to the public welfare. It is therefore appropriate to provide compensation to members of specific qualifying groups and further to provide three levels of compensation based on the responsibilities of the group and the time required to perform the group's statutory duties." [1984 c 287 § 1.]

Section headings—1984 c 287: "Section headings and captions used in RCW 43.03.220 through 43.03.250 do not constitute any part of the law." [1984 c 287 § 114.]

Severability—1984 c 287: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1984 c 287 § 115.]

Effective date—1984 c 287: "This act shall take effect on July 1, 1985." [1984 c 287 § 116.]

43.03.230 Compensation of members of part-time boards and commissions—Class two groups. (1) Any agricultural commodity commission established pursuant to Title 15 or 16 RCW shall be identified as a class two group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class two group is eligible to receive compensation in an amount not to exceed thirty-five dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group. [1984 c 287 § 3.]

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.240 Compensation of members of part-time boards and commissions—Class three groups. (1) Any part-time, statutory board, commission, council, committee, or other similar group which has rule-making authority, performs quasi judicial functions, has responsibility for the administration or policy direction of a state agency or program, or performs regulatory or licensing functions with respect to a specific profession, occupation, business, or industry shall be identified as a class three group for purposes of compensation.

(2) Except as otherwise provided in this section, each member of a class three group is eligible to receive compensation in an amount not to exceed fifty dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group. [1984 c 287 § 4.]

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.250 Compensation of members of part-time boards and commissions—Class four groups. (1) A part-

time, statutory board, commission, council, committee, or other similar group shall be identified as a class four group for purposes of compensation if the group:

(a) Has rule-making authority, performs quasi-judicial functions, or has responsibility for the administration or policy direction of a state agency or program;

(b) Has duties that are deemed by the legislature to be of overriding sensitivity and importance to the public welfare and the operation of state government; and

(c) Requires service from its members representing a significant demand on their time that is normally in excess of one hundred hours of meeting time per year.

(2) Each member of a class four group is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the group or performs statutorily prescribed duties approved by the chairperson of the group. A person shall not receive compensation for a day of service under this section if the person (a) occupies a position, normally regarded as full-time in nature, in any agency of the federal government, Washington state government, or Washington state local government; and (b) receives any compensation from such government for working that day.

(3) Compensation may be paid a member under this section only if it is authorized under the law dealing in particular with the specific group to which the member belongs or dealing in particular with the members of that specific group. [1984 c 287 § 5.]

Legislative findings—Section headings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.260 Compensation of members of part-time boards and commissions—Reports to legislature. The office of financial management shall review the compensation levels established for the various boards and commissions by RCW 43.03.220, 43.03.230, 43.03.240, and 43.03.250. The conclusions of the review, together with any proposed legislation, shall be submitted to the appropriate standing committees of the legislature by December 1, 1988, and every four years thereafter. [1986 c 158 § 8; 1984 c 287 § 113.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.03.300 Salaries of elected state officials—Legislative declaration—Purpose. The legislature hereby declares it to be the policy of this state to base salaries of elected state officials on realistic standards in order that such officials may be paid according to the duties of their offices and so that citizens of the highest quality may be attracted to public service. It is the purpose of RCW 43.03.300 through 43.03.310 to effectuate this policy by creating a citizens' commission to establish proper salaries for such officials, thus removing political considerations in fixing the appropriateness of the amount of such salaries. [1986 c 155 § 1.]

Contingent effective date—1986 c 155: "This act shall take effect on January 1, 1987, if the proposed amendment to Article XXVIII of the state Constitution establishing an exclusive process for changes in the salaries of members of the legislature and other elected state officials is validly submitted and is approved and ratified by the voters at a general

election held in November, 1986. If such proposed amendment is not so submitted and approved and ratified, this act shall be null and void in its entirety." [1986 c 155 § 16.] 1986 House Joint Resolution No. 49 was approved at the November 1986 general election. See Article XXVIII, section 1 and Amendment 78 of the state Constitution.

Severability—1986 c 155: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 155 § 15.]

43.03.305 Washington citizens' commission on salaries for elected officials—Generally. There is created a commission to be known as the Washington citizens' commission on salaries for elected officials, to consist of fifteen members appointed by the governor as provided in this section.

(1) Eight of the fifteen commission members shall be selected by lot by the secretary of state from among those registered voters eligible to vote at the general election held in November, 1986, and thereafter from among those registered voters eligible to vote at the time of the selection. One member shall be selected from each congressional district. The secretary shall establish policies and procedures for conducting the selection by lot. The policies and procedures shall include, but not be limited to, those for notifying persons selected and for providing a new selection from a congressional district if a person selected from the district declines appointment to the commission.

(2) The remaining seven of the fifteen commission members, all residents of this state, shall be selected jointly by the speaker of the house of representatives and the president of the senate. The persons selected under this subsection shall have had experience in the field of personnel management. Of these seven members, one shall be selected from each of the following five sectors in this state: Private institutions of higher education; business; professional personnel management; legal profession; and organized labor. Of the two remaining members, one shall be a person recommended to the speaker and the president by the chair of the Washington personnel resources board and one shall be a person recommended by majority vote of the presidents of the state's four-year institutions of higher education.

(3) The secretary of state shall forward the names of persons selected under subsection (1) of this section and the speaker of the house of representatives and president of the senate shall forward the names of persons selected under subsection (2) of this section to the governor who shall appoint these persons to the commission. Except as provided in subsection (6) of this section, the names of persons selected for appointment to the commission shall be forwarded to the governor not later than February 15, 1987, and not later than the fifteenth day of February every four years thereafter.

(4) Members shall hold office for terms of four years, and no person may be appointed to more than two such terms. No member of the commission may be removed by the governor during his or her term of office unless for cause of incapacity, incompetence, neglect of duty, or malfeasance in office or for a disqualifying change of residence.

(5) No state official, public employee, or lobbyist, or immediate family member of the official, employee, or

lobbyist, subject to the registration requirements of chapter 42.17 RCW is eligible for membership on the commission.

As used in this subsection the phrase "immediate family" means the parents, spouse, siblings, children, or dependent relative of the official, employee, or lobbyist whether or not living in the household of the official, employee, or lobbyist.

(6) Upon a vacancy in any position on the commission, a successor shall be selected and appointed to fill the unexpired term. The selection and appointment shall be concluded within thirty days of the date the position becomes vacant and shall be conducted in the same manner as originally provided. [1993 c 281 § 46; 1986 c 155 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

43.03.310 Duties of citizens' commission—Travel expenses—Chairperson—Schedule of salaries—Publication—Hearings. (1) The citizens' commission on salaries for elected officials shall study the relationship of salaries to the duties of members of the legislature, all elected officials of the executive branch of state government, and all judges of the supreme court, court of appeals, superior courts, and district courts, and shall fix the salary for each respective position.

(2) Except as provided otherwise in this section, the commission shall be solely responsible for its own organization, operation, and action and shall enjoy the fullest cooperation of all state officials, departments, and agencies.

(3) Members of the commission shall receive no compensation for their services, but shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060.

(4) The members of the commission shall elect a chairperson from among their number. The commission shall set a schedule of salaries by an affirmative vote of not less than eight members of the commission.

(5) The commission shall file its initial schedule of salaries for the elected officials with the secretary of state no later than the first Monday in June, 1987, and shall file a schedule biennially thereafter. Each such schedule shall be filed in legislative bill form, shall be assigned a chapter number and published with the session laws of the legislature, and shall be codified by the statute law committee. The signature of the chairperson of the commission shall be affixed to each schedule submitted to the secretary of state. The chairperson shall certify that the schedule has been adopted in accordance with the provisions of state law and with the rules, if any, of the commission. Such schedules shall become effective ninety days after the filing thereof, except as provided in Article XXVIII, section 1 of the state Constitution. State laws regarding referendum petitions shall apply to such schedules to the extent consistent with Article XXVIII, section 1 of the state Constitution.

(6) Prior to the filing of any salary schedule, the commission shall hold no fewer than four public hearings thereon within the four months immediately preceding the filing.

(7) All meetings, actions, hearings, and business of the commission shall be subject in full to the open public meetings act, chapter 42.30 RCW.

(8) Salaries of the officials referred to in subsection (1) of this section that are in effect on January 12, 1987, shall continue until modified by the commission under this section. [1986 c 155 § 3.]

Contingent effective date—Severability—1986 c 155: See notes following RCW 43.03.300.

Chapter 43.04

USE OF STATE SEAL

Sections

43.04.010	Legislative findings.
43.04.020	Definitions.
43.04.030	Use of state seal—Official purposes.
43.04.040	Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules.
43.04.050	Use of state seal—Prohibitions—Imitations.
43.04.060	Endorsements prohibited.
43.04.070	Civil penalties—Injunctions.
43.04.080	Investigations—Enforcement.
43.04.090	Criminal penalty.
43.04.100	Deposit of fees, penalties, and damages—Use.
43.04.900	Severability—1988 c 120.

43.04.010 Legislative findings. The legislature finds that the seal of the state of Washington is a symbol of the authority and sovereignty of the state and is a valuable asset of its people. It is the intent of the legislature to ensure that appropriate uses are made of the state seal and to assist the secretary of state in the performance of the secretary's constitutional duty as custodian of the seal. [1988 c 120 § 1.]

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

(1) "State seal" means the seal of the state as described in Article XVIII, section 1 of the state Constitution and in RCW 1.20.080.

(2) "Secretary" means the secretary of state and any designee of the secretary of state. [1988 c 120 § 2.]

43.04.030 Use of state seal—Official purposes. Except as otherwise provided in this chapter, the state seal shall be used for official purposes only. [1988 c 120 § 3.]

43.04.040 Use of state seal—Commemorative and souvenir items—Historical, educational, and civil purposes—Application—Fee—Licensing agreements—Rules. (1) The secretary of state may authorize the use of the state seal on commemorative and souvenir items, and for historical, educational, and civic purposes. Such authorization shall be in writing.

(2) Application for such authorization shall be in writing and shall be accompanied by a filing fee, the amount of which shall be determined by the secretary of state. The secretary shall set the fee at a level adequate to cover the administrative costs of processing the applications.

(3) If the secretary determines that a permitted use of the seal could financially benefit the state, the secretary may condition authorization upon a licensing agreement to secure those benefits for the state.

(4) The secretary of state shall adopt rules under chapter 34.05 RCW to govern the use of the seal in a manner consistent with this chapter. Any rule governing the use of the seal shall be designed to prevent inappropriate or misleading use of the seal and to assure tasteful and high-quality reproduction of the seal. The rules shall also prescribe the circumstances when a licensing arrangement shall be required and the method for determining licensing fees. [1988 c 120 § 4.]

43.04.050 Use of state seal—Prohibitions—Imitations. (1) Except as otherwise provided in RCW 43.04.040, the state seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(2) The state seal shall never be used in a political campaign to assist or defeat any candidate for elective office.

(3) It is a violation of this chapter to use any symbol that imitates the seal or that is deceptively similar in appearance to the seal, in any manner that would be an improper use of the official seal itself.

(4) Nothing in this chapter shall prohibit the reproduction of the state seal for illustrative purposes by the news media if the reproduction by the news media is incidental to the publication or the broadcast. Nothing in this chapter shall prohibit a characterization of the state seal from being used in political cartoons. [1988 c 120 § 5.]

43.04.060 Endorsements prohibited. No use of the state seal may operate or be construed to operate in any way as an endorsement of any business, organization, product, service, or article. [1988 c 120 § 6.]

43.04.070 Civil penalties—Injunctions. Any person who violates RCW 43.04.050 (1) or (3) by using the state seal or an imitative or deceptively similar seal on or in connection with any product, business, organization, service, or article shall be liable for damages in a suit brought by the attorney general. The damages shall be equal to the gross monetary amount gained by the misuse of the state seal or the use of the imitative or deceptively similar seal, plus attorney's fees and other costs of the state in bringing the suit. The "gross monetary amount" is the total of the gross receipts that can be reasonably attributed to the misuse of the seal or the use of an imitative or deceptively similar seal. In addition to the damages, the violator is subject to a civil penalty imposed by the court in an amount not to exceed five thousand dollars. In imposing this penalty, the court shall consider the need to deter further violations of this chapter.

The attorney general may seek and shall be granted such injunctive relief as is appropriate to stop or prevent violations of this chapter. [1988 c 120 § 7.]

43.04.080 Investigations—Enforcement. The secretary of state shall conduct investigations for violations

of this chapter and may request enforcement by the attorney general. [1988 c 120 § 8.]

43.04.090 Criminal penalty. Any person who wilfully violates this chapter is guilty of a misdemeanor. [1988 c 120 § 9.]

43.04.100 Deposit of fees, penalties, and damages—Use. All fees, penalties, and damages received under this chapter shall be paid to the secretary of state and with the exception of the filing fee authorized in RCW 43.04.040(2) shall be deposited by the secretary into the capitol building construction account in the state treasury, for use in the historical restoration and completion of the legislative building. [1988 c 120 § 10.]

43.04.900 Severability—1988 c 120. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1988 c 120 § 13.]

Chapter 43.06 GOVERNOR

Sections

- 43.06.010 General powers and duties.
- 43.06.015 Interstate oil compact commission—Governor may join.
- 43.06.020 Records to be kept.
- 43.06.030 Appointments to senate for confirmation—Notice.
- 43.06.040 Lieutenant governor acts in governor's absence.
- 43.06.050 Powers and duties of acting governor.
- 43.06.055 Governor-elect—Appropriation to provide office and staff.
- 43.06.060 Expense of publishing proclamations.
- 43.06.070 Removal of appointive officers.
- 43.06.080 Removal of appointive officers—Statement of reasons to be filed.
- 43.06.090 Removal of appointive officers—Filling of vacancy.
- 43.06.092 Gubernatorial appointees—Continuation of service—Appointments to fill vacancies.
- 43.06.094 Gubernatorial appointees—Removal prior to confirmation.
- 43.06.110 Economic opportunity act programs—State participation—Authority of governor.
- 43.06.115 Militarily impacted area—Declaration by governor.
- 43.06.120 Federal funds and programs—Acceptance of funds by governor authorized—Administration and disbursement.
- 43.06.130 Federal funds and programs—Payment of travel expenses of committees, councils, or other bodies.
- 43.06.150 Federal funds and programs—Participating agencies to notify director of financial management, legislative budget committee and legislative council—Progress reports.
- 43.06.200 Definitions.
- 43.06.210 Proclamations—Generally—State of emergency.
- 43.06.220 State of emergency—Powers of governor pursuant to proclamation.
- 43.06.230 State of emergency—Destroying or damaging property or causing personal injury—Penalty.
- 43.06.240 State of emergency—Disorderly conduct after emergency proclaimed—Penalty.
- 43.06.250 State of emergency—Refusing to leave public way or property when ordered—Penalty.
- 43.06.260 State of emergency—Prosecution of persons sixteen years or over as adults.
- 43.06.270 State of emergency—State militia or state patrol—Use in restoring order.
- 43.06.350 Foreign nationals or citizens, convicted offenders—Transfers and sentences.

- 43.06.400 Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor.
- 43.06.410 State internship program—Governor's duties.
- 43.06.415 State internship program coordinator—Rules.
- 43.06.420 Undergraduate internship program—Executive fellows program.
- 43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave.
- 43.06.435 Interns—Effect on full time equivalent staff position limitations.
- Appointing power**
accountancy board: RCW 18.04.035.
administrator for the courts, submission of list for appointment from: RCW 2.56.010.
architects board of registration: RCW 18.08.330.
board of registration of professional engineers and land surveyors: RCW 18.43.030.
board of tax appeals: RCW 82.03.020.
center for volunteerism and citizen service: RCW 43.150.040.
clemency and pardons board: RCW 9.94A.250.
college district boards of trustees: RCW 28B.50.100.
council for the prevention of child abuse and neglect: RCW 43.121.020.
court of appeals vacancy: State Constitution Art. 4, § 30; RCW 2.06.080.
criminal justice training commission: RCW 43.101.030.
degree-granting institutions, attorney general participation: Chapter 28B.85 RCW.
department of ecology, director of: RCW 43.21A.050.
department of social and health services, secretary of: RCW 43.20A.040.
directors of state departments and agencies: RCW 43.17.020.
electrical advisory board members: RCW 19.28.065.
energy facility site evaluation council: RCW 80.50.030.
financial management, director: RCW 43.41.060.
fish and wildlife commission: RCW 77.04.030.
higher education facilities authority: RCW 28B.07.030.
industrial insurance appeals board: RCW 51.52.010.
information services board: RCW 43.105.032.
interagency committee for outdoor recreation: RCW 43.99.110.
investment board members: RCW 43.33A.020.
judges of court of appeals, vacancy: State Constitution Art. 4 § 30; RCW 2.06.080.
judges of superior court, vacancy: State Constitution Art. 4 § 5; RCW 2.08.120.
vacancy resulting from creation of additional judgeship: RCW 2.08.069.
justices of supreme court, vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.
license examining committee: RCW 43.24.060.
license revocation committee: RCW 43.24.110.
militia officers: State Constitution Art. 10 § 2.
optometry board members: RCW 18.54.030.
Pacific marine fisheries commission, appointment of representatives to: RCW 75.40.040.
pharmacy board: RCW 18.64.001.
physical therapy board committee: RCW 18.74.020.
podiatric medical board: RCW 18.22.013.
pollution control hearings board of the state: RCW 43.21B.020, 43.21B.030.
private vocational schools, attorney general participation: Chapter 28C.10 RCW.
public pension commission members: RCW 41.52.010.
public printer: RCW 43.78.010.
railroad policemen: RCW 81.60.010.
real estate commission: RCW 18.85.071.
regents of educational institutions: State Constitution Art. 13 § 1.
stadium commission members: RCW 67.28.090.
state arts commission: RCW 43.46.015.
state board for community and technical colleges: RCW 28B.50.050, 28B.50.070.
state board of health: RCW 43.20.030.
state college boards of trustees: RCW 28B.40.100.
state library commission: RCW 27.04.020.
state patrol chief: RCW 43.43.020.
statute law committee members: RCW 1.08.001.
- superior court vacancy:* State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
supreme court vacancy: State Constitution Art. 4 § 3; RCW 2.04.100.
traffic safety commission: RCW 43.59.030.
transportation commission members: RCW 47.01.051.
uniform legislation commission: RCW 43.56.010.
United States senator, filling vacancy in office of: RCW 29.68.070.
University of Washington board of regents: RCW 28B.20.100.
utilities and transportation commission: RCW 80.01.010.
vacancies in
appointive office filled by: State Constitution Art. 3 § 13.
court of appeals, filled by: State Constitution Art. 4 § 30; RCW 2.06.080.
legislature, duties: State Constitution Art. 2 § 15.
superior court, filled by: State Constitution Art. 4 § 5; RCW 2.08.069, 2.08.120.
supreme court, filled by: State Constitution Art. 4 § 3; RCW 2.04.100.
veterinary board of governors: RCW 18.92.021.
visiting judges of superior court: RCW 2.08.140.
Washington personnel resources board: RCW 41.06.110.
Washington State University board of regents: RCW 28B.30.100.
- Approval of laws:** State Constitution Art. 3 § 12.
- Associations of municipal corporations or officers to furnish information to governor:** RCW 44.04.170.
- Attorney general, advice to governor:** RCW 43.10.030.
- Board of natural resources member:** RCW 43.30.040.
- Bonds, notes and other evidences of indebtedness, governor's duties:** Chapter 39.42 RCW.
- Clemency and pardons board, established as board in office of governor:** RCW 9.94A.250.
- Commander-in-chief of state militia:** State Constitution Art. 3 § 8.
- Commissions issued by state, signed by:** State Constitution Art. 3 § 15.
- Commutation of death sentence, power to commute:** RCW 10.01.120.
- Congress, special election to fill vacancy in office of called by:** RCW 29.68.080.
- Continuity of government in event of enemy attack, succession to office of governor:** RCW 42.14.020.
- Council for the prevention of child abuse and neglect, jurisdiction in governor:** RCW 43.121.020.
- Driver license compact, executive head:** RCW 46.21.040.
- Election certificates issued for state and congressional offices by:** RCW 29.27.110.
- Election of:** State Constitution Art. 3 § 1.
- Execution of laws:** State Constitution Art. 3 § 5.
- Extradition proceedings**
power and duties as to: RCW 10.34.030.
warrant issued by: RCW 10.88.260.
- Fines, power to remit:** State Constitution Art. 3 § 11.
- Forfeitures, power to remit:** State Constitution Art. 3 § 11.
- Highway**
construction bonds and coupons, governor to sign: Chapter 47.10 RCW.
toll facility property sale, deed executed by: RCW 47.56.255.
- Impeachment:** State Constitution Art. 5 §§ 1, 2.
- Indians, assumption of state jurisdiction, proclamation by governor:** RCW 37.12.021.
- Information in writing may be required from state officers:** State Constitution Art. 3 § 5.
- Interstate compact on juveniles, duties:** Chapter 13.24 RCW.
- Judges' retirement applications, doctors' examination report, approval and filing of:** RCW 2.12.020.
- Judicial officers**
extension of leave of absence of: State Constitution Art. 4 § 8.
superior court, assignment to another county by: State Constitution Art. 4 §§ 5, 7.
- Labor and industries, department, biennial report to governor:** RCW 43.22.330.
- Legal holidays**

- designation of:* RCW 1.16.050.
proclamation process, applicability to courts: RCW 2.28.100.
- Legislature**
extra session, may convene: State Constitution Art 3 § 7.
messages to: State Constitution Art. 3 § 6.
vacancies, filled by: State Constitution Art. 2 § 15.
- Local governmental organizations, actions affecting boundaries, etc., review by boundary review board:* Chapter 36.93 RCW.
- Marketing agreements or orders, annual audit of financial affairs under, governor to receive reports of:* RCW 15.65.490.
- Messages to legislature:* State Constitution Art. 3 § 6.
- Militia and military affairs**
commander-in-chief of militia: State Constitution Art. 3 § 8; RCW 38.08.020.
compacts with other states for guarding boundaries: RCW 38.08.100.
eminent domain for military purposes: RCW 8.04.170, 8.04.180.
martial law, proclamation by, when: RCW 38.08.030.
officers, commissioned by: State Constitution Art. 10 § 2.
personal staff: RCW 38.08.070.
rules promulgated by: RCW 38.08.090.
strength, composition, training, etc., prescribed by: RCW 38.04.040.
- Motor vehicle administration, annual report of director of licensing to go to:* RCW 46.01.290.
- OASI, agreement of state for participation of state and political subdivision employees, duties concerning:* Chapter 41.48 RCW.
- Oath of office:* RCW 43.01.020.
- Official bonds, approval of:* RCW 42.08.100.
- Pardons**
power to grant: RCW 10.01.120.
report to legislature of: State Constitution Art. 3 §§ 9, 11.
restrictions prescribed by law: State Constitution Art. 3 § 9.
- Paroles, governor may revoke:* RCW 9.95.160.
- Protection for governor, lieutenant governor, and governor elect, duty of chief of state patrol to provide:* RCW 43.43.035.
- Puget Sound ferry and toll bridge system, governor's powers and duties relating to:* Chapter 47.60 RCW.
- Registry of governor's acts kept by secretary of state:* RCW 43.07.030.
- Remission of fines and forfeitures report to legislature with reasons:* State Constitution Art. 3 § 11.
- Reports to governor**
agricultural marketing agreements or orders, audits and financial reports: RCW 15.65.490.
agricultural marketing legislation recommendations: RCW 15.64.010.
agriculture director: RCW 43.23.130.
annual report by state officers, etc., period covered: RCW 43.01.035.
business license center: RCW 19.02.030.
council for the prevention of child abuse and neglect: RCW 43.121.090.
department of transportation, operation and construction activities: RCW 47.01.141.
disturbances at state penal facilities—Contingency plans for—Report of failure to support: RCW 72.02.170.
engineers and land surveyors board of registration: RCW 18.43.035.
enrollment forecasts: RCW 43.62.050.
financial management, director: RCW 43.88.160.
fish and wildlife director: RCW 75.08.020.
governor's advisory committee on agency officials' salaries: RCW 43.03.028.
horse racing commission: RCW 67.16.015.
human rights commission: RCW 49.60.100.
indeterminate sentence review board: RCW 9.95.265.
industrial insurance, violations: RCW 51.04.020.
investment activities of state investment board: RCW 43.33A.150.
judges of the supreme court to report defects or omissions in laws to: RCW 2.04.230.
judicial council: RCW 2.52.050.
labor and industries director: RCW 43.22.330, 49.12.180.
motor vehicle administration, director of licensing: RCW 46.01.290.
prosecuting attorneys, annual report: RCW 36.27.020.
public pension commission: RCW 41.52.040.
state arts commission: RCW 43.46.070.
state board for community and technical colleges: RCW 28B.50.070.
- state board of health:* RCW 43.20.100.
state officers: State Constitution Art. 3 § 5.
state parks and recreation commission: RCW 43.51.040.
superintendent of public instruction, biennial report: RCW 28A.300.040.
University of Washington board of regents: RCW 28B.20.130.
utilities and transportation commission: RCW 80.01.090.
veterans' rehabilitation council: RCW 43.61.040.
- Reprieves**
power to grant: RCW 10.01.120.
report to legislature: State Constitution Art. 3 § 11.
- Residence at seat of government:* State Constitution Art. 3 § 24.
- Resignation by state officers and members of legislature made to:* RCW 42.12.020.
- Salaries of public officials, governor's duties:* RCW 43.03.028, 43.03.040, and 43.03.045.
- Salary of governor, amount of:* State Constitution Art. 28 § 1; RCW 43.03.010.
- Sale of unneeded toll facility property, governor to execute deed:* RCW 47.56.255.
- School apportionment demands estimate certified to:* RCW 28A.300.170.
- Secretary of transportation, governor to fix salary of:* RCW 47.01.031.
- Security and protection for governor, lieutenant governor, and governor elect, duty of state patrol to provide:* RCW 43.43.035.
- State building authority member:* Chapter 43.75 RCW.
- State capitol committee member:* RCW 43.34.010.
- State finance committee member:* RCW 43.33.010.
- State parks, disposal of land not needed for park purposes, conveyance instruments executed by:* RCW 43.51.210.
- State participation within student exchange compact programs—Board to advise governor:* RCW 28B.80.170.
- State scholars' program, participation in:* RCW 28A.600.100 through 28A.600.150.
- Succession to governorship:* State Constitution Art. 3 § 10.
- Superior court judge, assignment to another county:* State Constitution Art. 4 §§ 5, 7.
- Supreme executive power vested in:* State Constitution Art. 3 § 2.
- Term of office:* State Constitution Art. 3 § 2; RCW 43.01.010.
- Toll bridge bonds, governor to countersign:* RCW 47.56.140.
- Toll bridges, improvement of existing bridge and construction of new bridge as single project, governor's powers and duties relating to:* Chapter 47.58 RCW.
- Traffic safety commission and programs, powers, duties and responsibilities of governor:* Chapter 43.59 RCW.
- Unanticipated receipts, governor as state's agent to receive:* RCW 43.79.260.
- Unemployment compensation, delinquent payments in lieu of contributions of political subdivisions, governor may withhold funds for:* RCW 50.24.125.
- Uniform interstate family support act extradition powers and duties:* RCW 26.21.640.
governor defined for purposes of: RCW 26.21.640.
- United States senate, filling vacancy in:* RCW 29.68.070.
- Vacancies**
in court of appeals: State Constitution Art. 4 § 30; RCW 2.06.080.
in legislature, duties: State Constitution Art. 2 § 15.
in office filled by: State Constitution Art. 3 § 13.
in superior court: State Constitution Art. 4 § 5.
in supreme court: State Constitution Art. 4 § 3.
- Vacancy in office of governor**
election to fill: State Constitution Art. 3 § 10.
succession to: State Constitution Art. 3 § 10.
- Veto**
initiatives and referendums, power does not extend to: State Constitution Art. 2 § 1.
power of: State Constitution Art. 3 § 12.
- Voluntary action center, establishment by governor:* RCW 43.150.040.

Water pollution control, powers and duties pertaining to: RCW 90.48.260, 90.48.262.

43.06.010 General powers and duties. In addition to those prescribed by the Constitution, the governor may exercise the powers and perform the duties prescribed in this and the following sections:

(1) The governor shall supervise the conduct of all executive and ministerial offices;

(2) The governor shall see that all offices are filled, including as provided in RCW 42.12.070, and the duties thereof performed, or in default thereof, apply such remedy as the law allows; and if the remedy is imperfect, acquaint the legislature therewith at its next session;

(3) The governor shall make the appointments and supply the vacancies mentioned in this title;

(4) The governor is the sole official organ of communication between the government of this state and the government of any other state or territory, or of the United States;

(5) Whenever any suit or legal proceeding is pending against this state, or which may affect the title of this state to any property, or which may result in any claim against the state, the governor may direct the attorney general to appear on behalf of the state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(6) The governor may require the attorney general or any prosecuting attorney to inquire into the affairs or management of any corporation existing under the laws of this state, or doing business in this state, and report the same to the governor, or to any grand jury designated by the governor, or to the legislature when next in session;

(7) The governor may require the attorney general to aid any prosecuting attorney in the discharge of the prosecutor's duties;

(8) The governor may offer rewards, not exceeding one thousand dollars in each case, payable out of the state treasury, for information leading to the apprehension of any person convicted of a felony who has escaped from a state correctional institution or for information leading to the arrest of any person who has committed or is charged with the commission of a felony;

(9) The governor shall perform such duties respecting fugitives from justice as are prescribed by law;

(10) The governor shall issue and transmit election proclamations as prescribed by law;

(11) The governor may require any officer or board to make, upon demand, special reports to the governor, in writing;

(12) The governor may, after finding that a public disorder, disaster, energy emergency, or riot exists within this state or any part thereof which affects life, health, property, or the public peace, proclaim a state of emergency in the area affected, and the powers granted the governor during a state of emergency shall be effective only within the area described in the proclamation;

(13) The governor may, after finding that there exists within this state an imminent danger of infestation of plant pests as defined in RCW 17.24.007 or plant diseases which seriously endangers the agricultural or horticultural industries of the state of Washington, or which seriously threatens life, health, or economic well-being, order emergency measures

to prevent or abate the infestation or disease situation, which measures, after thorough evaluation of all other alternatives, may include the aerial application of pesticides;

(14) On all compacts forwarded to the governor pursuant to RCW 9.46.360(6), the governor is authorized and empowered to execute on behalf of the state compacts with federally recognized Indian tribes in the state of Washington pursuant to the federal Indian Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., for conducting class III gaming, as defined in the Act, on Indian lands. [1994 c 223 § 3; 1993 c 142 § 5; 1992 c 172 § 1; 1991 c 257 § 22; 1982 c 153 § 1; 1979 ex.s. c 53 § 4; 1977 ex.s. c 289 § 15; 1975-'76 2nd ex.s. c 108 § 25; 1969 ex.s. c 186 § 8; 1965 c 8 § 43.06.010. Prior: 1890 p 627 § 1; RRS § 10982.]

Severability—1992 c 172: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 172 § 4.]

Severability—Effective date—1982 c 153: See notes following RCW 17.24.210.

Severability—1979 ex.s. c 53: See RCW 10.85.900.

Severability—1977 ex.s. c 289: See RCW 43.131.901.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Rewards by county legislative authorities: Chapter 10.85 RCW.

43.06.015 Interstate oil compact commission—Governor may join. The governor is authorized, on behalf of the state of Washington, to join the interstate oil compact commission as an associate member and to become an active member thereof if and when oil and gas are produced in Washington in commercial quantities and to attend meetings and participate in the activities carried on by said commission either in person or by a duly authorized representative. [1965 c 8 § 43.06.015. Prior: 1953 c 47 § 1.]

Interstate compact to conserve oil and gas: 65 Stat. 199 (P. L. 128, ch. 350) Aug. 28, 1951. Associate membership authorized by Art. 9 § 2 of the commission's bylaws.

43.06.020 Records to be kept. The governor must cause to be kept the following records:

First, a register of all pardons, commutations, executive paroles, final discharges, and restorations of citizenship made by him;

Second, an account of all his disbursements of state moneys, and of all rewards offered by him for the apprehension of criminals and persons charged with crime;

Third, a register of all appointments made by him with date of commission, name of appointee and name of predecessor, if any. [1965 c 8 § 43.06.020. Prior: 1921 c 28 § 1; 1890 p 628 § 2; RRS § 10983.]

43.06.030 Appointments to senate for confirmation—Notice. For a gubernatorial appointment to be effective, the governor must transmit to the secretary of the senate notice of the appointment, along with pertinent information regarding the appointee, within fourteen days after making any appointment subject to senate confirmation. [1981 c 338 § 12; 1965 c 8 § 43.06.030. Prior: 1890 p 629 § 3; RRS § 10984.]

43.06.040 Lieutenant governor acts in governor's absence. If the governor absents himself from the state, he shall, prior to his departure, notify the lieutenant governor of his proposed absence, and during such absence the lieutenant governor shall perform all the duties of the governor. [1965 c 8 § 43.06.040. Prior: 1890 p 629 § 6; RRS § 10985.]

Duties of lieutenant governor: State Constitution Art. 3 § 16.

43.06.050 Powers and duties of acting governor. Every provision of law in relation to the powers and duties of the governor, and in relation to acts and duties to be performed by others towards him, extends to the person performing for the time being the duties of governor. [1965 c 8 § 43.06.050. Prior: 1890 p 629 § 4; RRS § 10986.]

43.06.055 Governor-elect—Appropriation to provide office and staff. The legislature preceding the gubernatorial election shall make an appropriation which may only be expended by a newly elected governor other than the incumbent for the purpose of providing office and staff for the governor-elect preparatory to his assumption of duties as governor. The funds for the appropriation shall be made available to him not later than thirty days prior to the date when the legislature will convene. [1969 ex.s. c 88 § 1.]

43.06.060 Expense of publishing proclamations. When the governor is authorized or required by law to issue a proclamation, payment for publishing it shall be made out of the state treasury. [1965 c 8 § 43.06.060. Prior: 1881 p 45 §§ 1-3; Code 1881 § 2367; RRS § 10988.]

43.06.070 Removal of appointive officers. The governor may remove from office any state officer appointed by him not liable to impeachment, for incompetency, misconduct, or malfeasance in office. [1965 c 8 § 43.06.070. Prior: 1893 c 101 § 1; RRS § 10988.]

43.06.080 Removal of appointive officers—Statement of reasons to be filed. Whenever the governor is satisfied that any officer not liable to impeachment has been guilty of misconduct, or malfeasance in office, or is incompetent, he shall file with the secretary of state a statement showing his reasons, with his order of removal, and the secretary of state shall forthwith send a certified copy of such order of removal and statement of causes by registered mail to the last known post office address of the officer in question. [1965 c 8 § 43.06.080. Prior: 1893 c 101 § 2; RRS § 10989.]

43.06.090 Removal of appointive officers—Filling of vacancy. At the time of making any removal from office, the governor shall appoint some proper person to fill the office, who shall forthwith demand and receive from the officer removed the papers, records, and property of the state pertaining to the office, and shall perform the duties of the office and receive the compensation thereof until his successor is appointed. [1965 c 8 § 43.06.090. Prior: 1893 c 101 § 3; RRS § 10990.]

43.06.092 Gubernatorial appointees—Continuation of service—Appointments to fill vacancies. (1) Any gubernatorial appointee subject to senate confirmation shall continue to serve unless rejected by a vote of the senate. An appointee who is rejected by a vote of the senate shall not be reappointed to the same position for a period of one year from termination of service.

(2) Any person appointed by the governor to fill the unexpired term of an appointment subject to senate confirmation must also be confirmed by the senate. [1981 c 338 § 2.]

43.06.094 Gubernatorial appointees—Removal prior to confirmation. Gubernatorial appointees subject to senate confirmation, other than those who serve at the governor's pleasure, may not be removed from office without cause by the governor prior to confirmation except upon consent of the senate as provided for by the rules of the senate. [1981 c 338 § 1.]

43.06.110 Economic opportunity act programs—State participation—Authority of governor. The governor, or his designee, is hereby authorized and empowered to undertake such programs as will, in the judgment of the governor, or his designee, enable families and individuals of all ages, in rural and urban areas, in need of the skills, knowledge, motivations, and opportunities to become economically self-sufficient to obtain and secure such skills, knowledge, motivations, and opportunities. Such programs may be engaged in as solely state operations, or in conjunction or cooperation with any appropriate agency of the federal government, any branch or agency of the government of this state, any city or town, county, municipal corporation, metropolitan municipal corporation or other political subdivision of the state, or any private corporation. Where compliance with the provisions of federal law or rules or regulations promulgated thereunder is a necessary condition to the receipt of federal funds by the state, the governor or his designee, is hereby authorized to comply with such laws, rules or regulations to the extent necessary for the state to cooperate most fully with the federal government in furtherance of the programs herein authorized. [1971 ex.s. c 177 § 2; 1965 c 14 § 2.]

County participation in Economic Opportunity Act programs: RCW 36.32.410.

43.06.115 Militarily impacted area—Declaration by governor. (1) The governor may, by executive order, after consultation with or notification of the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, declare a community to be a "militarily impacted area." A "militarily impacted area" means a community or communities, as identified in the executive order, that experience serious social and economic hardships because of a change in defense spending by the federal government in that community or communities.

(2) If the governor executes an order under subsection (1) of this section, the governor shall establish a response team to coordinate state efforts to assist the militarily impacted community. The response team may include, but not be limited to, one member from each of the following agencies:

(a) The **department of community development; (b) the **department of trade and economic development; (c) the department of social and health services; (d) the employment security department; (e) the state board for community and technical colleges; (f) the higher education coordinating board; (g) the department of transportation; and (h) the Washington energy office. The governor may appoint a response team coordinator. The governor shall seek to actively involve the impacted community or communities in planning and implementing a response to the crisis. The governor may seek input or assistance from the community diversification advisory committee, and the governor may establish task forces in the community or communities to assist in the coordination and delivery of services to the local community. The state and community response shall consider economic development, human service, and training needs of the community or communities impacted.

(3) The governor shall report at the beginning of the next legislative session to the legislature and the executive-legislative committee on economic development created by *chapter . . . (Senate Bill No. 5300), Laws of 1993, as to the designation of a military impacted area. The report shall include recommendations regarding whether a military impacted area should become eligible for (a) funding provided by the community economic revitalization board, public facilities construction loan revolving account, Washington state development loan fund, basic health plan, the public works assistance account, **department of trade and economic development, employment security department, and department of transportation; (b) training for dislocated defense workers; or (c) services for dislocated defense workers. [1993 c 421 § 2.]

Reviser's note: *(1) Senate Bill No. 5300 was vetoed by the governor.

** (2) Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Finding—Intent—1993 c 421: "The legislature finds that military base expansions, closures, and defense procurement contract cancellations may have extreme economic impacts on communities and firms. The legislature began to address this concern in 1990 by establishing the community diversification program in the department of community development. While this program has helped military dependent communities begin the long road to diversification, base expansions or closures or major procurement contract reductions in the near future will find these communities unable to respond adequately, endangering the health, safety, and welfare of the community. The legislature intends to target emergency state assistance to military dependent communities significantly impacted by defense spending. The emergency state assistance and the long-term strategy should be driven by the impacted community and consistent with the state plan for diversification required under RCW 43.63A.450(4)." [1993 c 421 § 1.]

43.06.120 Federal funds and programs—Acceptance of funds by governor authorized—Administration and disbursement. The governor is authorized to accept on behalf of the state of Washington funds provided by any act of congress for the benefit of the state or its political subdivisions. He is further authorized to administer and disburse such funds, or to designate an agency to administer and disburse them, until the legislature otherwise directs. [1967 ex.s. c 41 § 1.]

43.06.130 Federal funds and programs—Payment of travel expenses of committees, councils, or other bodies. Members of advisory committees, councils, or other bodies established to meet requirements of acts of congress may be paid travel expenses incurred pursuant to RCW 43.03.050 and 43.03.060 as now existing or hereafter amended from such funds as may be available by legislative appropriation or as may otherwise be available as provided by law. [1975-'76 2nd ex.s. c 34 § 97; 1973 2nd ex.s. c 17 § 1; 1967 ex.s. c 41 § 2.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.06.150 Federal funds and programs—Participating agencies to notify director of financial management, legislative budget committee and legislative council—Progress reports. See RCW 43.88.205.

43.06.200 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in RCW 43.06.010, and 43.06.200 through 43.06.270 each as now or hereafter amended shall have the following meaning:

"State of emergency" means an emergency proclaimed as such by the governor pursuant to RCW 43.06.010 as now or hereafter amended.

"Governor" means the governor of this state or, in case of his removal, death, resignation or inability to discharge the powers and duties of his office, then the person who may exercise the powers of governor pursuant to the Constitution and laws of this state relating to succession in office.

"Criminal offense" means any prohibited act for which any criminal penalty is imposed by law and includes any misdemeanor, gross misdemeanor, or felony. [1977 ex.s. c 328 § 11; 1975-'76 2nd ex.s. c 108 § 26; 1969 ex.s. c 186 § 1.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Provisions cumulative—1969 ex.s. c 186: "The provisions of this act shall be cumulative to and shall not operate to repeal any other laws, or local ordinances, except those specifically mentioned in this act." [1969 ex.s. c 186 § 10.]

Severability—1969 ex.s. c 186: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 186 § 11.]

Energy supply emergencies: Chapter 43.21G RCW.

43.06.210 Proclamations—Generally—State of emergency. The proclamation of a state of emergency and other proclamations or orders issued by the governor pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended shall be in writing and shall be signed by the governor and shall then be filed with the secretary of state. The governor shall give as much public notice as practical through the news media of the issuance of proclamations or orders pursuant to RCW 43.06.010, and 43.06.200 through 43.06.270 as now or hereafter amended. The state of emergency shall cease to exist upon the issuance of a proclamation of the governor declaring its termination:

PROVIDED, That the governor must terminate said state of emergency proclamation when order has been restored in the area affected. [1977 ex.s. c 328 § 12; 1975-'76 2nd ex.s. c 108 § 27; 1969 ex.s. c 186 § 2.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Severability—Effective date—1975-'76 2nd ex.s. c 108: See notes following RCW 43.21F.010.

Energy supply emergencies: Chapter 43.21G RCW.

43.06.220 State of emergency—Powers of governor pursuant to proclamation. The governor after proclaiming a state of emergency and prior to terminating such, may, in the area described by the proclamation issue an order prohibiting:

(1) Any person being on the public streets, or in the public parks, or at any other public place during the hours declared by the governor to be a period of curfew;

(2) Any number of persons, as designated by the governor, from assembling or gathering on the public streets, parks, or other open areas of this state, either public or private;

(3) The manufacture, transfer, use, possession or transportation of a molotov cocktail or any other device, instrument or object designed to explode or produce uncontained combustion;

(4) The transporting, possessing or using of gasoline, kerosene, or combustible, flammable, or explosive liquids or materials in a glass or uncapped container of any kind except in connection with the normal operation of motor vehicles, normal home use or legitimate commercial use;

(5) The possession of firearms or any other deadly weapon by a person (other than a law enforcement officer) in a place other than that person's place of residence or business;

(6) The sale, purchase or dispensing of alcoholic beverages;

(7) The sale, purchase or dispensing of other commodities or goods, as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace;

(8) The use of certain streets, highways or public ways by the public; and

(9) Such other activities as he reasonably believes should be prohibited to help preserve and maintain life, health, property or the public peace.

In imposing the restrictions provided for by RCW 43.06.010, and 43.06.200 through 43.06.270, the governor may impose them for such times, upon such conditions, with such exceptions and in such areas of this state he from time to time deems necessary.

Any person wilfully violating any provision of an order issued by the governor under this section shall be guilty of a gross misdemeanor. [1969 ex.s. c 186 § 3.]

43.06.230 State of emergency—Destroying or damaging property or causing personal injury—Penalty. After the proclamation of a state of emergency as provided in RCW 43.06.010, any person who maliciously destroys or damages any real or personal property or maliciously injures another shall be guilty of a felony and upon conviction

thereof shall be imprisoned in a state correctional facility for not less than two years nor more than ten years. [1992 c 7 § 39; 1969 ex.s. c 186 § 4.]

43.06.240 State of emergency—Disorderly conduct after emergency proclaimed—Penalty. After the proclamation of a state of emergency pursuant to RCW 43.06.010, every person who:

(1) Wilfully causes public inconvenience, annoyance, or alarm, or recklessly creates a risk thereof, by:

(a) engaging in fighting or in violent, tumultuous, or threatening behavior; or

(b) making an unreasonable noise or an offensively coarse utterance, gesture, or display, or addressing abusive language to any person present; or

(c) dispersing any lawful procession or meeting of persons, not being a peace officer of this state and without lawful authority; or

(d) creating a hazardous or physically offensive condition which serves no legitimate purpose; or

(2) Engages with at least one other person in a course of conduct as defined in subsection (1) of this section which is likely to cause substantial harm or serious inconvenience, annoyance, or alarm, and refuses or knowingly fails to obey an order to disperse made by a peace officer shall be guilty of disorderly conduct and be punished by imprisonment in the county jail for not more than one year or fined not more than one thousand dollars or by both fine and imprisonment. [1969 ex.s. c 186 § 5.]

43.06.250 State of emergency—Refusing to leave public way or property when ordered—Penalty. Any person upon any public way or any public property, within the area described in the state of emergency, who is directed by a public official to leave the public way or public property and refuses to do so shall be guilty of a misdemeanor. [1969 ex.s. c 186 § 6.]

43.06.260 State of emergency—Prosecution of persons sixteen years or over as adults. After the proclamation of a state of emergency as provided in RCW 43.06.010 any person sixteen years of age or over who violates any provision of RCW 43.06.010, and 43.06.200 through 43.06.270 shall be prosecuted as an adult. [1969 ex.s. c 186 § 7.]

43.06.270 State of emergency—State militia or state patrol—Use in restoring order. The governor may in his discretion order the state militia pursuant to chapter 38.08 RCW or the state patrol to assist local officials to restore order in the area described in the proclamation of a state of emergency. [1969 ex.s. c 186 § 9.]

43.06.350 Foreign nationals or citizens, convicted offenders—Transfers and sentences. Whenever any convicted offender, who is a citizen or national of a foreign country and is under the jurisdiction of the department of corrections, requests transfer to the foreign country of which he or she is a citizen or national, under a treaty on the transfer of offenders entered into between the United States

and a foreign country, the governor or the governor's designee:

(1) May grant the approval of the state to such transfer as provided in the treaty; and

(2) Shall have, notwithstanding any provision of chapter 9.95 or 72.68 RCW, the plenary authority to fix the duration of the offender's sentence, if not otherwise fixed, whenever a fixed sentence is a condition precedent to transfer. [1983 c 255 § 9.]

Severability—1983 c 255: See RCW 72.74.900.

43.06.400 Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor. Beginning in January, 1984, and in January of every even-numbered year thereafter, the department of revenue shall submit to the legislature prior to the regular session a listing of the amount of reduction for the current and next biennium in the revenues of the state or the revenues of local government collected by the state as a result of tax exemptions. The listing shall include an estimate of the revenue lost from the tax exemption, the purpose of the tax exemption, the persons, organizations, or parts of the population which benefit from the tax exemption, and whether or not the tax exemption conflicts with another state program. The listing shall include but not be limited to the following revenue sources:

(1) Real and personal property tax exemptions under Title 84 RCW;

(2) Business and occupation tax exemptions, deductions, and credits under chapter 82.04 RCW;

(3) Retail sales and use tax exemptions under chapters 82.08, 82.12, and 82.14 RCW;

(4) Public utility tax exemptions and deductions under chapter 82.16 RCW;

(5) Food fish and shellfish tax exemptions under chapter 82.27 RCW;

(6) Leasehold excise tax exemptions under chapter 82.29A RCW;

(7) Motor vehicle and special fuel tax exemptions and refunds under chapters 82.36 and 82.38 RCW;

(8) Aircraft fuel tax exemptions under chapter 82.42 RCW;

(9) Motor vehicle excise tax exclusions under chapter 82.44 RCW; and

(10) Insurance premiums tax exemptions under chapter 48.14 RCW.

The department of revenue shall prepare the listing required by this section with the assistance of any other agencies or departments as may be required.

The department of revenue shall present the listing to the ways and means committees of each house in public hearings.

Beginning in January, 1984, and every four years thereafter the governor is requested to review the report from the department of revenue and may submit recommendations to the legislature with respect to the repeal or modification of any tax exemption. The ways and means committees of each house and the appropriate standing committee of each

house shall hold public hearings and take appropriate action on the recommendations submitted by the governor.

As used in this section, "tax exemption" means an exemption, exclusion, or deduction from the base of a tax; a credit against a tax; a deferral of a tax; or a preferential tax rate. [1987 c 472 § 16; 1983 2nd ex.s. c 3 § 60.]

Severability—1987 c 472: See RCW 79.71.900.

Construction—Severability—Effective dates—1983 2nd ex.s. c 3: See notes following RCW 82.04.255.

Analysis of desirability of existing tax exemptions by tax advisory council: RCW 43.38.020.

Review and termination of tax preferences: Chapter 43.136 RCW.

Tax exemption impact report: RCW 82.01.110.

43.06.410 State internship program—Governor's duties. There is established within the office of the governor the Washington state internship program to assist students and state employees in gaining valuable experience and knowledge in various areas of state government. In administering the program, the governor shall:

(1) Consult with the secretary of state, the director of personnel, the commissioner of the employment security department, and representatives of labor;

(2) Encourage and assist agencies in developing intern positions;

(3) Develop and coordinate a selection process for placing individuals in intern positions. This selection process shall give due regard to the responsibilities of the state to provide equal employment opportunities;

(4) Develop and coordinate a training component of the internship program which balances the need for training and exposure to new ideas with the intern's and agency's need for on-the-job work experience;

(5) Work with institutions of higher education in developing the program, soliciting qualified applicants, and selecting participants; and

(6) Develop guidelines for compensation of the participants. [1993 c 281 § 47; 1985 c 442 § 1.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—1985 c 442: "Nothing in this act shall be construed to limit the authority of state agencies to continue or establish other internship programs or positions." [1985 c 442 § 10.]

Severability—1985 c 442: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 442 § 11.]

43.06.415 State internship program coordinator—Rules. (1) The governor may appoint a coordinator to assist in administering the program created by RCW 43.06.410.

(2) The governor shall adopt such rules as are necessary to administer RCW 43.06.410. [1985 c 442 § 2.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

43.06.420 Undergraduate internship program—Executive fellows program. The state internship program shall consist of two individual internship programs as follows:

(1) An undergraduate internship program consisting of three-month to six-month positions for students working toward an undergraduate degree. In addition, a public sector

employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency.

(2) An executive fellows program consisting of one-year to two-year placements for students who have successfully completed at least one year of graduate level work and have demonstrated a substantial interest in public sector management. Positions in this program shall be as assistants or analysts at the midmanagement level or higher. In addition, a public sector employee, whether working toward an advanced degree or not, or who has not successfully completed one year of graduate-level work as required by this subsection, shall be eligible to participate in the program upon the written recommendation of the head of the employee's agency. Participants in the executive fellows program who were not public employees prior to accepting a position in the program shall receive insurance and retirement credit commensurate with other employees of the employing agency. [1985 c 442 § 3.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

43.06.425 Interns—Effect of employment experience—Rights of reversion—Fringe benefits—Sick and vacation leave. The Washington personnel resources board shall adopt rules to provide that:

(1) Successful completion of an internship under RCW 43.06.420 shall be considered as employment experience at the level at which the intern was placed;

(2) Persons leaving classified or exempt positions in state government in order to take an internship under RCW 43.06.420: (a) Have the right of reversion to the previous position at any time during the internship or upon completion of the internship; and (b) shall continue to receive all fringe benefits as if they had never left their classified or exempt positions;

(3) Participants in the undergraduate internship program who were not public employees prior to accepting a position in the program receive sick leave allowances commensurate with other state employees;

(4) Participants in the executive fellows program who were not public employees prior to accepting a position in the program receive sick and vacation leave allowances commensurate with other state employees. [1993 c 281 § 48; 1985 c 442 § 4.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

State internship program—Positions exempt from chapter 41.06 RCW: RCW 41.06.088.

43.06.435 Interns—Effect on full time equivalent staff position limitations. An agency shall not be deemed to exceed any limitation on full time equivalent staff positions on the basis of intern positions established under RCW 43.06.420. [1985 c 442 § 6.]

Construction—Severability—1985 c 442: See notes following RCW 43.06.410.

Chapter 43.07

SECRETARY OF STATE

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engrossed bill filed with: RCW 44.20.010.

numbering of: RCW 44.20.020.

State canvassing board member: RCW 29.62.100.

Statute law committee code correction orders filed with: RCW 1.08.016.

Succession to office of governor: State Constitution Art. 3 § 10.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Trademarks and trade names

filing fee: RCW 43.07.120.

registration of, duties: Chapter 19.77 RCW.

Voters' pamphlets, rules and regulations promulgated by: RCW 29.81.070.

43.07.010 Official bond. The secretary of state must execute an official bond to the state in the sum of ten thousand dollars, conditioned for the faithful performance of the duties of his office, and shall receive no pay until such bond, approved by the governor, is filed with the state auditor. [1965 c 8 § 43.07.010. Prior: 1890 p 633 § 10; RRS § 10994.]

43.07.020 Assistant and deputy secretary of state. The secretary of state may have one assistant secretary of state and one deputy secretary of state each of whom shall be appointed by him in writing, and continue during his pleasure. The assistant secretary of state and deputy secretary of state shall have the power to perform any act or duty relating to the secretary of state's office, that the secretary of state has, and the secretary of state shall be responsible for the acts of said assistant and deputy. [1965 c 8 § 43.07.020. Prior: 1947 c 107 § 1; 1903 c 75 § 1; 1890 p 633 § 12; RRS § 10995.]

43.07.030 General duties. The secretary of state shall:

(1) Keep a register of and attest the official acts of the governor;

(2) Affix the state seal, with his attestation, to commissions, pardons, and other public instruments to which the signature of the governor is required, and also attestations and authentications of certificates and other documents properly issued by the secretary;

(3) Record all articles of incorporation, deeds, or other papers filed in the secretary of state's office;

(4) Receive and file all the official bonds of officers required to be filed with the secretary of state;

(5) Take and file in the secretary of state's office receipts for all books distributed by him;

(6) Certify to the legislature the election returns for all officers required by the Constitution to be so certified, and certify to the governor the names of all other persons who have received at any election the highest number of votes for any office the incumbent of which is to be commissioned by the governor;

(7) Furnish, on demand, to any person paying the fees therefor, a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office;

(8) Present to the speaker of the house of representatives, at the beginning of each regular session of the legislature during an odd-numbered year, a full account of all purchases made and expenses incurred by the secretary of state on account of the state;

(9) File in his office an impression of each and every seal in use by any state officer;

[(10)] Keep a record of all fees charged or received by the secretary of state. [1982 c 35 § 186; 1980 c 87 § 21; 1969 ex.s. c 53 § 3; 1965 c 8 § 43.07.030. Prior: 1890 p 630 § 2; RRS § 10992.]

Intent—Severability—Effective dates—Application—1982 c 35:
See notes following RCW 43.07.160.

43.07.035 Memorandum of agreement or contract for secretary of state's services with state agencies or private entities. The secretary of state shall have the authority to enter into a memorandum of agreement or contract with any agency of state government or private entity to provide for the performance of any of the secretary of state's services or duties under the various corporation statutes of this state. [1985 c 156 § 19; 1982 c 35 § 190.]

Severability—Effective date—1985 c 156: See RCW 42.44.902 and 42.44.903.

Intent—Severability—Effective dates—Application—1982 c 35:
See notes following RCW 43.07.160.

43.07.040 Custodian of state records. The secretary of state is charged with the custody:

- (1) Of all acts and resolutions passed by the legislature;
- (2) Of the journals of the legislature;
- (3) Of the seal of the state;
- (4) Of all books, records, deeds, parchments, maps, and papers required to be kept on deposit in his office pursuant to law;
- (5) Of the enrolled copy of the Constitution. [1965 c 8 § 43.07.040. Prior: 1903 c 107 § 1; 1890 p 629 § 1; RRS § 10991.]

43.07.050 Bureau of statistics—Secretary ex officio commissioner. The secretary of state shall be ex officio commissioner of statistics. He shall establish within his office, and under his immediate supervision, a bureau to be known as the bureau of statistics, agriculture and immigration. [1965 c 8 § 43.07.050. Prior: 1895 c 85 § 1; RRS § 10933.]

43.07.090 Bureau of statistics—Power to obtain statistics—Penalty. The commissioner shall have the power to send for persons and papers whenever in his opinion it is necessary, and he may examine witnesses under oath, being hereby qualified to administer the same in the performance of his duty, and the testimony so taken must be filed and preserved in his office. He shall have free access to all places and works of labor, and any principal, owner, operator, manager, or lessee of any mine, factory, workshop, warehouse, manufacturing or mercantile establishment, or any agent or employee of any such principal, owner, operator, manager, or lessee, who shall refuse to the commissioner or his duly authorized representative admission therein, or who shall, when requested by him, wilfully neglect or refuse to furnish him any statistics or information pertaining to his lawful duties which may be in the possession or under the control of said principal, owner, operator, lessee, manager, or agent thereof, shall be punished by a fine of not less than fifty nor more than two hundred dollars. [1965 c 8 § 43.07.090. Prior: 1895 c 85 § 5; RRS § 10937.]

43.07.100 Bureau of statistics—Information confidential—Penalty. No use shall be made in the report of the bureau of the names of individuals, firms, or corporations

supplying the information called for by these sections, such information being deemed confidential and not for the purpose of disclosing any person's affairs; and any agent or employee of said bureau violating this provision shall upon conviction thereof be punished by a fine not exceeding five hundred dollars, or by imprisonment in the county jail not to exceed six months. [1965 c 8 § 43.07.100. Prior: 1895 c 85 § 6; RRS § 10938.]

43.07.110 Bureau of statistics—Deputy commissioner. The commissioner shall appoint a deputy commissioner, who shall act in his absence, and the deputy shall receive the sum of twelve hundred dollars per annum to be paid by the state treasurer in the same manner as other state officers are paid; the sum allowed for deputy and other incidental expenses of the bureau shall not exceed the sum of three thousand dollars any one year. The commissioner shall have authority to employ one person to act as immigration agent, which agent shall reside in such city as said commissioner may designate, and he shall be provided with such literature and incidental accessories as in his judgment may be necessary. [1965 c 8 § 43.07.110. Prior: 1895 c 85 § 7; RRS § 10939.]

43.07.120 Fees. (Effective until October 1, 1994.)

(1) The secretary of state shall establish by rule and collect the fees in this subsection:

- (a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;
- (b) For any certificate under seal;
- (c) For filing and recording trademark;
- (d) For each deed or patent of land issued by the governor;
- (e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, or 25.10 RCW:

- (a) Any service rendered in-person at the secretary of state's office;
- (b) Any expedited service;
- (c) The electronic or facsimile transmittal of information from corporation records or copies of documents;
- (d) The providing of information by micrographic or other reduced-format compilation;
- (e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and
- (f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge

of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [1994 c 60 § 5; 1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120. Prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.120 Fees. (Effective October 1, 1994.) (1)

The secretary of state shall establish by rule and collect the fees in this subsection:

(a) For a copy of any law, resolution, record, or other document or paper on file in the secretary's office;

(b) For any certificate under seal;

(c) For filing and recording trademark;

(d) For each deed or patent of land issued by the governor;

(e) For recording miscellaneous records, papers, or other documents.

(2) The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under Title 23B RCW, chapter 18.100, 19.77, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, or 25.10 RCW:

(a) Any service rendered in-person at the secretary of state's office;

(b) Any expedited service;

(c) The electronic or facsimile transmittal of information from corporation records or copies of documents;

(d) The providing of information by micrographic or other reduced-format compilation;

(e) The handling of checks, drafts, or credit or debit cards upon adoption of rules authorizing their use for which sufficient funds are not on deposit; and

(f) Special search charges.

(3) To facilitate the collection of fees, the secretary of state may establish accounts for deposits by persons who may frequently be assessed such fees to pay the fees as they are assessed. The secretary of state may make whatever arrangements with those persons as may be necessary to carry out this section.

(4) The secretary of state may adopt rules for the use of credit or debit cards for payment of fees.

(5) No member of the legislature, state officer, justice of the supreme court, judge of the court of appeals, or judge of the superior court shall be charged for any search relative to matters pertaining to the duties of his or her office; nor may such official be charged for a certified copy of any law or resolution passed by the legislature relative to his or her official duties, if such law has not been published as a state law. [1994 c 211 § 1310; 1994 c 60 § 5; 1993 c 269 § 15; 1991 c 72 § 53; 1989 c 307 § 39; 1982 c 35 § 187; 1971 c 81 § 107; 1965 c 8 § 43.07.120. Prior: 1959 c 263 § 5; 1907 c 56 § 1; 1903 c 151 § 1; 1893 c 130 § 1; RRS § 10993.]

Reviser's note: This section was amended by 1994 c 60 § 5 and by 1994 c 211 § 1310, each without reference to the other. Both amendments (1994 Ed.)

are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1994 c 211: See RCW 25.15.900 and 25.15.902.

Effective date—1993 c 269: See note following RCW 23.86.070.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.125 Fees—Charitable trusts—Charitable solicitations. The secretary of state may adopt rules under chapter 34.05 RCW establishing reasonable fees for the following services rendered under chapter 11.110 or 19.09 RCW:

(1) Any service rendered in-person at the secretary of state's office;

(2) Any expedited service;

(3) The electronic transmittal of documents;

(4) The providing of information by microfiche or other reduced-format compilation;

(5) The handling of checks or drafts for which sufficient funds are not on deposit;

(6) The resubmission of documents previously submitted to the secretary of state where the documents have been returned to the submitter to make such documents conform to the requirements of the applicable statute;

(7) The handling of telephone requests for information; and

(8) Special search charges. [1993 c 471 § 24; 1993 c 269 § 14.]

Severability—Effective date—1993 c 471: See RCW 19.09.914 and 19.09.915.

Effective date—1993 c 269: See note following RCW 23.86.070.

43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition. (Effective until October 1, 1994.) There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which shall be used by the office of the secretary of state to defray the costs of printing, reprinting, or distributing printed matter authorized by law to be issued by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 23B RCW, or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, or 25.10 RCW.

The secretary of state is hereby authorized to charge a fee for such publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), *23B.01.220(1)(e), (3), and (4), 23B.18.050, 24.03.410, 24.06.455, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund shall be placed in the secretary of state's revolving fund. [1991 c 72 § 54; 1989 c 307 § 40; 1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

***Reviser's note:** RCW 23B.01.220 was amended by 1993 c 269 § 2, changing subsections (3) and (4) to subsections (6) and (7), respectively.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.130 Secretary of state's revolving fund—Publication fees authorized, disposition. (Effective October 1, 1994.) There is created within the state treasury a revolving fund, to be known as the "secretary of state's revolving fund," which shall be used by the office of the secretary of state to defray the costs of printing, reprinting, or distributing printed matter authorized by law to be issued by the office of the secretary of state, and any other cost of carrying out the functions of the secretary of state under Title 23B RCW, or chapters 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.28, 24.36, 25.15, or 25.10 RCW.

The secretary of state is hereby authorized to charge a fee for such publications in an amount which will compensate for the costs of printing, reprinting, and distributing such printed matter. Fees recovered by the secretary of state under RCW 43.07.120(2), 23B.01.220 (1)(e), (6) and (7), 23B.18.050, 24.03.410, 24.06.455, or 46.64.040, and such other moneys as are expressly designated for deposit in the secretary of state's revolving fund shall be placed in the secretary of state's revolving fund. [1994 c 211 § 1311; 1991 c 72 § 54; 1989 c 307 § 40; 1982 c 35 § 188; 1973 1st ex.s. c 85 § 1; 1971 ex.s. c 122 § 1.]

Effective date—Severability—1994 c 211: See RCW 25.15.900 and 25.15.902.

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.140 Materials specifically authorized to be printed and distributed. The secretary of state is hereby specifically authorized to print, reprint, and distribute the following materials:

- (1) Lists of active corporations;
- (2) The provisions of Title 23 RCW;
- (3) The provisions of Title 23B RCW;
- (4) The provisions of Title 24 RCW;
- (5) The provisions of chapter 25.10 RCW;
- (6) The provisions of Title 29 RCW;
- (7) The provisions of chapter 18.100 RCW;
- (8) The provisions of chapter 19.77 RCW;
- (9) The provisions of chapter 43.07 RCW;
- (10) The provisions of the Washington state Constitution;
- (11) The provisions of chapters 40.14, 40.16, and 40.20 RCW, and any statutes, rules, schedules, indexes, guides, descriptions, or other materials related to the public records of state or local government or to the state archives; and
- (12) Rules and informational publications related to the statutory provisions set forth above. [1991 c 72 § 55; 1982 c 35 § 189; 1973 1st ex.s. c 85 § 2.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.150 Uniform commercial code powers, duties, and functions transferred to department of licensing. All powers, duties, and functions vested by law in the secretary of state relating to the Uniform Commercial Code are transferred to the department of licensing. [1979 c 158 § 92; 1977 ex.s. c 117 § 1.]

[Title 43 RCW—page 30]

Severability—1977 ex.s. c 117: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 117 § 13.]

Effective date—1977 ex.s. c 117: "This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 117 § 14.]

43.07.160 Authenticating officers—Appointment authorized—Use of facsimile signature. The secretary of state may appoint authenticating officers and delegate to the authenticating officers power to sign for the secretary of state any document which, to have legal effect, requires the secretary of state's signature and which is of a class which the secretary of state has authorized for signature by the authenticating officers in a writing on file in the secretary of state's office. Authenticating officers shall sign in the following manner: "., Authenticating Officer for the Secretary of State"

The secretary of state may also delegate to the authenticating officers power to use the secretary of state's facsimile signature for signing any document which, to have legal effect, requires the secretary of state's signature and is of a class with respect to which the secretary of state has authorized use of his or her facsimile signature by a writing filed in the secretary of state's office. As used in this section, "facsimile signature" includes, but is not limited to, the reproduction of any authorized signature by a copper plate, a rubber stamp, or by a photographic, photostatic, or mechanical device.

The secretary of state shall effect the appointment and delegation by placing on file in the secretary of state's office in a single document the names of all persons appointed as authenticating officers and each officer's signature, a list of the classes of documents each authenticating officer is authorized to sign for the secretary of state, a copy of the secretary of state's facsimile signature, and a list of the classes of documents which each authenticating officer may sign for the secretary of state by affixing the secretary of state's facsimile signature. The secretary of state may revoke the appointment or delegation or powers by placing on file in the secretary of state's office a new single document which expressly revokes the authenticating officers and the powers delegated to them. The secretary of state shall record and index documents filed by him or her under this section, and the documents shall be open for public inspection.

The authorized signature of an authenticating officer or an authorized facsimile signature of the secretary of state shall have the same legal effect and validity as the genuine manual signature of the secretary of state. [1982 c 35 § 2.]

Intent—1982 c 35: "The legislature finds that the secretary of state's office, particularly the corporations division, performs a valuable public service for the business and nonprofit corporate community, and for the state of Washington. The legislature further finds that numerous filing and other requirements of the laws relating to the secretary of state's responsibilities have not been recently updated, thereby causing problems and delays for the corporate community as well as the secretary of state's office.

To provide better service to the corporate community in this state, and to permit the secretary of state to make efficient use of state resources and improve collection of state revenues, statutory changes are necessary. It is the intent of the legislature to provide for the modernization and updating of the corporate laws and other miscellaneous filing statutes and to give the

secretary of state the appropriate authority the secretary of state needs to implement the modernization and streamlining effort." [1982 c 35 § 1.]

Severability—1982 c 35: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 35 § 202.]

Effective dates—Application—1982 c 35: "(1) Except as provided under subsection (3) of this section, this act shall take effect July 1, 1982.

(2) Sections 6, 14, 47, 72, 75(2), 76(4), 80, 81, 97, 101, 120, 121(4), 124, 169, and 171(4) shall be construed and apply only to actions taken or documents filed after that date.

(3) Sections 39, 45, 46, 52, 61, 63, and 201 of this act shall take effect January 1, 1983." [1982 c 35 § 203.] For codification of 1982 c 35, see Codification Tables, Volume 0.

43.07.170 Establishment of a corporate filing system using other methods authorized. If the secretary of state determines that the public interest and the purpose of the corporation filing statutes administered by the secretary of state would be best served by a filing system utilizing microfilm, microfiche, or methods of reduced-format document recording, the secretary of state may, by rule adopted under chapter 34.05 RCW, establish such a filing system. In connection therewith, the secretary of state may eliminate any requirement for a duplicate original filing copy, and may establish reasonable requirements concerning paper size, print legibility, and quality for photo-reproduction processes as may be necessary to ensure utility and readability of any reduced-format filing system. [1982 c 35 § 191.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.180 Staggered corporate license renewal system authorized. The secretary of state may, by rule adopted under chapter 34.05 RCW, adopt and implement a system of renewals for annual corporate licenses or filings in which the renewal dates are staggered throughout the year.

To facilitate the implementation of the staggered system, the secretary of state may extend the duration of corporate licensing periods or report filing periods and may impose and collect such additional proportional fees as may be required on account of the extended periods. [1982 c 35 § 192.]

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.190 Use of a summary face sheet or cover sheet with the filing of certain documents authorized. Where the secretary of state determines that a summary face sheet or cover sheet would expedite review of any documents made under Title 23B RCW, or chapter 18.100, 23.86, 23.90, 24.03, 24.06, 24.12, 24.20, 24.24, 24.36, or 25.10 RCW, the secretary of state may require the use of a summary face sheet or cover sheet that accurately reflects the contents of the attached document. The secretary of state may, by rule adopted under chapter 34.05 RCW, specify the required contents of any summary face sheet and the type of document or documents in which the summary face sheet will be required, in addition to any other filing requirements which may be applicable. [1991 c 72 § 56; 1989 c 307 § 41; 1982 c 35 § 193.]

Legislative finding—1989 c 307: See note following RCW 23.86.007.

Application—1989 c 307: See RCW 23.86.900.

Intent—Severability—Effective dates—Application—1982 c 35: See notes following RCW 43.07.160.

43.07.200 Business license center as secretary of state's agent for corporate renewals—Proposals for—Schedule. Not later than July 1, 1982, the secretary of state and the director of licensing shall propose to the director of financial management a contract and working agreement with accompanying fiscal notes designating the business license center as the secretary of state's agent for issuing all or a portion of the corporation renewals within the jurisdiction of the secretary of state. The secretary of state and the director of licensing shall submit the proposed contract and accompanying fiscal notes to the legislature before October 1, 1982.

The secretary of state and the director of licensing shall jointly submit to the legislature by January 10, 1983, a schedule for designating the center as the secretary of state's agent for all such corporate renewals not governed by the contract. [1982 c 182 § 12.]

Severability—1982 c 182: See RCW 19.02.901.

Business license center act: Chapter 19.02 RCW.

Certain business or professional activity licenses exempt: RCW 19.02.800.

Master license system—Existing licenses or permits registered under, when: RCW 19.02.810.

43.07.210 Filing false statements—Penalty. Any person who files a false statement, which he or she knows to be false, in the articles of incorporation or in any other materials required to be filed with the secretary of state shall be guilty of a gross misdemeanor punishable under chapter 9A.20 RCW. [1984 c 75 § 25.]

43.07.220 Oral history program. The secretary of state, at the direction of the oral history advisory committee, shall administer and conduct a program to record and document oral histories of current and former members and staff of the Washington state legislature, current and former state government officials and personnel, and other citizens who have participated in the political history of Washington state. The secretary of state shall contract with independent oral historians and through the history departments of the state universities to interview and record oral histories. The tapes and tape transcripts shall be indexed and made available for research and reference through the state archives. The transcripts, together with current and historical photographs, may be published for distribution to libraries and for sale to the general public. [1991 c 237 § 1.]

Effective date—1991 c 237: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect on July 1, 1991." [1991 c 237 § 6.]

43.07.230 Oral history advisory committee—Members. An oral history advisory committee is created, which shall consist of the following individuals:

(1) Four members of the house of representatives, two from each of the two largest caucuses of the house, appointed by the speaker of the house of representatives;

(2) Four members of the senate, two from each of the two largest caucuses of the senate, appointed by the president of the senate;

(3) The chief clerk of the house of representatives;

(4) The secretary of the senate; and

(5) The secretary of state. [1991 c 237 § 2.]

Effective date—1991 c 237: See note following RCW 43.07.220.

43.07.240 Oral history advisory committee—Duties.

The oral history advisory committee shall have the following responsibilities:

(1) To select appropriate oral history interview subjects;

(2) To select transcripts or portions of transcripts, and related historical material, for publication;

(3) To advise the secretary of state on the format and length of individual interview series and on appropriate issues and subjects for related series of interviews;

(4) To advise the secretary of state on the appropriate subjects, format, and length of interviews and on the process for conducting oral history interviews with subjects currently serving in the Washington state legislature;

(5) To advise the secretary of state on joint programs and activities with state universities, colleges, museums, and other groups conducting oral histories; and

(6) To advise the secretary of state on other aspects of the administration of the oral history program and on the conduct of individual interview projects. [1991 c 237 § 3.]

Effective date—1991 c 237: See note following RCW 43.07.220.

43.07.300 Division of elections—Director. The secretary of state shall establish a division of elections within the office of the secretary of state and under the secretary's supervision. The division shall be under the immediate supervision of a director of elections who shall be appointed by the secretary of state and serve at the secretary's pleasure. [1992 c 163 § 1.]

43.07.310 Division of elections—Duties. The secretary of state, through the division of elections, is responsible for the following duties, as prescribed by Title 29 RCW:

(1) The filing, verification of signatures, and certification of state initiative, referendum, and recall petitions;

(2) The production and distribution of a state voters' and candidates' pamphlet;

(3) The examination, testing, and certification of voting equipment, voting devices, and vote-tallying systems;

(4) The administration, canvassing, and certification of the presidential primary, state primaries, and state general elections;

(5) The administration of motor voter and other voter registration and voter outreach programs;

(6) The training, testing, and certification of state and local elections personnel as established in RCW 29.60.030;

(7) The training of state and local party observers required by RCW 29.60.040;

(8) The conduct of postelection reviews as established in RCW 29.60.070; and

(9) Other duties that may be prescribed by the legislature. [1992 c 163 § 2.]

43.07.350 Citizens' exchange program. The secretary of state, in consultation with the *department of trade, the department of agriculture, economic development consultants, the consular corps, and other international trade organizations, shall develop a Washington state citizens' exchange program that will initiate and promote:

(1) Citizen exchanges between Washington state agricultural, technical, and educational groups and organizations with their counterparts in targeted foreign countries.

(2) Expanded educational and training exchanges between Washington state individuals and organizations with similar groups in targeted foreign countries.

(3) Programs to extend Washington state expertise to targeted foreign countries to help promote better health and technical assistance in agriculture, water resources, hydro-electric power, forestry management, education, and other areas.

(4) Efforts where a special emphasis is placed on utilizing Washington state's rich human resources who are retired from public and private life and have the time to assist in this program.

(5) People-to-people programs that may result in increased tourism, business relationships, and trade from targeted foreign nations to the Pacific Northwest. [1993 c 113 § 1.]

*Reviser's note: The department of trade and economic development was the correct name for this department. The name of the department is now the department of community, trade, and economic development, pursuant to 1993 c 280.

Chapter 43.08 STATE TREASURER

Sections

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43.08.010 General duties. The state treasurer shall:

- (1) Receive and keep all moneys of the state in the manner provided in RCW 43.88.160, as now or hereafter amended;
- (2) Disburse the public moneys only upon warrants or checks drawn upon the treasurer in the manner provided by law;
- (3) Account for moneys in the manner provided by law;
- (4) Render accounts in the manner provided by law;
- (5) Indorse on each warrant when required by law, the date of payment, the amount of the principal, and the interest due on that date;
- (6) Report annually to the legislature a detailed statement of the condition of the treasury, and of its operations for the preceding fiscal year;
- (7) Give information, in writing, to either house of the legislature, whenever required, upon any subject connected with the treasury, or touching any duty of his office;
- (8) Account for and pay over all moneys on hand to his successor in office, and deliver all books, vouchers, and effects of office to him, who shall receipt therefor;
- (9) Upon payment of any warrant, or check, take upon the back thereof the indorsement of the person to whom it is paid. [1977 c 75 § 38; 1965 c 8 § 43.08.010. Prior: 1890 p 642 § 1; RRS § 11019; prior: 1886 p 134 § 2; 1871 p 77 § 2; 1864 p 52 § 3; 1854 p 413 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

43.08.015 Cash management duties. Within the policies and procedures established pursuant to RCW 43.41.110(13) and 43.88.160(1), the state treasurer shall take such actions as are necessary to ensure the effective cash management of public funds. This cash management shall include the authority to represent the state in all contractual

relationships with financial institutions. The state treasurer may delegate cash management responsibilities to the affected agencies with the concurrence of the office of financial management. [1993 c 500 § 3.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.08.020 Residence—Bond—Oath. The state treasurer shall reside and keep his office at the seat of government. Before entering upon his duties, he shall execute and deliver to the secretary of state a bond to the state in a sum of not less than five hundred thousand dollars, to be approved by the secretary of state and one of the justices of the supreme court, conditioned to pay all moneys at such times as required by law, and for the faithful performance of all duties required of him by law. He shall take an oath of office, to be indorsed on his commission, and file a copy thereof, together with the bond, in the office of the secretary of state. [1972 ex.s. c 12 § 1. Prior: 1971 c 81 § 108; 1971 c 14 § 1; 1965 c 8 § 43.08.020; prior: 1890 p 642 § 2; RRS § 11022; prior: 1886 p 133 § 1; 1881 p 18 § 1; 1871 p 76 § 1; 1864 p 51 § 2; 1854 p 413 § 2.]

43.08.030 Seal. The treasurer shall keep a seal of office for the authentication of all papers, writings, and documents required to be certified by him. [1965 c 8 § 43.08.030. Prior: 1890 p 643 § 6; RRS § 11025; prior: 1886 p 135 § 6; 1871 p 78 § 6; 1864 p 53 § 7; 1854 p 414 § 7.]

43.08.040 Administration of oaths. The treasurer may administer all oaths required by law in matters pertaining to the duties of his office. [1965 c 8 § 43.08.040. Prior: 1890 p 643 § 5; RRS § 11024; prior: 1886 p 135 § 5; 1871 p 78 § 5; 1864 p 53 § 6; 1854 p 414 § 6.]

43.08.050 Records and accounts—Public inspection. All the books, papers, letters, and transactions pertaining to the office of treasurer shall be open for the inspection of a committee of the legislature to examine or settle all accounts, and to count all money; and to the inspection of the public generally during office hours; and when the successor of any treasurer is elected and qualified, the state auditor shall examine and settle all the accounts of the treasurer remaining unsettled, and give him a certified statement showing the balance of moneys, securities, and effects for which he is accountable, which have been delivered to his successor, and report the same to the legislature. [1965 c 8 § 43.08.050. Prior: 1890 p 643 § 3; RRS § 11023; prior: 1886 p 134 § 3; 1864 p 53 § 4; 1854 p 414 § 4.]

Public records, budget and accounting system: RCW 43.88.200.

43.08.060 Duplicate receipts. All persons required by law to pay any moneys into the state treasury, or to transmit any public funds to the state treasurer on state accounts, shall, at the time of making such payments or transmissions specify the amount and date of such payment, and for what particular fund or account.

For all sums of money so paid the state treasurer shall forthwith give duplicate receipts in accordance with the rules and regulations promulgated by the office of financial

management as authorized by RCW 43.88.160(1). [1979 c 151 § 89; 1977 c 16 § 1; 1965 c 8 § 43.08.060. Prior: 1890 p 643 § 4; RRS § 5504; prior: 1886 p 134 § 4; 1871 p 78 § 4; 1864 p 53 § 5; 1854 p 414 § 5.]

43.08.061 Warrants—Public printer to print—Retention of redeemed warrants. The public printer shall print all state treasury warrants for distribution as directed by the state treasurer. All warrants redeemed by the state treasurer shall be retained for a period of one year, following their redemption, after which they may be destroyed without regard to the requirements imposed for their destruction by chapter 40.14 RCW. [1993 c 38 § 1; 1981 c 10 § 1; 1975 c 48 § 2.]

Actions against state on redeemed warrants, time limitation: RCW 4.92.200.

43.08.062 Warrants—Presentation—Cancellation. Should the payee or legal holder of any warrant drawn against the state treasury fail to present the warrant for payment within one hundred eighty days of the date of its issue or, if registered and drawing interest, within one hundred eighty days of its call, the state treasurer shall enter the same as canceled on the books of his office.

Should the payee or legal owner of such a canceled warrant thereafter present it for payment, the state treasurer may, upon proper showing by affidavit and the delivery of the warrant into his possession, issue a new warrant in lieu thereof, and the state treasurer is authorized to pay the new warrant. [1986 c 99 § 1; 1981 c 10 § 2; 1965 c 8 § 43.08.062. Prior: 1890 p 638 § 13; RRS § 11008; prior: 1883 p 61 § 1. Formerly RCW 43.09.100.]

43.08.064 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Issuing officer to issue duplicate. In case of the loss or destruction of a state warrant for the payment of money, or any bond or other instrument or evidence of indebtedness, issued by any state officer, or agency, such officer, or such agency through its appropriate officer may issue or cause to be issued a duplicate in lieu thereof, bearing the same number, class, or designation in all respects and for the same amount as the original, except that the word duplicate shall plainly appear upon the face of the new instrument in such a manner as to clearly identify it as a duplicate instrument. The duplicate instrument so issued shall be subject in all other respects to the same provisions of law as the original instrument. [1979 ex.s. c 71 § 3; 1975-'76 2nd ex.s. c 77 § 2; 1965 ex.s. c 61 § 1; 1965 c 8 § 43.08.064. Prior: 1890 p 639 § 15; RRS § 11010; prior: 1888 p 236 § 1. Formerly RCW 43.09.110.]

Lost or destroyed evidence of indebtedness issued by local governments: Chapter 39.72 RCW.

43.08.066 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Conditions on issuance. Before a duplicate instrument is issued, the state treasurer or other issuing officer shall require the person making application for its issue to file in his office a written affidavit specifically alleging on oath that he is the proper owner, payee, or legal representative of such owner or payee of the original instrument, giving the date of issue, the

number, amount, and for what services or claim or purpose the original instrument or series of instruments of which it is a part was issued, and that the same has been lost or destroyed, and has not been paid, or has not been received by him: PROVIDED, That in the event that an original and its duplicate instrument are both presented for payment as a result of forgery or fraud, the issuing officer shall be the state agency responsible for endeavoring to recover any losses suffered by the state. [1979 ex.s. c 71 § 4; 1972 ex.s. c 74 § 1; 1971 ex.s. c 54 § 1; 1965 ex.s. c 61 § 2; 1965 c 8 § 43.08.066. Prior: 1890 p 639 § 16; RRS § 11011; prior: 1888 p 236 § 2. Formerly RCW 43.09.120.]

43.08.068 Lost or destroyed warrants, instruments, or other evidence of indebtedness—Records to be kept—Cancellation of originals—Notice. The state treasurer or other issuing officer shall keep a full and complete record of all warrants, bonds or other instruments alleged to have been lost or destroyed, which were issued by such agency, and of the issue of any duplicate therefor; and upon the issuance of any duplicate, the officer shall enter upon his books the cancellation of the original instrument and immediately notify the state treasurer, the state auditor, and all trustees and paying agents authorized to redeem such instruments on behalf of the state of Washington, of such cancellation. The treasurer shall keep a similar list of all warrants, bonds or other instruments so canceled. [1965 ex.s. c 61 § 3; 1965 c 8 § 43.08.068. Prior: 1890 p 640 § 17; RRS § 11012; prior: 1888 p 236 § 3. Formerly RCW 43.09.130.]

43.08.070 Warrants—Indorsement—Interest—Issuance of new warrants. Upon the presentation of any state warrant to the state treasurer, if there is not sufficient money then available in the appropriate fund with which to redeem all warrants drawn against such fund which the treasurer anticipates will be presented for payment during the current business day, he may endorse on the warrant, "Not paid for want of funds," with the day and date of presentation, and the warrant shall draw legal interest from and including that date until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first; or, in the alternative, the treasurer may prepare and register a single new warrant, drawn against the appropriate fund, and exchange such new warrant for one or more warrants not paid for want of funds when presented for payment totaling a like amount but not exceeding one million dollars, which new warrant shall then draw legal interest from and including its date of issuance until five days from and after being called for payment in accordance with RCW 43.08.080, or until paid, whichever occurs first. The legal rate or rates of interest on these warrants shall be established by the state treasurer in accordance with RCW 39.56.030. [1981 c 10 § 3; 1971 ex.s. c 88 § 2; 1965 c 8 § 43.08.070. Prior: 1869 p 408 § 2; RRS § 5516.]

Severability—1971 ex.s. c 88: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 88 § 6.]

43.08.080 Call of warrants. When the state treasurer deems that there is sufficient money in a fund to pay all or part of the registered warrants of such fund, and the warrants are not presented for payment, he may advertise at least once in some newspaper published at the seat of government, stating the serial number of the warrants he is calling and prepared to pay; and if such warrants are not presented for payment within five days from and after the date of publication of the notice, the warrants shall not then draw any further interest: PROVIDED, That when said fund has a balance in excess of three percent of the preceding monthly warrant issue of said fund, or at any time that the money in the fund exceeds the warrants outstanding, the state treasurer shall similarly advertise a call for all those registered warrants which can be fully paid out of said fund in accordance with their registration sequence. [1971 ex.s. c 88 § 3; 1965 c 8 § 43.08.080. Prior: 1890 p 644 § 8; RRS § 5517; prior: 1886 p 135 § 9; 1871 p 79 § 9.]

Severability—1971 ex.s. c 88: See note following RCW 43.08.070.

43.08.090 Fiscal agent for state. The state treasurer shall be ex officio the fiscal agent of the state. [1965 c 8 § 43.08.090. Prior: 1891 c 138 § 1; RRS § 5484.]

Fiscal agencies: Chapter 43.80 RCW.

43.08.100 Fiscal agent for state—Duties of fiscal agent. The fiscal agent of the state shall receive all moneys due the state from any other state or from the federal government, take all necessary steps for the collection thereof, and apply the same to the funds to which they belong. He shall collect from time to time all moneys that may accrue to the state by virtue of section 13 of the enabling act, or from any other source not otherwise provided for by law. [1965 c 8 § 43.08.100. Prior: (i) 1891 c 138 § 2; RRS § 5485. (ii) 1891 c 138 § 4; RRS § 5487.]

43.08.110 Fiscal agent for state—Fiscal agent's receipts. The fiscal agent shall issue the necessary receipts for all moneys collected, and such receipts shall show the date when paid, the amount, from whom received, and on what account the money was collected.

One or more copies of such receipt shall be given to the persons from whom the money was received, and one copy shall be given to the director of financial management. [1979 c 151 § 90; 1965 c 8 § 43.08.110. Prior: 1891 c 138 § 3; RRS § 5486.]

43.08.120 Assistant—Deputies—Responsibility for acts. The state treasurer may appoint an assistant state treasurer, who shall have the power to perform any act or duty which may be performed by the state treasurer, and in case of a vacancy in the office of state treasurer, perform the duties of the office until the vacancy is filled as provided by law.

The state treasurer may appoint no more than three deputy state treasurers, who shall have the power to perform any act or duty which may be performed by the state treasurer.

The assistant state treasurer and the deputy state treasurers shall be exempt from the provisions of chapter 41.06 RCW and shall hold office at the pleasure of the state

treasurer; they shall, before entering upon the duties of their office, take and subscribe, and file with the secretary of state, the oath of office provided by law for other state officers.

The state treasurer shall be responsible on his official bond for all official acts of the assistant state treasurer and the deputy state treasurers. [1973 c 10 § 1; 1971 c 15 § 1; 1965 c 8 § 43.08.120. Prior: 1921 c 36 § 1; RRS § 11020.]

43.08.130 Wilful refusal to pay warrants—Exceptions—Recovery. If the state treasurer wilfully refuses to pay except in accordance with the provisions of RCW 43.08.070 or by cash or check any warrant designated as payable in the state treasurer's office which is lawfully drawn upon the state treasury, or knowingly pays any warrant otherwise than as provided by law, then any person injured thereby may recover by action against the treasurer and the sureties on his official bond. [1972 ex.s. c 145 § 2; 1965 c 8 § 43.08.130. Prior: 1890 p 644 § 7; RRS § 11026; prior: 1886 p 135 § 8; 1871 p 78 § 8; 1864 p 53 § 8; 1854 p 414 § 8.]

43.08.135 Cash or demand deposits—Duty to maintain—RCW 9A.56.060(1) not deemed violated, when. The state treasurer shall maintain at all times cash, or demand deposits in qualified public depositories in an amount needed to meet the operational needs of state government: PROVIDED, That the state treasurer shall not be considered in violation of RCW 9A.56.060(1) if he maintains demand accounts in public depositories in an amount less than all treasury warrants issued and outstanding. [1983 c 3 § 100; 1972 ex.s. c 145 § 3.]

43.08.140 Embezzlement—Penalty. If any person holding the office of state treasurer fails to account for and pay over all moneys in his or her hands in accordance with law, or unlawfully converts to his or her own use in any way whatever, or uses by way of investment in any kind of property, or loans without authority of law, any portion of the public money intrusted to him or her for safekeeping, transfer, or disbursement, or unlawfully converts to his or her own use any money that comes into his or her hands by virtue of his or her office, the person shall be guilty of embezzlement, and upon conviction thereof, shall be imprisoned in a state correctional facility not exceeding fourteen years, and fined a sum equal to the amount embezzled. [1992 c 7 § 40; 1965 c 8 § 43.08.140. Prior: 1890 p 644 § 10; RRS § 11027; prior: 1886 p 105 § 11.]

Misappropriation of funds: RCW 42.20.070, 42.20.090.

43.08.150 Monthly financial report on funds and accounts. As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and

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(4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. [1977 c 75 § 39; 1965 c 8 § 43.08.150. Prior: 1947 c 32 § 1; Rem. Supp. 1947 § 11019-1.]

Biennial reports, periods: RCW 43.01.035.

Investment of surplus funds, rules and allocations to be published in report: RCW 43.86A.050.

Reports, budget and accounting system: RCW 43.88.160.

43.08.160 Monthly financial report—Report to be printed. The state treasurer shall cause all such reports to be printed as other public documents are printed and the approval of no other officer of the state shall be necessary in carrying out the purposes of RCW 43.08.150. [1965 c 8 § 43.08.160. Prior: 1947 c 32 § 2; Rem. Supp. 1947 § 11019-2.]

43.08.180 Cashing checks, drafts, and state warrants—Discretionary—Conditions—Procedure upon dishonor. The state treasurer is hereby authorized, in the treasurer's discretion and as a service to state officers and employees, and to those known by the treasurer or the treasurer's staff, to accept in exchange for cash the checks, drafts, or Washington state warrants drawn or endorsed by these authorized persons and presented to the treasurer's office as meet each of the following conditions:

(1) The check or draft must be drawn to the order of cash or bearer and be immediately payable by a drawee financial institution; and

(2) The person presenting the check, draft, or Washington state warrant to the treasurer must produce such identification as the treasurer may require.

In the event that any check or draft cashed for a state officer or employee by the state treasurer under this section is dishonored by the drawee financial institution when presented for payment, the treasurer is authorized, after notice to the drawer or endorser of the dishonor, to withhold from the drawer's or endorser's next state salary warrant the full amount of the dishonored check or draft. [1984 c 74 § 1; 1971 c 5 § 1.]

43.08.190 State treasurer's service fund—Creation—Purpose. There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund". Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW *43.79.040(2)(b) or 43.84.092(2)(b). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate based on the appropriations for the treasurer's

office. [1991 sp.s. c 13 § 83; 1985 c 405 § 506; 1973 c 27 § 2.]

***Reviser's note:** The reference to RCW 43.79.040(2)(b) is incorrect. RCW 43.79A.040(2)(b) was apparently intended.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1985 c 405: See note following RCW 9.46.100.

43.08.200 State treasurer's service fund—Expenditure limitation. All moneys deposited in the state treasurer's service fund shall be expended only pursuant to legislative appropriation and for the purposes set forth in RCW 43.08.190, 43.08.200, and *43.85.241. [1973 c 27 § 3.]

***Reviser's note:** RCW 43.85.241 was repealed by 1985 c 57 § 90, effective July 1, 1985.

43.08.250 Public safety and education account—Use. The money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements or assessments by any court organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be deposited in the public safety and education account which is hereby created in the state treasury. The legislature shall appropriate the funds in the account to promote traffic safety education, highway safety, criminal justice training, crime victims' compensation, judicial education, the judicial information system, civil representation of indigent persons, winter recreation parking, and state game programs. During the fiscal biennium ending June 30, 1995, the legislature may appropriate moneys from the public safety and education account for purposes of appellate indigent defense, the criminal litigation unit of the attorney general's office, sexual assault treatment, operations of the office of administrator for the courts, and Washington state patrol criminal justice activities. [1993 sp.s. c 24 § 917; 1992 c 54 § 3. Prior: 1991 sp.s. c 16 § 919; 1991 sp.s. c 13 § 25; 1985 c 57 § 27; 1984 c 258 § 338.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—1992 c 54: See note following RCW 36.18.020.

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105

Court Improvement Act of 1984—Effective dates—Severability—Short title—1984 c 258: See notes following RCW 3.30.010.

Intent—1984 c 258: See note following RCW 3.46.120.

Public safety and education assessment: RCW 3.62.090.

43.08.260 Public safety and education account to fund civil representation of indigent persons—When authorized. (1) Any money appropriated from the public safety and education account pursuant to RCW 43.08.250 for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to: (a) Domestic relations and family law matters, (b) public assistance, health care, and entitlement programs, (c) public housing and utilities, and (d) unemployment compensation. For purposes of this section, a "qualified legal aid program" means a not-for-profit corporation

incorporated and operating exclusively in Washington which has received basic field funding for the provision of civil legal services to indigents under Public Law 101-515.

(2) Funds distributed to qualified legal aid programs under this section shall be distributed on a basis proportionate to the number of individuals with incomes below the official federal poverty income guidelines who reside within the counties in the geographic service areas of such programs. The *department of community development shall use the same formula for determining this distribution as is used by the legal services corporation in allocating funds for basic field services in the state of Washington.

(3)(a) Funds distributed to qualified legal aid programs under this section may not be used directly or indirectly for lobbying or in class action suits. Further, these funds are subject to all limitations and conditions imposed on use of funds made available to legal aid programs under the legal services corporation act of 1974 (P.L. 93-355; P.L. 95-222) as currently in effect or hereafter amended.

(b)(i) For purposes of this section, "lobbying" means any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device directly or indirectly intended to influence any member of congress or any other federal, state, or local nonjudicial official, whether elected or appointed:

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or local legislative body, or any administrative rule, standard, rate, or other enactment by any federal, state, or local administrative agency;

(B) In connection with any referendum, initiative, constitutional amendment, or any similar procedure of the congress, any state legislature, any local council, or any similar governing body acting in a legislative capacity; or

(C) In connection with inclusion of any provision in a legislative measure appropriating funds to, or defining or limiting the functions or authority of, the recipient of funds pursuant to chapter 54, Laws of 1992.

(ii) "Lobbying" does not include the response of an employee of a legal aid program to a written request from a governmental agency, an elected or appointed official, or committee on a specific matter. This exception does not authorize communication with anyone other than the requesting party, or agent or employee of such agency, official, or committee. [1992 c 54 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—1992 c 54: See note following RCW 36.18.020.

Chapter 43.09 STATE AUDITOR

Sections

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43.09.020	Auditor of public accounts.
43.09.030	Assistant—Powers—Bond—Oath.
43.09.040	Deputy—Oath.
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Steam electric generating plants bond issues, duties as to: RCW 43.21.350.

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Succession: State Constitution Art. 3 § 10.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

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administrator for the courts: RCW 2.56.090.

disbursement of public moneys, duties transferred: RCW 43.88.210.

GENERALLY

43.09.010 Residence—Office—Bond—Oath. The state auditor shall reside and keep his office at the seat of government. Before entering upon his duties he shall execute and deliver to the secretary of state a bond to the state in the sum of fifty thousand dollars, to be approved by the governor, conditioned for the faithful performance of all duties required of him by law. He shall take an oath of office before any person authorized to administer oaths, and file a copy thereof, together with his bond, in the office of the secretary of state. [1965 c 8 § 43.09.010. Prior: 1890 p 634 § 1; RRS § 10996; prior: Code 1881 § 2566; 1871 p 96 § 1; 1854 p 409 § 2.]

43.09.020 Auditor of public accounts. The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law. [1989 c 140 § 1; 1965 c 8 § 43.09.020. Prior: 1890 p 635 § 2; RRS § 10997; prior: Code 1881 § 2567; 1871 p 97 § 4; 1854 p 409 § 3.]

Budget and accounting system, powers and duties: RCW 43.88.160.

Fiscal records open to public: RCW 43.88.200.

43.09.030 Assistant—Powers—Bond—Oath. The state auditor may appoint an assistant state auditor, who may perform any act or duty of the state auditor, and in case of a vacancy in the office of state auditor, he shall perform the duties of the office until the vacancy is filled as provided by law.

The assistant state auditor shall subscribe to and file the oath of office provided by law for other state officers before entering upon the performance of his duties.

The state auditor shall be liable under his official bond for all the official acts of the assistant state auditor, and may revoke such appointment at his pleasure, and may require such assistant to furnish a bond in such sum as the auditor may determine, which shall be made, approved and filed as other state officials' bonds. The assistant state auditor shall be liable on such bond for any malfeasance or misfeasance in his office.

In case action is brought against the state auditor for the official acts of the assistant state auditor, the auditor shall be subrogated to the rights of the state on the bond of the assistant state auditor, and may maintain action thereon. [1965 c 8 § 43.09.030. Prior: 1909 ex.s. c 22 § 1; RRS § 10998.]

43.09.040 Deputy—Oath. The state auditor may appoint such deputies as he shall deem necessary, who, before entering upon their duties, shall take and subscribe an oath faithfully to perform the duties of such office, which oath shall be endorsed on the appointment and filed in the office of the secretary of state. The appointment may be revoked at the pleasure of the state auditor. The state

auditor shall be liable on his official bond for all official acts of his deputies. Deputies shall be paid such salaries as the state auditor may determine. [1965 c 8 § 43.09.040. Prior: 1949 c 62 § 1; 1890 p 635 § 3; Rem. Supp. 1949 § 10999; prior: Code 1881 § 2568.]

43.09.050 General duties of auditor. The auditor shall:

(1) Except as otherwise specifically provided by law, audit the accounts of all collectors of the revenue and other holders of public money required by law to pay the same into the treasury;

(2) In his or her discretion, inspect the books of any person charged with the receipt, safekeeping, and disbursement of public moneys;

(3) Investigate improper governmental activity under chapter 42.40 RCW;

(4) Inform the attorney general in writing of the necessity for the attorney general to direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state;

(5) Give information in writing to the legislature, whenever required, upon any subject relating to the financial affairs of the state, or touching any duties of his or her office;

(6) Report to the director of financial management in writing the names of all persons who have received any moneys belonging to the state, and have not accounted therefor;

(7) Authenticate with his or her official seal papers issued from his or her office;

(8) Make his or her official report annually on or before the 31st of December. [1992 c 118 § 6; 1979 c 151 § 91. Prior: 1977 ex.s. c 144 § 7; 1977 c 75 § 40; 1971 ex.s. c 170 § 1; 1965 c 8 § 43.09.050; prior: 1890 p 636 § 5; RRS § 11001; prior: Code 1881 § 2570; 1854 p 410 § 5.]

Severability—1971 ex.s. c 170: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1971 ex.s. c 170 § 5.]

Advances: Chapter 42.24 RCW.

Information to legislature: RCW 43.88.160.

Investigations of improper governmental actions—Protection of employee disclosures: Chapter 42.40 RCW.

Post-audit duties: RCW 43.88.160.

Powers and duties, budget and accounting system: RCW 43.88.160.

Report of irregularities to attorney general: RCW 43.88.160.

Report to legislature: RCW 43.88.160.

43.09.170 May administer oaths. The auditor may administer all oaths required by law in matters pertaining to the duties of his office. [1965 c 8 § 43.09.170. Prior: 1890 p 641 § 23; RRS § 11017; prior: Code 1881 § 2586.]

43.09.180 Seal—Copies of documents as evidence. The auditor shall keep a seal of office for the identification of all papers, writings, and documents required by law to be certified by him, and copies authenticated and certified of all

papers and documents lawfully deposited in his office shall be received in evidence with the same effect as the originals. [1965 c 8 § 43.09.180. Prior: 1890 p 641 § 24; RRS § 11018; prior: Code 1881 § 2587.]

MUNICIPAL CORPORATIONS

43.09.190 Division of municipal corporations. There shall be in the office of the state auditor a division to be known as the division of municipal corporations, the principal officer of which shall be the state auditor. He may appoint and deputize an assistant to be known as chief examiner to have charge of the division, subject to the supervision and control of the state auditor. [1965 c 8 § 43.09.190. Prior: (i) 1921 c 7 § 49; RRS § 10807. (ii) 1921 c 7 § 52; RRS § 10810. (iii) 1921 c 7 § 55; RRS § 10813. (iv) 1927 c 280 § 11; 1925 c 18 § 11; RRS § 11101.]

43.09.200 Division of municipal corporations—Uniform system of accounting. The state auditor, through such division, shall formulate, prescribe, and install a system of accounting and reporting, which shall be uniform for every public institution, and every public office, and every public account of the same class.

The system shall exhibit true accounts and detailed statements of funds collected, received, and expended for account of the public for any purpose whatever, and by all public officers, employees, or other persons.

The accounts shall show the receipt, use, and disposition of all public property, and the income, if any, derived therefrom; all sources of public income, and the amounts due and received from each source; all receipts, vouchers, and other documents kept, or required to be kept, necessary to isolate and prove the validity of every transaction; all statements and reports made or required to be made, for the internal administration of the office to which they pertain; and all reports published or required to be published, for the information of the people regarding any and all details of the financial administration of public affairs. [1965 c 8 § 43.09.200. Prior: 1909 c 76 § 2; RRS § 9952.]

Electronic transfer of public funds to be in compliance with: RCW 39.58.150.

School districts budgets to be in compliance with: RCW 28A.505.120.

43.09.205 Division of municipal corporations—Costs of public works—Standard form. The state auditor, through the division of municipal corporations, shall prescribe a standard form with which the accounts and records of costs shall be maintained as required under RCW 39.04.070. [1987 c 120 § 4.]

43.09.210 Division of municipal corporations—Separate accounts for each fund or activity. Separate accounts shall be kept for every appropriation or fund of a taxing or legislative body showing date and manner of each payment made therefrom, the name, address, and vocation of each person, organization, corporation, or association to whom paid, and for what purpose paid.

Separate accounts shall be kept for each department, public improvement, undertaking, institution, and public service industry under the jurisdiction of every taxing body.

All service rendered by, or property transferred from, one department, public improvement, undertaking, institution, or public service industry to another, shall be paid for at its true and full value by the department, public improvement, undertaking, institution, or public service industry receiving the same, and no department, public improvement, undertaking, institution, or public service industry shall benefit in any financial manner whatever by an appropriation or fund made for the support of another.

All unexpended balances of appropriations shall be transferred to the fund from which appropriated, whenever the account with an appropriation is closed. [1965 c 8 § 43.09.210. Prior: 1909 c 76 § 3; RRS § 9953.]

43.09.220 Division of municipal corporations—Separate accounts for public service industries. Separate accounts shall be kept for every public service industry, which shall show the true and entire cost of the ownership and operation thereof, the amount collected annually by general or special taxation for service rendered to the public, and the amount and character of the service rendered therefor, and the amount collected annually from private users for service rendered to them, and the amount and character of the service rendered therefor. [1965 c 8 § 43.09.220. Prior: 1909 c 76 § 4; RRS § 9954.]

43.09.230 Division of municipal corporations—Annual reports—Comparative statistics. The state auditor shall require from every taxing district and other political subdivisions financial reports covering the full period of each fiscal year, in accordance with the forms and methods prescribed by the state auditor, which shall be uniform for all accounts of the same class.

Such reports shall be prepared, certified, and filed with the division within one hundred fifty days after the close of each fiscal year.

The reports shall contain accurate statements, in summarized form, of all collections made, or receipts received, by the officers from all sources; all accounts due the public treasury, but not collected; and all expenditures for every purpose, and by what authority authorized; and also: (1) A statement of all costs of ownership and operation, and of all income, of each and every public service industry owned and operated by a municipality; (2) a statement of the entire public debt of every taxing district, to which power has been delegated by the state to create a public debt, showing the purpose for which each item of the debt was created, and the provisions made for the payment thereof; (3) a classified statement of all receipts and expenditures by any public institution; and (4) a statement of all expenditures for labor relations consultants, with the identification of each consultant, compensation, and the terms and conditions of each agreement or arrangement; together with such other information as may be required by the state auditor.

The reports shall be certified as to their correctness by the state auditor, the state auditor's deputies, or other person legally authorized to make such certificate.

Their substance shall be published in an annual volume of comparative statistics at the expense of the state as a public document. [1993 c 18 § 2; 1989 c 168 § 1; 1977 c 75 § 41; 1965 c 8 § 43.09.230. Prior: 1909 c 76 § 5; RRS § 9955.]

Finding—Purpose—1993 c 18: "The legislature finds and declares that the use of outside consultants is an increasing element in public sector labor relations. The public has a right to be kept informed about the role of outside consultants in public sector labor relations. The purpose of this act is to help ensure that public information is available." [1993 c 18 § 1.]

43.09.240 Division of municipal corporations—Public officers and employees—Duty to account and report—Removal from office—Deposit of collections. Every public officer and employee shall keep all accounts of his office in the form prescribed and make all reports required by the state auditor. Any public officer or employee who refuses or wilfully neglects to perform such duties shall be subject to removal from office in an appropriate proceeding for that purpose brought by the attorney general or by any prosecuting attorney.

Every public officer and employee, whose duty it is to collect or receive payments due or for the use of the public shall deposit such moneys collected or received by him or her with the treasurer of the taxing district once every twenty-four consecutive hours. The treasurer may in his or her discretion grant an exception where such daily transfers would not be administratively practical or feasible.

In case a public officer or employee collects or receives funds for the account of a taxing district of which he or she is an officer or employee, the treasurer shall, by Friday of each week, pay to the proper officer of the taxing district for the account of which the collection was made or payment received, the full amount collected or received during the current week for the account of the district. [1991 c 245 § 13; 1965 c 8 § 43.09.240. Prior: 1963 c 209 § 2; 1911 c 30 § 1; 1909 c 76 § 6; RRS § 9956; prior: 1890 p 638 § 11; Code 1881 § 2577; 1854 p 411 § 7.]

43.09.250 Division of municipal corporations—Appointment of examiners—Contracts with certified public accountants. After the auditor has formulated and installed the system of uniform accounting in any or all classes of public offices, he may appoint additional assistants as required, who shall be known as state examiners. In addition, the state auditor may contract with certified public accountants certified in Washington to carry out such portions of the duties of the division of municipal corporations as the state auditor may determine. [1988 c 52 § 1; 1965 c 8 § 43.09.250. Prior: 1963 c 209 § 3; 1919 c 119 § 1; 1911 c 30 § 1; 1909 c 76 § 7; RRS § 9957.]

43.09.260 Division of municipal corporations—Examination of taxing districts—Reports—Action by attorney general. The state auditor, the chief examiner, and every state examiner shall have power by himself or herself or by any person legally appointed to perform the service, to examine into all financial affairs of every public office and officer.

The examination of the financial affairs of all taxing districts shall be made at such reasonable, periodic intervals as the state auditor shall determine. However, an examina-

tion of the financial affairs of all taxing districts shall be made at least once in every three years, and an examination of individual local government health and welfare benefit plans and local government self-insurance programs shall be made at least once every two years. The term "taxing districts" for purposes of RCW 43.09.190 through 43.09.285 includes but is not limited to all counties, cities, and other political subdivisions, municipal corporations, and quasi-municipal corporations, however denominated.

The state auditor shall establish a schedule to govern the auditing of taxing districts which shall include: A designation of the various classifications of taxing districts; a designation of the frequency for auditing each type of taxing district; and a description of events which cause a more frequent audit to be conducted.

On every such examination, inquiry shall be made as to the financial condition and resources of the taxing district; whether the Constitution and laws of the state, the ordinances and orders of the taxing district, and the requirements of the division of municipal corporations have been properly complied with; and into the methods and accuracy of the accounts and reports.

The state auditor, his or her deputies, every state examiner and every person legally appointed to perform such service, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff, compel the attendance of witnesses and the production of books and papers before him or her at any designated time and place, and may administer oaths.

When any person summoned to appear and give testimony neglects or refuses so to do, or neglects or refuses to answer any question that may be put to him or her touching any matter under examination, or to produce any books or papers required, the person making such examination shall apply to a superior court judge of the proper county to issue a subpoena for the appearance of such person before him or her; and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him to give testimony; and if any person so summoned fails to appear, or appearing, refuses to testify, or to produce any books or papers required, he or she shall be subject to like proceedings and penalties for contempt as witnesses in the superior court. Willful false swearing in any such examination shall be perjury and punishable as such.

A report of such examination shall be made in triplicate, one copy to be filed in the office of the state auditor, one in the auditing department of the taxing district reported upon, and one in the office of the attorney general. If any such report discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his copy of the report, the attorney general shall institute, in the proper county, such legal action as is proper in the premises by civil process and prosecute the same to final determination to carry into effect the findings of the examination.

It shall be unlawful for the county commissioners or any board or officer to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action, without the written approval and consent of the

attorney general and the state auditor. [1991 sp.s. c 30 § 26; 1979 c 71 § 1; 1965 c 8 § 43.09.260. Prior: 1909 c 76 § 8; RRS § 9958.]

Effective date, implementation, application—Severability—1991 sp.s. c 30: See RCW 48.62.900 and 48.62.901.

School district budgeting violations not to affect duties of attorney general under RCW 43.09.260: RCW 28A.505.150.

43.09.265 Division of municipal corporations—Review of tax levies of municipal corporations. The state auditor, through the division of municipal corporations, shall review the tax levies of all municipal corporations in the regular examinations under RCW 43.09.260. [1979 ex.s. c 218 § 7.]

43.09.270 Division of municipal corporations—Expense of division. The expense of maintaining and operating the division of municipal corporations and those expenses directly related to the prescribing of accounting systems, training, maintenance of working capital including reserves for late and uncollectable accounts and necessary adjustments to billings, and field audit supervision, shall be considered as expenses of auditing public accounts within the meaning of RCW 43.09.280 and 43.09.282, and shall be prorated for that purpose equally among all entities directly affected by such service. [1993 c 315 § 1; 1991 sp.s. c 16 § 920; 1982 c 206 § 1; 1965 c 8 § 43.09.270. Prior: 1963 c 209 § 4; 1911 c 30 § 1; 1909 c 76 § 10; RRS § 9960.]

Effective date—1993 c 315: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 315 § 2.]

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

43.09.280 Division of municipal corporations—Expense of examination, how paid. The expense of auditing public accounts shall be borne by each entity subject to such audit for the auditing of all accounts under its jurisdiction and the state auditor shall certify the expense of such audit to the fiscal or warrant-issuing officer of such entity, who shall immediately make payment to the division of municipal corporations. If the expense as certified is not paid by any taxing district within thirty days from the date of certification, the state auditor may certify the expense to the auditor of the county in which the taxing district is situated, who shall promptly issue his warrant on the county treasurer payable out of the current expense fund of the county, which fund, except as to auditing the financial affairs and making inspection and examination of the county, shall be reimbursed by the county auditor out of the money due said taxing district at the next monthly settlement of the collection of taxes and shall be transferred to the current expense fund. [1979 c 71 § 2; 1965 c 8 § 43.09.280. Prior: 1963 c 209 § 5; 1911 c 30 § 1; 1909 c 76 § 11; RRS § 9961.]

43.09.2801 Division of municipal corporations—Expense of audit—Additional charge. (1) From July 1, 1992, to June 30, 1995, the state auditor shall charge an entity subject to an audit an additional ten cents per hour billed

under RCW 43.09.270 and 43.09.280, to be deposited in the local government administrative hearing[s] account.

(2) After June 30, 1995, the state auditor shall base the amount to be collected and deposited into the local government administrative hearing[s] account on the funds remaining in the account on June 30, 1995, and the anticipated caseload for the future.

(3) The state auditor may exempt a local government that complies with RCW 42.41.050 from a charge added under subsection (1) or (2) of this section. [1992 c 44 § 11.]

Effective dates—Severability—1992 c 44: See RCW 42.41.901 and 42.41.902.

Local government administrative hearings account: RCW 42.41.060.

43.09.281 Appeal procedure to be adopted—Inclusion of number and disposition of appeals in annual report. The state auditor shall adopt appropriate rules pursuant to chapter 34.05 RCW, the administrative procedure act, to provide a procedure whereby a taxing district may appeal charges levied under RCW 43.09.280. Such procedure shall provide for an administrative review process and an external review process which shall be advisory to the state auditor's office. The number of appeals and their disposition shall be included in the auditor's annual report. [1982 c 206 § 3.]

43.09.282 Division of municipal corporations—Municipal revolving fund—Records of auditing costs. For the purposes of centralized funding, accounting, and distribution of the costs of the audits performed on taxing districts by the state auditor, there is hereby created a fund entitled the municipal revolving fund. The state treasurer shall be custodian of the fund. All moneys received by the division of municipal corporations or by any officer or employee thereof shall be deposited with the state treasurer and credited to the municipal revolving fund. Funds in the municipal revolving fund will be spent only after appropriation by the legislature. Such appropriated funds shall be administered by the division of municipal corporations. The division of municipal corporations shall keep such records as are necessary to detail the auditing costs attributable to the various types of taxing districts. [1982 c 206 § 2; 1965 c 8 § 43.09.282. Prior: 1963 c 209 § 6.]

Effective date—1982 c 206 § 2: "Section 2 of this act shall take effect on July 1, 1983." [1982 c 206 § 4.]

43.09.285 Joint operations by municipal corporations or political subdivisions—Deposit and control of funds. Whenever by law, two or more municipal corporations or political subdivisions of the state are permitted by law to engage in a joint operation, the funds of such joint operation shall be deposited in the public treasury of the municipal corporation or political subdivision embracing the largest population or the public treasury of any other as so agreed upon by the parties; and such deposit shall be subject to the same audit and fiscal controls as the public treasury where the funds are so deposited: PROVIDED, That whenever the laws applicable to any particular joint operation specifically state a contrary rule for deposits, the specific rule shall apply in lieu of the provisions of this section: PROVIDED, FURTHER, That nothing contained herein shall

be construed as limiting the power or authority of the disbursing officer of such joint operation from making disbursements in accordance with the provisions of any contract or agreement entered into between the parties to the joint operation. [1967 c 41 § 1.]

DEPARTMENTAL AUDITS

43.09.290 Post-audit of state departments—

Definitions. For the purposes of RCW 43.09.290 through 43.09.340 and 43.09.410 through 43.09.418, post-audit means an annual audit of the books, records, funds, and financial transactions of a state department for a complete fiscal period; pre-audit means all other audits and examinations; state department means elective officers and offices, and every other office, officer, department, board, council, committee, commission, authority, or agency of the state government now existing or hereafter created, supported, wholly or in part, by appropriations from the state treasury or funds under its control, or by the levy, assessment, collection, or receipt of fines, penalties, fees, licenses, sales of commodities, service charges, rentals, grants-in-aid, or other income provided by law, and all state educational, penal, reformatory, charitable, eleemosynary, or other institutions, supported, wholly or in part, by appropriations from the state treasury or funds under its control. [1981 c 336 § 6; 1965 c 8 § 43.09.290. Prior: 1941 c 196 § 1; Rem. Supp. 1941 § 11018-1.]

Effective date—1981 c 336: See note following RCW 43.09.410.

Petty cash: RCW 42.26.080.

Post-audit duties, budget and accounting system: RCW 43.88.160.

43.09.300 Post-audit of state departments—Division of departmental audits—Chief examiner—Appointment of state examiners—Contracts with certified public accountants. There shall be in the office of the state auditor a division to be known as the division of departmental audits. The state auditor may appoint and deputize an assistant to be known as chief examiner, who shall have charge and supervision of the division and who may, with the approval of the state auditor, appoint and employ such state examiners and clerical assistants as may be necessary to carry out the duties of the division. In addition, the state auditor may contract with certified public accountants certified in Washington to carry out such portions of the duties of the division of departmental audits as the state auditor may determine. [1988 c 53 § 1; 1965 c 8 § 43.09.300. Prior: 1941 c 196 § 2; Rem. Supp. 1941 § 11018-2.]

43.09.310 Audit of state-wide combined financial statements—Post-audits of state agencies—Periodic audits—Reports—Filing. The state auditor, through the division of departmental audits, shall annually audit the state-wide combined financial statements prepared by the office of financial management and make post-audits of state agencies. Post-audits of state agencies shall be made at such periodic intervals as is determined by the state auditor. Audits of combined financial statements shall include determinations as to the validity and accuracy of accounting methods, procedures and standards utilized in their prepa-

ration, as well as the accuracy of the financial statements themselves. A report shall be made of each such audit and post-audit upon completion thereof, and one copy shall be transmitted to the governor, one to the director of financial management, one to the attorney general, one to the state department audited, one to the legislative budget committee, one each to the standing committees on ways and means of the house and senate, one to the chief clerk of the house, one to the secretary of the senate, and at least one shall be kept on file in the office of the state auditor. For purposes of reporting the annual audit of state-wide combined financial statements, "state department audited" refers solely to the office of financial management. [1981 c 217 § 1; 1979 c 151 § 92; 1975-'76 2nd ex.s. c 17 § 1. Prior: 1975 1st ex.s. c 293 § 1; 1975 1st ex.s. c 193 § 1; 1971 ex.s. c 170 § 2; 1965 c 8 § 43.09.310; prior: 1947 c 114 § 1; 1941 c 196 § 3; Rem. Supp. 1947 § 11018-3.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

Reports of post-audits: RCW 43.88.160.

43.09.330 Post-audit of state departments—

Authority of officials in making audits—Action by attorney general. The state auditor, the chief examiner, and every state examiner of the division of departmental audits, for the purpose of making post-audits, may issue subpoenas and compulsory process and direct the service thereof by any constable or sheriff to compel the attendance of witnesses and the production of books and papers before him at any designated time and place, and may administer oaths.

If any person summoned neglects or refuses to appear, or neglects or refuses to answer any question that may be put to him touching any matter under audit, or to produce any books or papers required, the person making such audit shall apply to a superior court judge of the county where the hearing arose to issue a subpoena for the appearance of such person before him; and the judge shall order the issuance of a subpoena for the appearance of such person forthwith before him to give testimony; and if any person so summoned fails to appear, or appearing refuses to testify or to produce any books or papers required, he shall be subject to like proceedings and penalties for contempt as witnesses in the superior court. Wilful false swearing in any such examination shall be perjury and punishable as such.

If any audit discloses malfeasance, misfeasance, or nonfeasance in office on the part of any public officer or employee, within thirty days from the receipt of his copy of the report, the attorney general shall institute and prosecute in the proper county, appropriate legal action to carry into effect the findings of such post-audit. It shall be unlawful for any state department or the responsible head thereof, to make a settlement or compromise of any claim arising out of such malfeasance, misfeasance, or nonfeasance, or any action commenced therefor, or for any court to enter upon any compromise or settlement of such action without the written approval and consent of the attorney general and the state auditor. [1965 c 8 § 43.09.330. Prior: 1941 c 196 § 5; Rem. Supp. 1941 § 11018-5.]

43.09.340 Post-audit of state departments—Audit of books of state auditor. The governor may, from time to time, provide for a post-audit of the books, accounts, and records of the state auditor, and the funds under his control, to be made either by independent qualified public accountants or the director of financial management, as he may determine. The expense of making such audit shall be paid from appropriations made therefor from the general fund. [1979 c 151 § 93; 1965 c 8 § 43.09.340. Prior: 1947 c 114 § 2; 1941 c 196 § 6; Rem. Supp. 1947 § 11018-6.]

43.09.410 Auditing services revolving fund—Created—Purpose. An auditing services revolving fund is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the audits provided to state departments by the state auditor. [1981 c 336 § 1.]

Effective date—1981 c 336: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1981." [1981 c 336 § 8.]

43.09.412 Auditing services revolving fund—Transfers and payments into fund—Allotments to state auditor. The amounts to be disbursed from the auditing services revolving fund shall be transferred thereto by the state treasurer from funds appropriated to any and all state departments for auditing services or administrative expenses on a monthly basis. State departments operating in whole or in part from nonappropriated funds shall pay into the auditing services revolving fund such funds as will fully reimburse funds appropriated to the state auditor for any auditing services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the state auditor for the operation of his office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other state departments headed by elected officers under chapter 43.88 RCW. [1987 c 165 § 1; 1981 c 336 § 2.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.414 Auditing services revolving fund—Disbursements. Disbursements from the auditing services revolving fund shall be pursuant to vouchers executed by the state auditor or his designee in accordance with RCW 43.09.412. [1981 c 336 § 3.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.416 Auditing services revolving fund—Allocation of costs to funds and departments—Accounting—Billing rate—Committee—Proposed procedures and productivity standards. The state auditor shall keep such records as are necessary to facilitate proper allocation of costs to funds and state departments served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and state departments served. The billing rate shall be established based on costs incurred in the prior biennium and anticipated costs in the new biennium. Those expenses related to training, maintenance of working capital including

reserves for late and uncollectible accounts, and necessary adjustments to billings, shall be considered as expenses of auditing public accounts. Working capital shall not exceed five percent of the auditing services revolving fund appropriation. The director of the office of financial management shall establish a committee of at least three certified public accountants with private sector audit experience to prepare general guidelines governing procedures to be used in determining audit costs and standards for measuring auditor productivity. These proposed procedures and productivity standards shall be presented for review by the house and senate committees on ways and means prior to the 1982 regular session of the legislature. [1987 c 165 § 2; 1981 c 336 § 4.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.418 Auditing services revolving fund—Direct payments from state departments. In cases where there are unanticipated demands for auditing services or where there are insufficient funds on hand or available for payment through the auditing services revolving fund or in other cases of necessity, the state auditor may request payment for auditing services directly from state departments for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the state department shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1981 c 336 § 5.]

Effective date—1981 c 336: See note following RCW 43.09.410.

43.09.420 Audit of revolving, local, and other funds and accounts. As part of the routine audits of state agencies, the state auditor shall audit all revolving funds, local funds, and other state funds and state accounts that are not managed by or in the care of the state treasurer and that are under the control of state agencies, including but not limited to state departments, boards, and commissions. In conducting the audits of these funds and accounts, the auditor shall examine revenues and expenditures or assets and liabilities, accounting methods and procedures, and recordkeeping practices. In addition to including the results of these examinations as part of the routine audits of the agencies, the auditor shall report to the legislature on the status of all such funds and accounts that have been examined during the preceding biennium and any recommendations for their improved financial management. Such a report shall be filed with the legislature within five months of the end of each biennium regarding the funds and accounts audited during the biennium. The first such report shall be filed by December 1, 1993, regarding any such funds and accounts audited during the 1991-93 biennium. [1993 c 216 § 1.]

Chapter 43.10

ATTORNEY GENERAL

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43.10.010 Qualifications—Oath—Bond. No person shall be eligible to be attorney general unless he is a qualified practitioner of the supreme court of this state.

Before entering upon the duties of his office, any person elected or appointed attorney general shall take, subscribe, and file the oath of office as required by law; take, subscribe, and file with the secretary of state an oath to comply with the provisions of RCW 43.10.115; and execute and file with the secretary of state, a bond to the state, in the sum of

five thousand dollars, with sureties to be approved by the governor, conditioned for the faithful performance of his duties and the paying over of all moneys, as provided by law. [1973 c 43 § 1; 1965 c 8 § 43.10.010. Prior: 1929 c 92 § 1, part; RRS § 11030, part; prior: 1921 c 119 § 1; 1888 p 7 § 4.]

Severability—1973 c 43: "If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1973 c 43 § 6.]

43.10.020 Additional bond—Penalty for failure to furnish. If the governor deems any bond filed by the attorney general insufficient, he may require an additional bond for any amount not exceeding five thousand dollars.

If any attorney general fails to give such additional bond as required by the governor within twenty days after notice in writing of such requirement, his office may be declared vacant by the governor and filled as provided by law. [1965 c 8 § 43.10.020. Prior: (i) 1929 c 92 § 1, part; RRS § 11030, part. (ii) 1929 c 92 § 2; RRS § 11031; prior: 1921 c 119 § 1; 1888 p 7 §§ 4, 5.]

43.10.030 General powers and duties. The attorney general shall:

(1) Appear for and represent the state before the supreme court or the court of appeals in all cases in which the state is interested;

(2) Institute and prosecute all actions and proceedings for, or for the use of the state, which may be necessary in the execution of the duties of any state officer;

(3) Defend all actions and proceedings against any state officer or employee acting in his official capacity, in any of the courts of this state or the United States;

(4) Consult with and advise the several prosecuting attorneys in matters relating to the duties of their office, and when the interests of the state require, he shall attend the trial of any person accused of a crime, and assist in the prosecution;

(5) Consult with and advise the governor, members of the legislature, and other state officers, and when requested, give written opinions upon all constitutional or legal questions relating to the duties of such officers;

(6) Prepare proper drafts of contracts and other instruments relating to subjects in which the state is interested;

(7) Give written opinions, when requested by either branch of the legislature, or any committee thereof, upon constitutional or legal questions;

(8) Enforce the proper application of funds appropriated for the public institutions of the state, and prosecute corporations for failure or refusal to make the reports required by law;

(9) Keep in proper books a record of all cases prosecuted or defended by him, on behalf of the state or its officers, and of all proceedings had in relation thereto, and deliver the same to his successor in office;

(10) Keep books in which he shall record all the official opinions given by him during his term of office, and deliver the same to his successor in office;

(11) Pay into the state treasury all moneys received by him for the use of the state. [1975 c 40 § 5; 1971 c 81 § 109; 1965 c 8 § 43.10.030. Prior: (i) 1929 c 92 § 3; RRS

§ 112. (ii) 1929 c 92 § 4; RRS § 11032; prior: 1891 c 55 § 2; 1888 p 8 § 6.]

43.10.035 Prosecutions for official delinquencies in the assessment, collection and payment of revenue; failure to pay over or deliver public money or property; and against all debtors of the state. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(3) as now or hereafter amended, the attorney general shall direct prosecutions in the name of the state for all official delinquencies in relation to the assessment, collection, and payment of the revenue, against all persons who, by any means, become possessed of public money or property, and fail to pay over or deliver the same, and against all debtors of the state. [1977 ex.s. c 144 § 9.]

*Reviser's note: RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (3) to subsection (4).

43.10.040 Representation of boards, commissions and agencies. The attorney general shall also represent the state and all officials, departments, boards, commissions and agencies of the state in the courts, and before all administrative tribunals or bodies of any nature, in all legal or quasi legal matters, hearings, or proceedings, and advise all officials, departments, boards, commissions, or agencies of the state in all matters involving legal or quasi legal questions, except those declared by law to be the duty of the prosecuting attorney of any county. [1965 c 8 § 43.10.040. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.045 Retention of counsel by legislature—Notice—Representation in absence of notice. The legislature may employ or retain counsel of its own choosing. However, the legislature shall notify the attorney general whenever it makes a decision to use the services of such counsel to represent it or any of its members in a particular judicial or administrative proceeding. With respect to any such proceeding where the legislature has not so notified the attorney general, the attorney general shall represent the legislature until so notified. For purposes of this section, "legislature" means the senate and house of representatives together. The major purposes of this section are to confirm and implement in statute law the constitutional power of the legislative branch to select its own counsel. [1986 c 323 § 1.]

43.10.050 Authority to execute appeal and other bonds. The attorney general may execute, on behalf of the state, any appeal or other bond required to be given by the state in any judicial proceeding to which it is a party in any court, and procure sureties thereon. [1965 c 8 § 43.10.050. Prior: 1929 c 92 § 6; RRS § 11034; prior: 1905 c 99 § 1.]

43.10.060 Appointment and authority of assistants. The attorney general may appoint necessary assistants, who shall hold office at his pleasure, and who shall have the power to perform any act which the attorney general is authorized by law to perform. [1965 c 8 § 43.10.060. Prior: 1929 c 92 § 7, part; RRS § 11034-1, part.]

43.10.065 Employment of attorneys and employees to transact state's legal business. The attorney general may employ or discharge attorneys and employees to transact for the state, its departments, officials, boards, commissions, and agencies, all business of a legal or quasi legal nature, except those declared by law to be the duty of the judge of any court, or the prosecuting attorney of any county. [1965 c 8 § 43.10.065. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part. Formerly RCW 43.10.060, part.]

43.10.067 Employment of attorneys by others restricted. No officer, director, administrative agency, board, or commission of the state, other than the attorney general, shall employ, appoint or retain in employment any attorney for any administrative body, department, commission, agency, or tribunal or any other person to act as attorney in any legal or quasi legal capacity in the exercise of any of the powers or performance of any of the duties specified by law to be performed by the attorney general, except where it is provided by law to be the duty of the judge of any court or the prosecuting attorney of any county to employ or appoint such persons: PROVIDED, That RCW 43.10.040, and 43.10.065 through 43.10.080 shall not apply to the administration of the judicial council, the commission on judicial conduct, the state law library, the law school of the state university, the administration of the state bar act by the Washington State Bar Association, or the representation of an estate administered by the director of the department of revenue or the director's designee pursuant to chapter 11.28 RCW.

The authority granted by chapter 1.08 RCW, RCW 44.28.140, and 47.01.061 shall not be affected hereby. [1987 c 364 § 1; 1987 c 186 § 7. Prior: 1985 c 133 § 2; 1985 c 7 § 108; 1981 c 268 § 1; 1965 c 8 § 43.10.067; prior: (i) 1941 c 50 § 2; Rem. Supp. 1941 § 11034-4. (ii) 1941 c 50 § 4; Rem. Supp. 1941 § 11034-6. Formerly RCW 43.01.080.]

Reviser's note: This section was amended by 1987 c 186 § 7 and by 1987 c 364 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

43.10.070 Compensation of assistants, attorneys and employees. The attorney general shall fix the compensation of all assistants, attorneys, and employees, and in the event they are assigned to any department, board, or commission, such department, board, or commission shall pay the compensation as fixed by the attorney general, not however in excess of the amount made available to the department by law for legal services. [1965 c 8 § 43.10.070. Prior: 1941 c 50 § 1, part; Rem. Supp. 1941 § 11034-3, part.]

43.10.080 Employment of experts, technicians. The attorney general may employ such skilled experts, scientists, technicians, or other specially qualified persons as he deems necessary to aid him in the preparation or trial of actions or proceedings. [1965 c 8 § 43.10.080. Prior: 1941 c 50 § 3; Rem. Supp. 1941 § 11034-5.]

43.10.090 Criminal investigations—Supervision.

Upon the written request of the governor the attorney general shall investigate violations of the criminal laws within this state.

If, after such investigation, the attorney general believes that the criminal laws are improperly enforced in any county, and that the prosecuting attorney of the county has failed or neglected to institute and prosecute violations of such criminal laws, either generally or with regard to a specific offense or class of offenses, the attorney general shall direct the prosecuting attorney to take such action in connection with any prosecution as the attorney general determines to be necessary and proper.

If any prosecuting attorney, after the receipt of such instructions from the attorney general, fails or neglects to comply therewith within a reasonable time, the attorney general may initiate and prosecute such criminal actions as he shall determine. In connection therewith, the attorney general shall have the same powers as would otherwise be vested in the prosecuting attorney.

From the time the attorney general has initiated or taken over a criminal prosecution, the prosecuting attorney shall not have power or authority to take any legal steps relating to such prosecution, except as authorized or directed by the attorney general. [1965 c 8 § 43.10.090. Prior: 1937 c 88 § 1; RRS § 112-1.]

Corporations, governor may require attorney general to investigate: RCW 43.06.010.

Prosecuting attorneys, governor may require attorney general to aid: RCW 43.06.010.

43.10.110 Other powers and duties. The attorney general shall have the power and it shall be his duty to perform any other duties that are, or may from time to time be required of him by law. [1965 c 8 § 43.10.110. Prior: 1929 c 92 § 8; RRS § 11034-2.]

43.10.115 Private practice of law—Attorney general—Prohibited. The attorney general shall not practice law for remuneration in his private capacity:

(1) As an attorney in any court of this state during his continuance in office; or

(2) As adviser or advocate for any person who may wish to become his client. [1973 c 43 § 2.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.120 Private practice of law—Deputies and assistants—Prohibited. No full time deputy or assistant attorney general shall practice law for remuneration in his private capacity:

(1) As an attorney in any court of this state during his continuance in office; or

(2) As adviser or advocate for any person who may wish to become his client. [1973 c 43 § 3.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.125 Private practice of law—Special assistant attorney generals. Special assistant attorney generals employed on less than a full time basis to transact business of a legal or quasi legal nature for the state, such assistants

and attorneys may practice law in their private capacity as attorney. [1973 c 43 § 4.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.130 Private practice of law—Exceptions.

None of the provisions of RCW 43.10.010 and 43.10.115 through 43.10.125 shall be construed as prohibiting the attorney general or any of his full time deputies or assistants from:

(1) Performing legal services for himself or his immediate family; or

(2) Performing legal services of a charitable nature. [1973 c 43 § 5.]

Severability—1973 c 43: See note following RCW 43.10.010.

43.10.150 Legal services revolving fund—Created—

Purpose. A legal services revolving fund is hereby created in the state treasury for the purpose of a centralized funding, accounting, and distribution of the actual costs of the legal services provided to agencies of the state government by the attorney general. [1974 ex.s. c 146 § 1; 1971 ex.s. c 71 § 1.]

Effective date—1974 ex.s. c 146: "This act shall take effect on July 1, 1974 for costs, billings and charges affecting the 1975 fiscal year and subsequent biennia." [1974 ex.s. c 146 § 5.]

Legal services revolving fund—Approval of certain changes required: RCW 43.88.350.

43.10.160 Legal services revolving fund—Transfers and payments into fund—Allotments to attorney general.

The amounts to be disbursed from the legal services revolving fund from time to time shall be transferred thereto by the state treasurer from funds appropriated to any and all agencies for legal services or administrative expenses on a quarterly basis. Agencies operating in whole or in part from nonappropriated funds shall pay into the legal services revolving fund such funds as will fully reimburse funds appropriated to the attorney general for any legal services provided activities financed by nonappropriated funds.

The director of financial management shall allot all such funds to the attorney general for the operation of his office, pursuant to appropriation, in the same manner as appropriated funds are allocated to other agencies headed by elected officers under chapter 43.88 RCW. [1979 c 151 § 94; 1974 ex.s. c 146 § 2; 1971 ex.s. c 71 § 2.]

Effective date—1974 ex.s. c 146: See note following RCW 43.10.150.

43.10.170 Legal services revolving fund—

Disbursements. Disbursements from the legal services revolving fund shall be pursuant to vouchers executed by the attorney general or his designee in accordance with the provisions of RCW 43.88.160. [1971 ex.s. c 71 § 3.]

43.10.180 Legal services revolving fund—Allocation of costs to funds and agencies—Accounting—Billing.

The attorney general shall keep such records as are necessary to facilitate proper allocation of costs to funds and agencies served and the director of financial management shall prescribe appropriate accounting procedures to accurately allocate costs to funds and agencies served. Billings shall be

adjusted in line with actual costs incurred at intervals not to exceed six months. [1979 c 151 § 95; 1974 ex.s. c 146 § 3; 1971 ex.s. c 71 § 4.]

Effective date—1974 ex.s. c 146: See note following RCW 43.10.150.

43.10.190 Legal services revolving fund—Direct payments from agencies. In cases where there are unanticipated demands for legal services or where there are insufficient funds on hand or available for payment through the legal services revolving fund or in other cases of necessity, the attorney general may request payment for legal services directly from agencies for whom the services are performed to the extent that revenues or other funds are available. Upon approval by the director of financial management the agency shall make the requested payment. The payment may be made on either an advance or reimbursable basis as approved by the director of financial management. [1979 c 151 § 96; 1971 ex.s. c 71 § 5.]

43.10.200 Legal services revolving fund—Recovered court costs, fees and expenses—Deposit in fund—Expenditure. Court costs, attorneys' fees, and other expenses recovered by the attorney general shall be deposited in the legal services revolving fund and shall be considered as returned loans of materials supplied or services rendered. Such amounts may be expended in the same manner and under the same conditions and restrictions as set forth in section 11, chapter 282, Laws of 1969 ex. sess. [1971 ex.s. c 71 § 6.]

43.10.210 Antitrust revolving fund—Legislative finding and purpose. The legislature having found that antitrust laws and the enforcement thereof are necessary for the protection of consumers and businesses, and further that the creation of an antitrust revolving fund provides a reasonable means of funding antitrust actions by the attorney general, and that the existence of such a fund increases the possibility of obtaining funding from other sources, now therefore creates the antitrust revolving fund. [1974 ex.s. c 162 § 1.]

43.10.215 Antitrust revolving fund—Created—Contents. There is hereby created the antitrust revolving fund in the custody of the state treasurer which shall consist of: Funds appropriated to the revolving fund, funds transferred to the revolving fund pursuant to a court order or judgment in an antitrust action; gifts or grants made to the revolving fund; and funds awarded to the state or any agency thereof for the recovery of costs and attorney fees in an antitrust action: PROVIDED HOWEVER, That to the extent that such costs constitute reimbursement for expenses directly paid from constitutionally dedicated funds, such recoveries shall be transferred to the constitutionally dedicated fund. [1974 ex.s. c 162 § 2.]

43.10.220 Antitrust revolving fund—Expenditures. The attorney general is authorized to expend from the antitrust revolving fund, created by RCW 43.10.210 through 43.10.220, such funds as are necessary for the payment of costs, expenses and charges incurred in the preparation,

institution and maintenance of antitrust actions under the state and federal antitrust acts. [1974 ex.s. c 162 § 3.]

43.10.230 Purpose. The purpose of RCW 43.10.232 is to grant authority to the attorney general concurrent with the county prosecuting attorneys to investigate and prosecute crimes. The purpose of *RCW 43.10.234 is to insure access by the attorney general to the procedural powers of the various prosecuting attorneys in exercising criminal prosecutorial authority granted in RCW 43.10.232 or otherwise granted by the legislature. [1981 c 335 § 1.]

***Reviser's note:** The reference to RCW 43.10.234 appears to be erroneous. RCW 10.01.190 was apparently intended.

43.10.232 Concurrent authority to investigate crimes and initiate and conduct prosecutions—Payment of costs. (1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

- (a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;
- (b) The governor of the state of Washington; or
- (c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution. [1986 c 257 § 16; 1981 c 335 § 2.]

Severability—1986 c 257: See note following RCW 9A.56.010.

43.10.234 Determination of prosecuting authority if defendant charged by attorney general and prosecuting attorney. If both a prosecuting attorney and the attorney general file an information or indictment charging a defendant with substantially the same offense(s), the court shall, upon motion of either the prosecuting attorney or the attorney general:

(1) Determine whose prosecution of the case will best promote the interests of justice and enter an order designating that person as the prosecuting authority in the case; and

(2) Enter an order dismissing the information or indictment filed by the person who was not designated the prosecuting authority. [1981 c 335 § 3.]

43.10.240 Investigative and criminal prosecution activity—Annual report—Security protection. The attorney general shall annually report to the organized crime advisory board a summary of the attorney general's investigative and criminal prosecution activity conducted pursuant to this chapter. Except to the extent the summary describes information that is a matter of public record, the information made available to the board shall be given all necessary security protection in accordance with the terms and provisions of applicable laws and rules and shall not be revealed or divulged publicly or privately by members of the board. [1985 c 251 § 1.]

43.10.250 Appellate review of criminal case. Upon request of a prosecuting attorney, the attorney general may assume responsibility for the appellate review of a criminal case or assist the prosecuting attorney in the appellate review if the attorney general finds that the case involves fundamental issues affecting the public interest and the administration of criminal justice in this state. [1985 c 251 § 2.]

43.10.260 Criminal profiteering—Assistance to local officials. The attorney general may: (1) Assist local law enforcement officials in the development of cases arising under the criminal profiteering laws with special emphasis on narcotics related cases; (2) assist local prosecutors in the litigation of criminal profiteering or drug asset forfeiture cases, or, at the request of a prosecutor's office, litigate such cases on its behalf; and (3) conduct seminars and training sessions on prosecution of criminal profiteering cases and drug asset forfeiture cases. [1991 c 345 § 2.]

Findings—1991 c 345: "The legislature finds that drug asset forfeiture and criminal profiteering laws allow law enforcement officials and the courts to strip drug dealers and other successful criminals of the wealth they have acquired from their crimes and the assets they have used to facilitate those crimes. These laws are rarely used by prosecutors, however, because of the difficulty in identifying profiteering and the assets that criminals may have as a result of their crimes. It is the intent of the legislature to provide assistance to local law enforcement officials and state agencies to seize the assets of criminals and the proceeds of their profiteering." [1991 c 345 § 1.]

43.10.270 Criminal profiteering—Asset recovery. All assets recovered pursuant to RCW 43.10.260 shall be distributed in the following manner: (1) For drug asset forfeitures, pursuant to the provisions of RCW 69.50.505; and (2) for criminal profiteering cases, pursuant to the provisions of RCW 9A.82.100. [1991 c 345 § 3.]

Findings—1991 c 345: See note following RCW 43.10.260.

Chapter 43.12

COMMISSIONER OF PUBLIC LANDS

Sections

- 43.12.010 Powers and duties—Generally.
 43.12.025 Sealing of open holes and mine shafts.
 43.12.035 Mine owners—Maps of property surface and underground workings—Filing.

Abstracts of state lands maintained by: RCW 79.01.304.

Administrator of natural resources: RCW 43.30.050.

Assistant commissioner: RCW 79.01.056.

Attorney general to represent: RCW 79.01.736.

Board of natural resources secretary: RCW 43.30.150.

Bonds: RCW 79.01.064.

City or metropolitan park district parks or playgrounds, member of citizens committee to investigate and determine needs for tidelands and shorelands: RCW 79.08.080.

Duties of, to be prescribed by legislature: State Constitution Art. 3 § 23.

Election: State Constitution Art. 3 § 1.

Eminent domain

against state lands

filing judgment with commissioner of public lands: RCW 8.28.010.

service of process on: RCW 8.28.010.

by corporations, service on: RCW 8.20.020.

Employees: RCW 79.01.060.

Escheats

conveyance of real property to claimant: RCW 11.08.270.

jurisdiction and supervision over real property: RCW 11.08.220.

land acquired by, management and control over: RCW 79.01.612.

Fees: RCW 79.01.720, 79.01.724.

Funds, daily deposit of funds in state treasury: RCW 43.85.130.

Harbor line relocation, platting of additional tidelands and shorelands created by: RCW 79.92.020.

Interagency committee for outdoor recreation, membership: RCW 43.99.110.

Land inspectors

compensation: RCW 79.01.068.

employment of: RCW 79.01.060.

false statements by, penalty: RCW 79.01.072.

oath: RCW 79.01.068.

Local and other improvements and assessments against state lands, tidelands and harbor area assessments, disapproval, effect: RCW 79.44.140.

Mistakes, recall of leases, contract or deeds to correct: RCW 79.01.740.

Oath of office: RCW 43.01.020, 79.01.056.

Office may be abolished by legislature: State Constitution Art. 3 § 25.

Powers and duties transferred to natural resources department: RCW 43.30.130.

Recall of leases, contracts, or deeds to correct mistakes: RCW 79.01.740.

Reclamation projects of state: RCW 89.16.080.

Reconsideration of official acts: RCW 79.01.740.

Records to be kept at state capitol: State Constitution Art. 3 § 24.

Reports to legislature: RCW 79.01.744.

Salary

amount of: RCW 43.03.010.

regulated by legislature: State Constitution Art. 3 § 23.

School lands, data and information furnished to department of natural resources as to sale or lease of: RCW 79.01.094.

State capitol committee

member: RCW 43.34.010.

secretary of: RCW 43.34.015.

State lands: Chapter 79.01 RCW.

State parks, withdrawal of public lands from sale, exchange for highway abutting lands, duties: RCW 43.51.110.

Subpoena power: RCW 79.01.704.

Succession to governorship: State Constitution Art. 3 § 10.

Survey and map agency, advisory board, appointment: RCW 58.24.020.

Term of office: State Constitution Art. 3 § 3; RCW 43.01.010.

Tidelands and shorelands in tidal rivers located by, finality of location: RCW 79.92.120.

Underground storage of natural gas

lease of public lands for: RCW 80.40.060.

notice of application for sent to: RCW 80.40.040.

United States land offices, appearance before: RCW 79.01.732.

Washington State University real property, annual report as to: RCW 28B.30.310.

Wildlife and recreation lands; funding of maintenance and operation: Chapter 43.98B RCW.

Withdrawal of state land from lease for game purposes, powers and duties concerning: RCW 77.12.360.

43.12.010 Powers and duties—Generally. The commissioner of public lands shall exercise such powers and perform such duties as are prescribed by law. [1965 c 8 § 43.12.010. Prior: 1921 c 7 § 119; RRS § 10877.]

43.12.025 Sealing of open holes and mine shafts. The department of natural resources shall work with federal officials and private mine owners to ensure the prompt

sealing of open holes and mine shafts that constitute a threat to safety. [1985 c 459 § 7.]

Severability—1985 c 459: See note following RCW 79.01.668.

43.12.035 Mine owners—Maps of property surface and underground workings—Filing. The owner of each mine shall make a map of the surface of the property. The owner of each active mine shall make a map of the underground workings. All maps shall be filed with the department of natural resources. The department shall establish by rule the scale and contents required for the maps. [1985 c 459 § 8.]

Severability—1985 c 459: See note following RCW 79.01.668.

Chapter 43.17

ADMINISTRATIVE DEPARTMENTS AND AGENCIES—GENERAL PROVISIONS

Sections

- 43.17.010 Departments created.
- 43.17.020 Chief executive officers—Appointment.
- 43.17.030 Powers and duties—Oath.
- 43.17.040 Chief assistant director—Powers.
- 43.17.050 Office at capital—Branch offices.
- 43.17.060 Departmental rules and regulations.
- 43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation.
- 43.17.070 Administrative committees.
- 43.17.100 Surety bonds for appointive state officers and employees.
- 43.17.110 Data, information, interdepartmental assistance.
- 43.17.120 Designation of agency to carry out federal social security disability program.
- 43.17.130 Designation of agency to carry out federal social security disability program—Appointment of personnel.
- 43.17.150 Receipt of property or money from United States attorney general—Use, expenditure—Deposit.
- 43.17.200 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions.
- 43.17.205 Purchase of works of art—Interagency reimbursement for expenditure by visual arts program.
- 43.17.210 Purchase of works of art—Procedure.
- 43.17.230 Emergency information telephone services—Accessibility from all phones required—Charges.
- 43.17.240 Debts owed to the state—Interest rate.
- 43.17.250 County-wide planning policy incentives.
- 43.17.260 Commission for efficiency and accountability—Generally.
- 43.17.270 Commission for efficiency and accountability—Duties.
- 43.17.280 Commission for efficiency and accountability—Review, recommendations, reports.
- 43.17.290 Commission for efficiency and accountability—Funding, staffing.
- 43.17.300 Commission for efficiency and accountability—Contracting authority.
- 43.17.310 Businesses—Rules coordinator to provide list of rules.
- 43.17.320 Interagency disputes—Alternative dispute resolution—Definitions.
- 43.17.330 Interagency disputes—Alternative dispute resolution—Methods.
- 43.17.340 Interagency disputes—Alternative dispute resolution—Exception.

Facilitating recovery from Mt. St. Helens eruption—Scope of state agency action: RCW 43.01.210.

43.17.010 Departments created. There shall be departments of the state government which shall be known as (1) the department of social and health services, (2) the department of ecology, (3) the department of labor and industries, (4) the department of agriculture, (5) the department

of fish and wildlife, (6) the department of transportation, (7) the department of licensing, (8) the department of general administration, (9) the department of community, trade, and economic development, (10) the department of veterans affairs, (11) the department of revenue, (12) the department of retirement systems, (13) the department of corrections, and (14) the department of health, and (15) the department of financial institutions, which shall be charged with the execution, enforcement, and administration of such laws, and invested with such powers and required to perform such duties, as the legislature may provide. [1993 sp.s. c 2 § 16; 1993 c 472 § 17; 1993 c 280 § 18; 1989 1st ex.s. c 9 § 810; 1987 c 506 § 2; 1985 c 466 § 47; 1984 c 125 § 12; 1981 c 136 § 61; 1979 c 10 § 1. Prior: 1977 ex.s. c 334 § 5; 1977 ex.s. c 151 § 20; 1977 c 7 § 1; prior: 1975-'76 2nd ex.s. c 115 § 19; 1975-'76 2nd ex.s. c 105 § 24; 1971 c 11 § 1; prior: 1970 ex.s. c 62 § 28; 1970 ex.s. c 18 § 50; 1969 c 32 § 1; prior: 1967 ex.s. c 26 § 12; 1967 c 242 § 12; 1965 c 156 § 20; 1965 c 8 § 43.17.010; prior: 1957 c 215 § 19; 1955 c 285 § 2; 1953 c 174 § 1; prior: (i) 1937 c 111 § 1, part; RRS § 10760-2, part. (ii) 1935 c 176 § 1; 1933 c 3 § 1; 1929 c 115 § 1; 1921 c 7 § 2; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part. (iv) 1947 c 114 § 5; Rem. Supp. 1947 § 10786-10c.]

Reviser's note: This section was amended by 1993 c 280 § 18, 1993 c 472 § 17, and by 1993 sp.s. c 2 § 16, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.005.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Department of agriculture: Chapter 43.23 RCW. community, trade, and economic development: Chapter 43.330 RCW. corrections: Chapter 72.09 RCW. ecology: Chapter 43.21A RCW. employment security: Chapter 50.08 RCW. financial institutions: Chapter 43.320 RCW. fish and wildlife: Chapters 43.300, 75.08, and 77.04 RCW. general administration: Chapter 43.19 RCW. health: Chapter 43.70 RCW. information services: Chapter 43.105 RCW. labor and industries: Chapter 43.22 RCW. licensing: Chapters 43.24, 46.01 RCW. natural resources: Chapter 43.30 RCW.

personnel: Chapter 41.06 RCW.
 retirement systems: Chapter 41.50 RCW.
 revenue: Chapter 82.01 RCW.
 services for the blind: Chapter 74.18 RCW.
 social and health services: Chapter 43.20A RCW.
 transportation: Chapter 47.01 RCW.
 veterans affairs: Chapter 43.60A RCW.

43.17.020 Chief executive officers—Appointment.

There shall be a chief executive officer of each department to be known as: (1) The secretary of social and health services, (2) the director of ecology, (3) the director of labor and industries, (4) the director of agriculture, (5) the director of fish and wildlife, (6) the secretary of transportation, (7) the director of licensing, (8) the director of general administration, (9) the director of community, trade, and economic development, (10) the director of veterans affairs, (11) the director of revenue, (12) the director of retirement systems, (13) the secretary of corrections, and (14) the secretary of health, and (15) the director of financial institutions.

Such officers, except the secretary of transportation, shall be appointed by the governor, with the consent of the senate, and hold office at the pleasure of the governor. The secretary of transportation shall be appointed by the transportation commission as prescribed by RCW 47.01.041. [1993 sp.s. c 2 § 17; 1993 c 472 § 18; 1993 c 280 § 19; 1989 1st ex.s. c 9 § 811; 1987 c 506 § 3; 1985 c 466 § 48; 1984 c 125 § 13; 1981 c 136 § 62; 1979 c 10 § 2. Prior: 1977 ex.s. c 334 § 6; 1977 ex.s. c 151 § 21; 1977 c 7 § 2; prior: 1975-'76 2nd ex.s. c 115 § 20; 1975-'76 2nd ex.s. c 105 § 25; 1971 c 11 § 2; prior: 1970 ex.s. c 62 § 29; 1970 ex.s. c 18 § 51; 1969 c 32 § 2; prior: 1967 ex.s. c 26 § 13; 1967 c 242 § 13; 1965 c 156 § 21; 1965 c 8 § 43.17.020; prior: 1957 c 215 § 20; 1955 c 285 § 3; 1953 c 174 § 2; prior: (i) 1935 c 176 § 2; 1933 c 3 § 2; 1929 c 115 § 2; 1921 c 7 § 3; RRS § 10761. (ii) 1937 c 111 § 1, part; RRS § 10760. (iii) 1945 c 267 § 1, part; Rem. Supp. 1945 § 10459-1, part.]

Reviser's note: This section was amended by 1993 c 280 § 19, 1993 c 472 § 18, and by 1993 sp.s. c 2 § 17, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

Effective date—1981 c 136: See RCW 72.09.900.

Effective date—1977 ex.s. c 334: See note following RCW 46.01.011.

Federal requirements—Severability—1977 ex.s. c 151: See RCW 47.98.070 and 47.98.080.

Severability—1975-'76 2nd ex.s. c 105: See note following RCW 41.04.270.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Secretary of transportation appointed by transportation commission: RCW 47.01.041.

43.17.030 Powers and duties—Oath. The directors of the several departments shall exercise such powers and perform such executive and administrative duties as are provided by law.

Each appointive officer before entering upon the duties of his office shall take and subscribe the oath of office prescribed by law for elective state officers, and file the same in the office of the secretary of state. [1965 c 8 § 43.17.030. Prior: 1921 c 7 § 18; RRS § 10776.]

Oaths of elective state officers: RCW 43.01.020.

43.17.040 Chief assistant director—Powers. The director of each department may, from time to time, designate and deputize one of the assistant directors of his department to act as the chief assistant director, who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1965 c 8 § 43.17.040. Prior: 1921 c 7 § 118; RRS § 10876.]

43.17.050 Office at capital—Branch offices. Each department shall maintain its principal office at the state capital. The director of each department may, with the approval of the governor, establish and maintain branch offices at other places than the state capital for the conduct of one or more of the functions of his department.

The governor, in his discretion, may require all administrative departments of the state and the appointive officers thereof, other than those created by this chapter, to maintain their principal offices at the state capital in rooms to be furnished by the director of general administration. [1965 c 8 § 43.17.050. Prior: (i) 1921 c 7 § 20; RRS § 10778. (ii) 1921 c 7 § 134; RRS § 10892.]

Departments to share occupancy—Capital projects surcharge: RCW 43.01.090.

Housing for state offices, departments, and institutions: Chapter 43.82 RCW.

43.17.060 Departmental rules and regulations. The director of each department may prescribe rules and regulations, not inconsistent with law, for the government of his department, the conduct of its subordinate officers and employees, the disposition and performance of its business, and the custody, use, and preservation of the records, papers, books, documents, and property pertaining thereto. [1965 c 8 § 43.17.060. Prior: 1921 c 7 § 19; RRS § 10777.]

43.17.065 Expeditious exercise of power to issue permits, licenses, certifications, contracts, and grants—Cooperation. (1) Where power is vested in a department to issue permits, licenses, certifications, contracts, grants, or otherwise authorize action on the part of individuals, businesses, local governments, or public or private organizations, such power shall be exercised in an expeditious manner. All departments with such power shall cooperate with officials of the business assistance center of the

department of community, trade, and economic development, and any other state officials, when such officials request timely action on the part of the issuing department.

(2) After August 1, 1991, any agency to which subsection (1) of this section applies shall, with regard to any permits or other actions that are necessary for economic development in timber impact areas, as defined in RCW 43.31.601, respond to any completed application within forty-five days of its receipt; any response, at a minimum, shall include:

(a) The specific steps that the applicant needs to take in order to have the application approved; and

(b) The assistance that will be made available to the applicant by the agency to expedite the application process.

(3) The agency timber task force established in RCW 43.31.621 shall oversee implementation of this section.

(4) Each agency shall define what constitutes a completed application and make this definition available to applicants. [1993 c 280 § 37; 1991 c 314 § 28; 1990 1st ex.s. c 17 § 77.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.17.070 Administrative committees. There shall be administrative committees of the state government, which shall be known as: (1) The state finance committee and (2) the state capitol committee. [1982 c 40 § 8; 1965 c 8 § 43.17.070. Prior: 1929 c 115 § 3; 1921 c 7 § 4; RRS § 10762.]

Severability—1982 c 40: See note following RCW 29.33.041.

State capitol committee: Chapter 43.34 RCW.

State finance committee: Chapter 43.33 RCW.

43.17.100 Surety bonds for appointive state officers and employees. Every appointive state officer and employee of the state shall give a surety bond, payable to the state in such sum as shall be deemed necessary by the director of the department of general administration, conditioned for the honesty of the officer or employee and for the accounting of all property of the state that shall come into his possession by virtue of his office or employment, which bond shall be approved as to form by the attorney general and shall be filed in the office of the secretary of state.

The director of general administration may purchase one or more blanket surety bonds for the coverage required in this section.

Any bond required by this section shall not be considered an official bond and shall not be subject to chapter 42.08 RCW. [1977 ex.s. c 270 § 7; 1975 c 40 § 6; 1965 c 8 § 43.17.100. Prior: 1921 c 7 § 16; RRS § 10774.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Official bonds: Chapter 42.08 RCW.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.17.110 Data, information, interdepartmental assistance. Where power is vested in a department or

officer to inspect, examine, secure data or information from, or procure assistance from, another department or officer, such other department or officer shall submit to such inspection or examination, and furnish the data, information, or assistance required. [1965 c 8 § 43.17.110. Prior: 1921 c 7 § 128; RRS § 10886.]

43.17.120 Designation of agency to carry out federal social security disability program. Such state agency as the governor may designate is hereby authorized to enter into an agreement on behalf of the state with the Secretary of Health, Education and Welfare to carry out the provisions of the federal social security act, as amended, relating to the making of determinations of disability under title II of such act. [1965 c 8 § 43.17.120. Prior: 1955 c 200 § 1. Formerly RCW 74.44.010.]

Federal social security for public employees: Chapters 41.33, 41.41, 41.47, and 41.48 RCW.

43.17.130 Designation of agency to carry out federal social security disability program—Appointment of personnel. The state agency entering into such agreement shall appoint such professional personnel and other assistants and employees as may be reasonably necessary to carry out the provisions of RCW 43.17.120 and 43.17.130. [1965 c 8 § 43.17.130. Prior: 1955 c 200 § 2. Formerly RCW 74.44.020.]

43.17.150 Receipt of property or money from United States attorney general—Use, expenditure—Deposit. (1) Each state agency is authorized to receive property or money made available by the attorney general of the United States under section 881(e) of Title 21 of the United States Code and, except as required to the contrary under subsection (2) of this section, to use the property or spend the money for such purposes as are permitted under both federal law and the state law specifying the powers and duties of the agency.

(2) Unless precluded by federal law, all funds received by a state agency under section 881(e) of Title 21 of the United States Code shall be promptly deposited into the public safety and education account established in RCW 43.08.250. [1986 c 246 § 1.]

43.17.200 Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions. All state agencies including all state departments, boards, councils, commissions, and quasi public corporations shall allocate, as a nondeductible item, out of any moneys appropriated for the original construction of any public building, an amount of one-half of one percent of the appropriation to be expended by the Washington state arts commission for the acquisition of works of art. The works of art may be placed on public lands, integral to or attached to a public building or structure, detached within or outside a public building or structure, part of a portable exhibition or collection, part of a temporary exhibition, or loaned or exhibited in other public facilities. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration of the visual arts program by the Washington

state arts commission and all costs for installation of the works of art. For the purpose of this section building shall not include highway construction sheds, warehouses or other buildings of a temporary nature. [1983 c 204 § 4; 1974 ex.s. c 176 § 2.]

Severability—1983 c 204: See note following RCW 43.46.090.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Purchase of works of art

interagency reimbursement for expenditure by visual arts program: RCW 43.17.205.

procedure: RCW 43.19.455.

State art collection: RCW 43.46.095.

43.17.205 Purchase of works of art—Interagency reimbursement for expenditure by visual arts program. The funds allocated under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission when the particular law providing for the appropriation becomes effective. For appropriations which are dependent upon the sale of bonds, the amount or proportionate amount of the moneys under RCW 43.17.200, 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission thirty days after the sale of a bond or bonds. [1990 c 33 § 574; 1983 c 204 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

43.17.210 Purchase of works of art—Procedure. The Washington state arts commission shall determine the amount to be made available for the purchase of art in consultation with the agency, except where another person or agency is specified under RCW 43.19.455, 28A.335.210, or 28B.10.025, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the directors of the state agencies. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to in RCW 43.17.200, 43.19.455, 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose. [1990 c 33 § 575; 1983 c 204 § 5.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

43.17.230 Emergency information telephone services—Accessibility from all phones required—Charges. (1) The legislature finds that when the state provides emergency information by telephone to citizens that is of a critical nature, such as road or weather hazards, the information should be accessible from all residential, commercial, and coin-operated telephones. Information such as road and weather conditions should be available to all persons

traveling within the state whether they own a telephone in this state or not.

(2) If an agency or department of the state makes emergency information services available by telephone, the agency or department shall ensure that the telephone line is accessible from all coin-operated telephones in this state by both the use of coins and the use of a telephone credit card.

(3) A state agency that provides an emergency information service by telephone may establish charges to recover the cost of those services. However, an agency charging for the service shall not price it at a profit to create excess revenue for the agency. The agency shall do a total cost-benefit analysis of the available methods of providing the service and shall adopt the method that provides the service at the lowest cost to the user and the agency.

(4) "Emergency information services," as used in this section, includes information on road and weather conditions. [1986 c 45 § 1.]

43.17.240 Debts owed to the state—Interest rate. Interest at the rate of one percent per month, or fraction thereof, shall accrue on debts owed to the state, starting on the date the debts become past due. This section does not apply to: (1) Any instance where such interest rate would conflict with the provisions of a contract or with the provisions of any other law; or (2) debts to be paid by other governmental units. The office of financial management may adopt rules specifying circumstances under which state agencies may waive interest, such as when assessment or collection of interest would not be cost-effective. This section does not affect any authority of the state to charge or collect interest under any other law on a debt owed to the state by a governmental unit. This section applies only to debts which become due on or after July 28, 1991. [1991 c 85 § 2.]

43.17.250 County-wide planning policy incentives. Whenever a state agency is considering awarding grants or loans for a county, city, or town to finance public facilities, it shall consider whether the county, city, or town that is requesting the grant or loan is a party to a county-wide planning policy under RCW 36.70A.210 relating to the type of public facility for which the grant or loan is sought, and shall accord additional preference to the county, city, or town if such county-wide planning policy exists. Whenever a state agency is considering awarding grants or loans to a special district for public facilities, it shall consider whether the county, city, or town in whose planning jurisdiction the proposed facility is located is a party to a county-wide planning policy under RCW 36.70A.210 relating to the type of public facility for which the grant or loan is sought. [1991 sp.s. c 32 § 25.]

Reviser's note: 1991 sp.s. c 32 directed that this section be added to chapter 43.01 RCW. The placement appears inappropriate and the section has been codified as part of chapter 43.17 RCW.

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

43.17.260 Commission for efficiency and accountability—Generally. (Expires December 31, 1995.) (1) There is hereby created a temporary commission to be known as the Washington state commission for efficiency

and accountability in government, hereafter referred to as the commission.

(2) The commission shall consist of fourteen members as follows:

(a) Six members appointed by the governor including but not limited to representatives from private sector business and industry, labor unions, and public interest organizations;

(b) Three members appointed jointly by the president of the senate and speaker of the house including but not limited to representatives from private sector business and industry, labor unions, and public interest organizations;

(c) One representative from each of the four legislative caucuses to be appointed by the president of the senate and the speaker of the house; and

(d) The governor shall be a member and the chair of the commission.

The vice-chair shall be selected by the commission.

(3) Nonlegislative members shall be reimbursed for travel expenses for attending meetings of the commission as provided for in RCW 43.03.050 and 43.03.060. Legislative members shall be reimbursed for travel expenses for attending meetings of the commission as provided for in RCW 44.04.120. [1987 c 480 § 1.]

Expiration date—1991 c 53; 1987 c 480: "This act shall expire December 31, 1995." [1991 c 53 § 1; 1987 c 480 § 6.]

43.17.270 Commission for efficiency and accountability—Duties. (Expires December 31, 1995.) The commission shall develop recommendations for legislative and executive consideration that will:

(1) Increase the efficiency and effectiveness of state government programs and reduce costs;

(2) Enhance executive accountability and the organizational soundness of state government;

(3) Enhance legislative oversight and program accountability; and

(4) Improve managerial competence and work force productivity. [1987 c 480 § 2.]

Expiration date—1991 c 53; 1987 c 480: See note following RCW 43.17.260.

43.17.280 Commission for efficiency and accountability—Review, recommendations, reports. (Expires December 31, 1995.) To carry out the provisions of RCW 43.17.270, the commission shall:

(1) Prepare a list of selected programs funded by the state that will be subject to review by the commission. The list shall include programs that have a major fiscal impact on the state and where the commission determines that operational and organizational improvements are feasible. The reviews shall concentrate on identifying improvements that will result in increased program efficiency and effectiveness and reduced costs, greater accountability to the general public, increased information and data relative to governmental expenditures, and increased managerial competence and work force productivity.

(2) Develop a four-year plan for the orderly review of each program identified under subsection (1) of this section. The plan shall contain a timetable for the completion of each

program review and an estimate of the resources needed to carry out the reviews. The plan shall be updated annually.

(3) Secure private sector financial and other support for the conduct of the reviews.

(4) Establish the scope of program reviews, select review teams and direct those teams to conduct the program reviews identified by the commission. The review teams shall report to the commission their findings and recommendations for organizational and operational improvements.

(5) Decide upon recommendations for executive action or legislation necessary to implement the operational or organizational improvements developed by program review teams.

(6) Submit the following reports to the legislature:

(a) By December 31, 1987, a four-year plan required by subsection (2) of this section;

(b) Upon completion of each program review, its recommendations for operational and organizational improvements for the program reviewed. The report shall include estimates of savings which may result from recommended legislative or executive action.

(c) By December 31, 1988, a report summarizing recommendations of the commission for legislative and executive actions to accomplish operational and organizational improvements identified in completed program reviews and any executive action initiated as a result of findings of a program review. Thereafter, the commission shall report to the legislature annually, no later than December 31, on its progress toward completing the four-year review plan and on its recommendations for operational and organizational improvements in state government. [1987 c 480 § 3.]

Expiration date—1991 c 53; 1987 c 480: See note following RCW 43.17.260.

43.17.290 Commission for efficiency and accountability—Funding, staffing. (Expires December 31, 1995.)

(1) It is the intent of the legislature that the program review activities of the commission be funded, to the extent practicable, by contributions received from the private sector. The office of financial management and the legislature shall provide staff as required by the commission for developing the plan for proper reviews and undertaking such reviews. To the extent permitted by law, all agencies of the state shall cooperate fully with the commission in carrying out its duties under RCW 43.17.260 through 43.17.300.

(2) The commission may receive and expend gifts, grants, and endowments from private sources to carry out the purposes of RCW 43.17.260 through 43.17.300. [1987 c 480 § 4.]

Expiration date—1991 c 53; 1987 c 480: See note following RCW 43.17.260.

43.17.300 Commission for efficiency and accountability—Contracting authority. (Expires December 31, 1995.) The commission may contract for such services as are necessary to supplement the staff as provided in RCW 43.17.290. [1987 c 480 § 5.]

Expiration date—1991 c 53; 1987 c 480: See note following RCW 43.17.260.

43.17.310 Businesses—Rules coordinator to provide list of rules. The rules coordinator under RCW 34.05.310 shall be knowledgeable regarding the agency's rules that affect businesses. The rules coordinator shall provide a list of agency rules applicable at the time of the request to a specific class or line of business, which are limited to that specific class or line as opposed to generic rules applicable to most businesses, to the business assistance center when so requested by the business assistance center for the specific class or line of business. [1992 c 197 § 5.]

43.17.320 Interagency disputes—Alternative dispute resolution—Definitions. For purposes of RCW 43.17.320 through 43.17.340, "state agency" means:

(1) Any agency for which the executive officer is listed in RCW 42.17.2401(1); and

(2) The office of the secretary of state; the office of the state treasurer; the office of the state auditor; the department of natural resources; the office of the insurance commissioner; and the office of the superintendent of public instruction. [1993 c 279 § 2.]

Intent—1993 c 279: "It is the intent of the legislature to reduce the number of time-consuming and costly lawsuits between state agencies by establishing alternative dispute resolution processes available to any agency." [1993 c 279 § 1.]

43.17.330 Interagency disputes—Alternative dispute resolution—Methods. Whenever a dispute arises between state agencies, agencies shall employ every effort to resolve the dispute themselves without resorting to litigation. These efforts shall involve alternative dispute resolution methods. If a dispute cannot be resolved by the agencies involved, any one of the disputing agencies may request the governor to assist in the resolution of the dispute. The governor shall employ whatever dispute resolution methods that the governor deems appropriate in resolving the dispute. Such methods may include, but are not limited to, the appointment by the governor of a mediator, acceptable to the disputing agencies, to assist in the resolution of the dispute. The governor may also request assistance from the attorney general to advise the mediator and the disputing agencies. [1993 c 279 § 3.]

Intent—1993 c 279: See note following RCW 43.17.320.

43.17.340 Interagency disputes—Alternative dispute resolution—Exception. RCW 43.17.320 and 43.17.330 shall not apply to any state agency that is a party to a lawsuit, which: (1) Impleads another state agency into the lawsuit when necessary for the administration of justice; or (2) files a notice of appeal, petitions for review, or makes other filings subject to time limits, in order to preserve legal rights and remedies. [1993 c 279 § 4.]

Intent—1993 c 279: See note following RCW 43.17.320.

Chapter 43.19

DEPARTMENT OF GENERAL ADMINISTRATION

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43.19.010 Divisions of department—Authority and salary of director. The department of general administration shall be organized into divisions, which shall include (1) the division of capitol buildings, (2) the division of purchasing, (3) the division of engineering and architecture, and (4) the division of motor vehicle transportation service.

The director of general administration shall have charge and general supervision of the department. He or she may appoint and deputize such clerical and other assistants as may be necessary for the general administration of the department. The director of general administration shall receive a salary in an amount fixed by the governor. [1993 c 472 § 19; 1988 c 25 § 10; 1975 1st ex.s. c 167 § 1; 1965 c 8 § 43.19.010. Prior: 1959 c 301 § 1; 1955 c 285 § 4; 1955 c 195 § 6; 1935 c 176 § 11; prior: 1909 c 38 §§ 1-7; 1907 c 166 §§ 3-5; 1901 c 119 §§ 1-9; RRS § 10786-10.]

Effective date—Implementation—1993 c 472: See RCW 43.320.900 and 43.320.901.

Severability—1975 1st ex.s. c 167: "If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of this 1975 amendatory act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 167 § 20.]

43.19.013 Deputy director. The director of general administration may appoint and deputize an assistant director to be known as the deputy director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and

qualified, or the governor appoints an acting director. [1967 c 27 § 1.]

43.19.015 Certain powers and duties of director of public institutions transferred to director of financial institutions. The director of financial institutions shall have the power and duties of the director of public institutions contained in the following chapters of RCW: Chapter 33.04 RCW concerning savings and loan associations; and chapter 39.32 RCW concerning purchase of federal property. [1994 c 92 § 495; 1984 c 29 § 2; 1983 c 3 § 101; 1981 c 115 § 2; 1965 c 8 § 43.19.015. Prior: 1955 c 285 § 18.]

Effective date—1981 c 115: See note following RCW 40.14.020.

43.19.125 Powers and duties—Division of capitol buildings. The director of general administration, through the division of capitol buildings, shall have custody and control of the capitol buildings and grounds, supervise and direct proper care, heating, lighting and repairing thereof, and designate rooms in the capitol buildings to be occupied by various state officials. [1965 c 8 § 43.19.125. Prior: 1959 c 301 § 2; 1955 c 285 § 9.]

Capitol campus design advisory committee: RCW 43.34.080.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.600.

Housing for state offices: Chapter 43.82 RCW.

Parking facilities and traffic on capitol grounds: RCW 79.24.300 through 79.24.320, 46.08.150.

Public buildings, earthquake standards for construction: Chapter 70.86 RCW.

43.19.180 State purchasing and material control director—Appointment—Personnel. The director of general administration shall appoint and deputize an assistant director to be known as the state purchasing and material control director, who shall have charge and supervision of the division of purchasing. In this capacity he shall ensure that overall state purchasing and material control policy is implemented by state agencies, including educational institutions, within established time limits.

With the approval of the director of general administration, he may appoint and employ such assistants and personnel as may be necessary to carry on the work of the division. [1975-'76 2nd ex.s. c 21 § 1; 1965 c 8 § 43.19.180. Prior: 1955 c 285 § 10; 1935 c 176 § 16; RRS § 10786-15; prior: 1921 c 7 § 31; RRS § 10789.]

Severability—1975-'76 2nd ex.s. c 21: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 21 § 14.]

43.19.185 State purchasing and material control director—System for the use of credit cards or similar devices to be developed—Rules. (1) The director of general administration through the state purchasing and material control director shall develop a system for state agencies and departments to use credit cards or similar devices to make purchases. The director may contract to administer the credit cards.

(2) The director of general administration through the state purchasing and material control director shall adopt rules for:

- (a) The distribution of the credit cards;
- (b) The authorization and control of the use of the credit cards;
- (c) The credit limits available on the credit cards;
- (d) Instructing users of gasoline credit cards to use self-service islands whenever possible;
- (e) Payments of the bills; and
- (f) Any other rule necessary to implement or administer the program under this section. [1987 c 47 § 1; 1982 1st ex.s. c 45 § 1.]

43.19.190 State purchasing and material control director—Powers and duties. The director of general administration, through the state purchasing and material control director, shall:

(1) Establish and staff such administrative organizational units within the division of purchasing as may be necessary for effective administration of the provisions of RCW 43.19.190 through 43.19.1939;

(2) Purchase all material, supplies, services, and equipment needed for the support, maintenance, and use of all state institutions, colleges, community colleges, technical colleges, college districts, and universities, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of state government, and the offices of all appointive officers of the state: PROVIDED, That the provisions of RCW 43.19.190 through 43.19.1937 do not apply in any manner to the operation of the state legislature except as requested by the legislature: PROVIDED, That any agency may purchase material, supplies, services, and equipment for which the agency has notified the purchasing and material control director that it is more cost-effective for the agency to make the purchase directly from the vendor: PROVIDED, That primary authority for the purchase of specialized equipment, instructional, and research material for their own use shall rest with the colleges, community colleges, and universities: PROVIDED FURTHER, That universities operating hospitals and the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, may make purchases for hospital operation by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations: PROVIDED FURTHER, That primary authority for the purchase of materials, supplies, and equipment for resale to other than public agencies shall rest with the state agency concerned: PROVIDED FURTHER, That authority to purchase services as included herein does not apply to personal services as defined in chapter 39.29 RCW, unless such organization specifically requests assistance from the division of purchasing in obtaining personal services and resources are available within the division to provide such assistance: PROVIDED FURTHER, That the authority for the purchase of insurance and bonds shall rest with the risk manager under RCW 43.19.1935: PROVIDED FURTHER, That, except for the authority of the risk manager to purchase insurance and bonds, the director is not required to provide purchasing services for institutions of higher

education that choose to exercise independent purchasing authority under RCW 28B.10.029;

(3) Provide the required staff assistance for the state supply management advisory board through the division of purchasing;

(4) Have authority to delegate to state agencies authorization to purchase or sell, which authorization shall specify restrictions as to dollar amount or to specific types of material, equipment, services, and supplies: PROVIDED, That acceptance of the purchasing authorization by a state agency does not relieve such agency from conformance with other sections of RCW 43.19.190 through 43.19.1939, or from policies established by the director after consultation with the state supply management advisory board: PROVIDED FURTHER, That delegation of such authorization to a state agency, including an educational institution to which this section applies, to purchase or sell material, equipment, services, and supplies shall not be granted, or otherwise continued under a previous authorization, if such agency is not in substantial compliance with overall state purchasing and material control policies as established herein;

(5) Contract for the testing of material, supplies, and equipment with public and private agencies as necessary and advisable to protect the interests of the state;

(6) Prescribe the manner of inspecting all deliveries of supplies, materials, and equipment purchased through the division;

(7) Prescribe the manner in which supplies, materials, and equipment purchased through the division shall be delivered, stored, and distributed;

(8) Provide for the maintenance of a catalogue library, manufacturers' and wholesalers' lists, and current market information;

(9) Provide for a commodity classification system and may, in addition, provide for the adoption of standard specifications after receiving the recommendation of the supply management advisory board;

(10) Provide for the maintenance of inventory records of supplies, materials, and other property;

(11) Prepare rules and regulations governing the relationship and procedures between the division of purchasing and state agencies and vendors;

(12) Publish procedures and guidelines for compliance by all state agencies, including those educational institutions to which this section applies, which implement overall state purchasing and material control policies;

(13) Advise state agencies, including educational institutions, regarding compliance with established purchasing and material control policies under existing statutes. [1994 c 138 § 1; 1993 sp.s. c 10 § 2; 1993 c 379 § 102; 1991 c 238 § 135. Prior: 1987 c 414 § 10; 1987 c 70 § 1; 1980 c 103 § 1; 1979 c 88 § 1; 1977 ex.s. c 270 § 4; 1975-'76 2nd ex.s. c 21 § 2; 1971 c 81 § 110; 1969 c 32 § 3; prior: 1967 ex.s. c 104 § 2; 1967 ex.s. c 8 § 51; 1965 c 8 § 43.19.190; prior: 1959 c 178 § 1; 1957 c 187 § 1; 1955 c 285 § 12; prior: (i) 1935 c 176 § 21; RRS § 10786-20. (ii) 1921 c 7 § 42; RRS § 10800. (iii) 1955 c 285 § 12; 1921 c 7 § 37, part; RRS § 10795, part.]

Purpose—1993 sp.s. c 10: "The legislature recognizes the need for state agencies to maximize the buying power of increasingly scarce resources for the purchase of goods and services. The legislature seeks to

provide state agencies with the ability to purchase goods and services at the lowest cost." [1993 sp.s. c 10 § 1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Effective dates—Severability—1991 c 238: See RCW 28B.50.917 and 28B.50.918.

Severability—1987 c 414: See RCW 39.29.900.

Severability—1980 c 103: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 103 § 3.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Federal surplus property: Chapter 39.32 RCW.

Purchase of blind made products and services: Chapter 19.06 RCW.

43.19.1901 "Purchase" includes leasing or renting—Electronic data processing equipment excepted. The term "purchase" as used in RCW 43.19.190 through 43.19.200, and as they may hereafter be amended, shall include leasing or renting: PROVIDED, That the purchasing, leasing or renting of electronic data processing equipment shall not be included in the term "purchasing" if and when such transactions are otherwise expressly provided for by law.

The acquisition of job services and all other services for the family independence program under chapter 74.21 RCW shall not be included in the term "purchasing" under this chapter. [1987 c 434 § 23; 1983 c 3 § 102; 1967 ex.s. c 104 § 1.]

Severability—1987 c 434: See RCW 74.21.906.

43.19.1904 State supply management advisory board—Powers and duties. The state supply management advisory board shall advise and give assistance to the director of general administration in planning and carrying out an efficient and economical purchasing and material control program.

The state supply management advisory board shall review and make recommendations to the director with respect to:

(1) Standards and specifications for all items of material, supplies, and equipment of common usage in state agencies;

(2) Specifications for specific items of material, supplies, and equipment referred to it by the division of purchasing;

(3) Standards for the purchase, replacement, and repair of automotive equipment consistent with the needs and location of state agencies;

(4) A uniform system of inventory control for material and supplies;

(5) All other matters referred to it by the director of general administration or by a member of the advisory board.

The state supply management advisory board shall act as an appeals board to hear appeals on matters involving a state agency and the division of purchasing, and shall render its decision relating thereto within thirty days after filing of the appeal. The findings and actions of the board shall be binding upon the respective state agencies including all offices, institutions, and departments.

Public funds shall not be expended by any agency for substitutions for material, supplies, and equipment for which standards have been established by the division of purchasing after consulting with and receiving the recommendations of the board unless prior written approval is obtained from the state purchasing and material control director. [1979 c 88 § 2; 1975-'76 2nd ex.s. c 21 § 4; 1967 ex.s. c 104 § 4; 1965 c 8 § 43.19.1904. Prior: 1959 c 178 § 3.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1905 State-wide policy for purchasing and material control—Establishment—Functions covered. The director of general administration, after consultation with the supply management advisory board shall establish overall state policy for compliance by all state agencies, including educational institutions, regarding the following purchasing and material control functions:

(1) Development of a state commodity coding system, including common stock numbers for items maintained in stores for reissue;

(2) Determination where consolidations, closures, or additions of stores operated by state agencies and educational institutions should be initiated;

(3) Institution of standard criteria for determination of when and where an item in the state supply system should be stocked;

(4) Establishment of stock levels to be maintained in state stores, and formulation of standards for replenishment of stock;

(5) Formulation of an overall distribution and redistribution system for stock items which establishes sources of supply support for all agencies, including interagency supply support;

(6) Determination of what function data processing equipment, including remote terminals, shall perform in state-wide purchasing and material control for improvement of service and promotion of economy;

(7) Standardization of records and forms used state-wide for supply system activities involving purchasing, receiving, inspecting, storing, requisitioning, and issuing functions under the provisions of *RCW 43.19.510, including a standard notification form for state agencies to report cost-effective direct purchases, which shall at least identify the price of the goods as available through the division of purchasing, the price of the goods as available from the alternative source, the total savings, and the signature of the notifying agency's director or the director's designee;

(8) Screening of supplies, material, and equipment excess to the requirements of one agency for overall state need before sale as surplus;

(9) Establishment of warehouse operation and storage standards to achieve uniform, effective, and economical stores operations;

(10) Establishment of time limit standards for the issuing of material in store and for processing requisitions requiring purchase;

(11) Formulation of criteria for determining when centralized rather than decentralized purchasing shall be used to obtain maximum benefit of volume buying of identical or similar items, including procurement from federal supply sources;

(12) Development of criteria for use of leased, rather than state owned, warehouse space based on relative cost and accessibility;

(13) Institution of standard criteria for purchase and placement of state furnished materials, carpeting, furniture, fixtures, and nonfixed equipment, in newly constructed or renovated state buildings;

(14) Determination of how transportation costs incurred by the state for materials, supplies, services, and equipment can be reduced by improved freight and traffic coordination and control;

(15) Establishment of a formal certification program for state employees who are authorized to perform purchasing functions as agents for the state under the provisions of chapter 43.19 RCW;

(16) Development of performance measures for the reduction of total overall expense for material, supplies, equipment, and services used each biennium by the state;

(17) Establishment of a standard system for all state organizations to record and report dollar savings and cost avoidance which are attributable to the establishment and implementation of improved purchasing and material control procedures;

(18) Development of procedures for mutual and voluntary cooperation between state agencies, including educational institutions, and political subdivisions for exchange of purchasing and material control services;

(19) Resolution of all other purchasing and material matters referred to him by a member of the advisory board which require the establishment of overall state-wide policy for effective and economical supply management;

(20) Development of guidelines and criteria for the purchase of vehicles, alternate vehicle fuels and systems, equipment, and materials that reduce overall energy-related costs and energy use by the state, including the requirement that new passenger vehicles purchased by the state meet the minimum standards for passenger automobile fuel economy established by the United States secretary of transportation pursuant to the energy policy and conservation act (15 U.S.C. Sec. 2002). [1993 sp.s. c 10 § 3; 1987 c 504 § 16; 1980 c 172 § 7; 1975-'76 2nd ex.s. c 21 § 5.]

***Reviser's note:** RCW 43.19.510 was repealed by 1994 c 138 § 2.

Notification forms—1993 sp.s. c 10: "The department of general administration shall forward copies of notification forms required under RCW 43.19.1905(7) to the office of financial management. By September 1, 1994, the department of general administration shall report to the house of representatives fiscal committees and senate ways and means committee on the volume and type of purchases made and the aggregate savings identified by state agencies making purchases as authorized by this act for fiscal year 1994." [1993 sp.s. c 10 § 4.]

Purpose—1993 sp.s. c 10: See note following RCW 43.19.190.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

43.19.19052 Initial purchasing and material control policy—Reports—Legislative intent—Agency cooperation. Initial policy determinations for the functions described in RCW 43.19.1905 shall be developed and published within the 1975-77 biennium by the director, after consultation with

the supply management advisory board for guidance and compliance by all state agencies, including educational institutions, involved in purchasing and material control. Modifications to these initial supply management policies established during the 1975-77 biennium shall be instituted by the director, after consultation with the advisory board, in future biennia as required to maintain an efficient and up-to-date state supply management system. The director shall transmit to the governor and the legislature in June 1976 and June 1977 a progress report which indicates the degree of accomplishment of each of these assigned duties, and which summarizes specific achievements obtained in increased effectiveness and dollar savings or cost avoidance within the overall state purchasing and material control system. The second progress report in June 1977 shall include a comprehensive supply management plan which includes the recommended organization of a state-wide purchasing and material control system and development of an orderly schedule for implementing such recommendation. In the interim between these annual progress reports, the director shall furnish periodic reports to the office of financial management for review of progress being accomplished in achieving increased efficiencies and dollar savings or cost avoidance.

It is the intention of the legislature that measurable improvements in the effectiveness and economy of supply management in state government shall be achieved during the 1975-77 biennium, and each biennium thereafter. All agencies, departments, offices, divisions, boards, and commissions and educational, correctional, and other types of institutions are required to cooperate with and support the development and implementation of improved efficiency and economy in purchasing and material control. To effectuate this legislative intention, the director, in consultation with the supply management advisory board, and through the state purchasing and material control director, shall have the authority to direct and require the submittal of data from all state organizations concerning purchasing and material control matters. [1986 c 158 § 9; 1979 c 151 § 98; 1975-'76 2nd ex.s. c 21 § 6.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.19054 Exemptions from state-wide policy for purchasing and material control. The provisions of RCW 43.19.1905 shall not apply to materials, supplies, and equipment purchased for resale to other than public agencies by state agencies, including educational institutions. In addition, RCW 43.19.1905 shall not apply to liquor purchased by the state for resale under the provisions of Title 66 RCW. [1975-'76 2nd ex.s. c 21 § 7.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1906 Competitive bids—Sealed bids, exceptions. Insofar as practicable, all purchases and sales shall be based on competitive bids, and a formal sealed bid procedure shall be used as standard procedure for all purchases and contracts for purchases and sales executed by the state purchasing and material control director and under the powers granted by RCW 43.19.190 through 43.19.1939. This requirement also applies to purchases and contracts for

purchases and sales executed by agencies, including educational institutions, under delegated authority granted in accordance with provisions of RCW 43.19.190 or under RCW 28B.10.029. However, formal sealed bidding is not necessary for:

(1) Emergency purchases made pursuant to RCW 43.19.200 if the sealed bidding procedure would prevent or hinder the emergency from being met appropriately;

(2) Purchases not exceeding thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management: PROVIDED, That the state director of general administration shall establish procedures to assure that purchases made by or on behalf of the various state agencies shall not be made so as to avoid the thirty-five thousand dollar bid limitation, or subsequent bid limitations as calculated by the office of financial management: PROVIDED FURTHER, That the state purchasing and material control director is authorized to reduce the formal sealed bid limits of thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, to a lower dollar amount for purchases by individual state agencies if considered necessary to maintain full disclosure of competitive procurement or otherwise to achieve overall state efficiency and economy in purchasing and material control. Quotations from four hundred dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. The agency shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. Immediately after the award is made, the bid quotations obtained shall be recorded and open to public inspection and shall be available by telephone inquiry. A record of competition for all such purchases from four hundred dollars to thirty-five thousand dollars, or subsequent limits as calculated by the office of financial management, shall be documented for audit purposes. Purchases up to four hundred dollars may be made without competitive bids based on buyer experience and knowledge of the market in achieving maximum quality at minimum cost: PROVIDED, That this four hundred dollar direct buy limit without competitive bids may be increased incrementally as required to a maximum of eight hundred dollars with the approval of at least ten of the members of the state supply management advisory board, if warranted by increases in purchasing costs due to inflationary trends;

(3) Purchases which are clearly and legitimately limited to a single source of supply and purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation;

(4) Purchases of insurance and bonds by the risk management office under RCW 43.19.1935;

(5) Purchases and contracts for vocational rehabilitation clients of the department of social and health services: PROVIDED, That this exemption is effective only when the state purchasing and material control director, after consultation with the director of the division of vocational rehabilitation and appropriate department of social and health services procurement personnel, declares that such purchases may be best executed through direct negotiation with one or

more suppliers in order to expeditiously meet the special needs of the state's vocational rehabilitation clients;

(6) Purchases by universities for hospital operation or biomedical teaching or research purposes and by the state purchasing and material control director, as the agent for state hospitals as defined in RCW 72.23.010, and for health care programs provided in state correctional institutions as defined in RCW 72.65.010(3) and veterans' institutions as defined in RCW 72.36.010 and 72.36.070, made by participating in contracts for materials, supplies, and equipment entered into by nonprofit cooperative hospital group purchasing organizations;

(7) Purchases by institutions of higher education not exceeding thirty-five thousand dollars: PROVIDED, That for purchases between two thousand five hundred dollars and thirty-five thousand dollars quotations shall be secured from at least three vendors to assure establishment of a competitive price and may be obtained by telephone or written quotations, or both. For purchases between two thousand five hundred dollars and thirty-five thousand dollars, each institution of higher education shall invite at least one quotation each from a certified minority and a certified women-owned vendor who shall otherwise qualify to perform such work. A record of competition for all such purchases made from two thousand five hundred to thirty-five thousand dollars shall be documented for audit purposes; and

(8) Beginning on July 1, 1995, and on July 1 of each succeeding odd-numbered year, the dollar limits specified in this section shall be adjusted as follows: The office of financial management shall calculate such limits by adjusting the previous biennium's limits by the appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest one hundred dollars. [1994 c 300 § 1; 1993 c 379 § 103; 1992 c 85 § 1. Prior: 1987 c 81 § 1; 1987 c 70 § 2; 1985 c 342 § 1; 1984 c 102 § 3; 1983 c 141 § 1; 1980 c 103 § 2; 1979 ex.s. c 14 § 1; 1977 ex.s. c 270 § 5; 1975-'76 2nd ex.s. c 21 § 8; 1965 c 8 § 43.19.1906; prior: 1959 c 178 § 4.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Findings—1984 c 102: See note following RCW 43.19.200.

Severability—1980 c 103: See note following RCW 43.19.190.

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1908 Bids—Solicitation, notices—Qualified bidders—Writing. Competitive bidding required by RCW 43.19.190 through 43.19.1939 shall be solicited by public notice, and through the sending of notices by mail, electronic transmission, or other means to bidders on the appropriate list of bidders who shall have qualified by application to the division of purchasing. Bids may be solicited by the purchasing division from any source thought to be of advantage to the state. All bids shall be in writing and conform to rules of the division of purchasing. [1994 c 300 § 2; 1965 c 8 § 43.19.1908. Prior: 1959 c 178 § 5.]

43.19.1911 Letting contract—Lowest responsible bidder, determination—Public inspection of bids—Purchase of recycled or reused products or materials. When purchases are made through competitive bidding, the contract shall be let to the lowest responsible bidder, subject to any preferences provided by law to Washington products and vendors and to RCW 43.19.704, taking into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery: PROVIDED, That whenever there is reason to believe that the lowest acceptable bid is not the best price obtainable, all bids may be rejected and the division of purchasing may call for new bids or enter into direct negotiations to achieve the best possible price. Each bid with the name of the bidder shall be entered of record and each record, with the successful bid indicated, shall, after letting of the contract, be open to public inspection. In determining "lowest responsible bidder", in addition to price, the following elements shall be given consideration:

(1) The ability, capacity, and skill of the bidder to perform the contract or provide the service required;

(2) The character, integrity, reputation, judgment, experience, and efficiency of the bidder;

(3) Whether the bidder can perform the contract within the time specified;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or services;

(6) Such other information as may be secured having a bearing on the decision to award the contract: PROVIDED, That in considering bids for purchase, manufacture, or lease, and in determining the "lowest responsible bidder," whenever there is reason to believe that applying the "life cycle costing" technique to bid evaluation would result in lowest total cost to the state, first consideration shall be given by state purchasing activities to the bid with the lowest life cycle cost which complies with specifications. "Life cycle cost" means the total cost of an item to the state over its estimated useful life, including costs of selection, acquisition, operation, maintenance, and where applicable, disposal, as far as these costs can reasonably be determined, minus the salvage value at the end of its estimated useful life. The "estimated useful life" of an item means the estimated time from the date of acquisition to the date of replacement or disposal, determined in any reasonable manner. Nothing in this section shall prohibit any state agency, department, board, commission, committee, or other state-level entity from allowing for preferential purchase of products made from recycled materials or products that may be recycled or reused. [1989 c 431 § 60; 1983 c 183 § 4; 1980 c 172 § 8; 1965 c 8 § 43.19.1911. Prior: 1959 c 178 § 6.]

Severability—1989 c 431: See RCW 70.95.901.

Energy conservation—Legislative finding—Declaration—Purpose: RCW 43.19.668 and 43.19.669.

43.19.1913 Rejection of bid for previous unsatisfactory performance. The division of purchasing may reject the bid of any bidder who has failed to perform satisfactorily a previous contract with the state. [1965 c 8 § 43.19.1913. Prior: 1959 c 178 § 7.]

43.19.1915 Bidder's bond—Annual bid bond. When any bid has been accepted, the division of purchasing may require of the successful bidder a bond payable to the state in such amount with such surety or sureties as determined by the division of purchasing, conditioned that he will fully, faithfully and accurately execute the terms of the contract into which he has entered. The bond shall be filed in the office of the division of purchasing. Bidders who regularly do business with the state shall be permitted to file with the division of purchasing an annual bid bond in an amount established by the division and such annual bid bond shall be acceptable as surety in lieu of furnishing surety with individual bids. [1965 c 8 § 43.19.1915. Prior: 1959 c 178 § 8.]

43.19.1917 Records of equipment owned by state—Inspection—"State equipment" defined. All state agencies, including educational institutions, shall maintain a perpetual record of ownership of state owned equipment, which shall be available for the inspection and check of those officers who are charged by law with the responsibility for auditing the records and accounts of the state organizations owning the equipment, or to such other special investigators and others as the governor may direct. In addition, these records shall be made available to members of the legislature, the legislative committees, and legislative staff on request.

All state agencies, including educational institutions, shall account to the office of financial management upon request for state equipment owned by, assigned to, or otherwise possessed by them and maintain such records as the office of financial management deems necessary for proper accountability therefor. The office of financial management shall publish a procedural directive for compliance by all state agencies, including educational institutions, which establishes a standard method of maintaining records for state owned equipment, including the use of standard state forms. This published directive also shall include instructions for reporting to the division of purchasing all state equipment which is excess to the needs of state organizations owning such equipment. The term "state equipment" means all items of machines, tools, furniture, or furnishings other than expendable supplies and materials as defined by the office of financial management. [1979 c 88 § 3; 1975-'76 2nd ex.s. c 21 § 9; 1969 ex.s. c 53 § 2; 1965 c 8 § 43.19.1917. Prior: 1959 c 178 § 9.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1919 Surplus personal property—Sale, exchange—Authority—Procedure—Restrictions—Exemption. Except as provided in RCW 43.19.1920, the division of purchasing shall sell or exchange personal property belonging to the state for which the agency, office, department, or educational institution having custody thereof has no further use, at public or private sale, and cause the moneys realized from the sale of any such property to be paid into the fund from which such property was purchased or, if such fund no longer exists, into the state general fund: PROVIDED, Sales of capital assets may be made by the division of purchasing and a credit established in central stores for future purchases of capital items as provided for

in RCW 43.19.190 through 43.19.1939, as now or hereafter amended: PROVIDED FURTHER, That personal property, excess to a state agency, including educational institutions, shall not be sold or disposed of prior to reasonable efforts by the division of purchasing to determine if other state agencies have a requirement for such personal property. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known. Surplus items may be disposed of without prior notification to state agencies if it is determined by the director of general administration to be in the best interest of the state. The division of purchasing shall maintain a record of disposed surplus property, including date and method of disposal, identity of any recipient, and approximate value of the property: PROVIDED, FURTHER, That this section shall not apply to personal property acquired by a state organization under federal grants and contracts if in conflict with special title provisions contained in such grants or contracts.

This section does not apply to property under RCW 27.53.045. [1991 c 216 § 2; 1989 c 144 § 1; 1988 c 124 § 8; 1975-'76 2nd ex.s. c 21 § 11; 1965 c 8 § 43.19.1919. Prior: 1959 c 178 § 10.]

Findings—1991 c 216: "The legislature finds that (1) there are an increasing number of persons who are unable to meet their basic needs relating to shelter, clothing, and nourishment; (2) there are many nonprofit organizations and units of local government that provide shelter and other assistance to these persons but that these organizations are finding it difficult to meet the increasing demand for such assistance; and (3) the numerous agencies and institutions of state government generate a significant quantity of surplus, tangible personal property that would be of great assistance to homeless persons throughout the state. Therefore, the legislature finds that it is in the best interest of the state to provide for the donation of state-owned, surplus, tangible property to assist the homeless in meeting their basic needs." [1991 c 216 § 1.]

Severability—Intent—Application—1988 c 124: See RCW 27.53.901 and notes following RCW 27.53.030.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1920 Surplus personal property—Donation to emergency shelters. The division of purchasing may donate state-owned, surplus, tangible personal property to shelters that are: Participants in the *department of community development's emergency shelter assistance program; and operated by nonprofit organizations or units of local government providing emergency or transitional housing for homeless persons. A donation may be made only if all of the following conditions have been met:

(1) The division of purchasing has made reasonable efforts to determine if any state agency has a requirement for such personal property and no such agency has been identified. Such determination shall follow sufficient notice to all state agencies to allow adequate time for them to make their needs known;

(2) The agency owning the property has authorized the division of purchasing to donate the property in accordance with this section;

(3) The nature and quantity of the property in question is directly germane to the needs of the homeless persons served by the shelter and the purpose for which the shelter exists and the shelter agrees to use the property for such needs and purposes; and

(4) The director of general administration has determined that the donation of such property is in the best interest of the state. [1991 c 216 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings—1991 c 216: See note following RCW 43.19.1919.

Emergency shelter assistance program: Chapter 365-120 WAC.

43.19.19201 Affordable housing—Inventory of suitable property. (1) The department of general administration shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department of general administration shall provide a copy of the inventory to the *department of community development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department of general administration shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 7.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Finding—1993 c 461: See note following RCW 43.63A.510.

43.19.1921 Central stores warehouse facilities—Central maintenance, repair—Sales, exchanges, between state agencies. The director of general administration, through the division of purchasing, shall:

(1) Establish and maintain warehouses hereinafter referred to as "central stores" for the centralized storage and distribution of such supplies, equipment, and other items of common use in order to effect economies in the purchase of supplies and equipment for state agencies. To provide central stores warehouse facilities the division of purchasing may, by arrangement with the state agencies, utilize any surplus available state owned space, and may acquire other needed warehouse facilities by lease or purchase of the necessary premises;

(2) Provide for the central salvage, maintenance, repair, and servicing of equipment, furniture, or furnishings used by state agencies, and also by means of such a service provide an equipment pool for effecting sales and exchanges of surplus and unused property by and between state agencies. Funds derived from the sale and exchange of property shall be placed to the account of the appropriate state agency on the central stores accounts but such funds may not be expended through central stores without prior approval of the office of financial management. [1979 c 151 § 100; 1965 c 8 § 43.19.1921. Prior: 1959 c 178 § 11.]

43.19.1923 Central stores revolving fund. There is created within the department of general administration a revolving fund to be known as the central stores revolving fund, which shall be used for the purchase of supplies and equipment handled or rented through central stores, and the payment of salaries, wages, and other costs incidental to the acquisition, operation, and maintenance of the central stores, and other activities connected therewith, which shall include utilities services. Disbursements from the fund for the purchasing and contract administration activities of the division of purchasing within the department are subject to appropriation and allotment procedures under chapter 43.88 RCW. Disbursements for all other activities within the central stores are not subject to appropriation. The fund shall be credited with all receipts from the rental, sale or distribution of supplies, equipment, and services rendered to the various state agencies. Central stores, utilities services, and other activities within the central stores revolving fund shall be treated as separate operating entities for financial and accounting control. Financial records involving the central stores revolving fund shall be designed to provide data for achieving maximum effectiveness and economy of each individual activity within the fund. [1991 sp.s. c 16 § 921; 1987 c 504 § 17; 1975-'76 2nd ex.s. c 21 § 12; 1967 ex.s. c 104 § 5; 1965 c 8 § 43.19.1923. Prior: 1959 c 178 § 12.]

Severability—1991 sp.s. c 16: See notes following RCW 9.46.100.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

43.19.1925 Combined purchases of commonly used items—Advance payments by state agencies—Costs of operating central stores. To supply such funds as may be necessary for making combined purchases of items or services of common use by central stores, state agencies shall, upon request of the division of purchasing, from time to time, make advance payments into the central stores revolving fund from funds regularly appropriated to them for the procurement of supplies, equipment, and services: PROVIDED, That advance payment for services shall be on a quarterly basis: PROVIDED FURTHER, That any person, firm or corporation other than central stores rendering services for which advance payments are made shall deposit cash or furnish surety bond coverage to the state in an amount as shall be fixed by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general administration. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. Funds so advanced to central stores shall be used only for the combined procurement, storage, and delivery of such stocks of supplies, equipment, and services as are requisitioned by the agency and shall be offset and repaid to the respective state agencies by an equivalent value in merchandise supplied and charged out from time to time from central stores. Costs of operation of central stores may be recovered by charging as part of the value of materials, supplies, or services an amount sufficient to cover the costs of operating central stores. [1975 c 40 §

8; 1973 c 104 § 2; 1965 c 8 § 43.19.1925. Prior: 1959 c 178 § 13.]

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.1927 Deposit of central stores revolving fund.

The central stores revolving fund shall be deposited in such banks and financial institutions as may be selected by the state treasurer, which shall furnish to him surety bonds or collateral eligible as security for the deposit of state funds, in at least the full amount of deposit in each such bank or financial institution. [1965 c 8 § 43.19.1927. Prior: 1959 c 178 § 14.]

43.19.1932 Correctional industries goods and services—Sales and purchases. The department of corrections shall be exempt from the following provisions of this chapter in respect to goods or services purchased or sold pursuant to the operation of correctional industries: RCW 43.19.180, 43.19.190, 43.19.1901, 43.19.1905, 43.19.1906, 43.19.1908, 43.19.1911, 43.19.1913, 43.19.1915, 43.19.1917, 43.19.1919, 43.19.1921, 43.19.1925, and 43.19.200. [1989 c 185 § 2; 1981 c 136 § 14.]

Effective date—1981 c 136: See RCW 72.09.900.

43.19.1935 Insurance and bonds—Procurement through risk management office. As a means of providing for the procurement of insurance and bonds on a volume rate basis, the director of general administration through the risk management office shall purchase or contract for the needs of state agencies in relation to all such insurance and bonds: PROVIDED, That authority to purchase insurance may be delegated to state agencies. Insurance in force shall be reported to the risk management office periodically under rules established by the director. Nothing contained in this section shall prohibit the use of licensed agents or brokers for the procurement and service of insurance.

The amounts of insurance or bond coverage shall be as fixed by law, or if not fixed by law, such amounts shall be as fixed by the director of the department of general administration.

The premium cost for insurance acquired and bonds furnished shall be paid from appropriations or other appropriate resources available to the state agency or agencies for which procurement is made, and all vouchers drawn in payment therefor shall bear the written approval of the risk management office prior to the issuance of the warrant in payment therefor. Where deemed advisable the premium cost for insurance and bonds may be paid by the central stores revolving fund which fund shall be reimbursed by the agency or agencies for which procurement is made. [1985 c 188 § 1; 1977 ex.s. c 270 § 6; 1975 c 40 § 9; 1965 c 8 § 43.19.1935. Prior: 1959 c 178 § 18.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.19.1936 Purchase of insurance for municipalities—Request—Procurement through risk management office. The director of general administration, through the risk management office, may purchase, or contract for the

purchase of, property and liability insurance for any municipality upon request of the municipality.

As used in this section, "municipality" means any city, town, county, special purpose district, municipal corporation, or political subdivision of the state of Washington. [1985 c 188 § 5.]

43.19.19361 Risk management—State program of—Principles. It is the policy of the state for the management of risks to which it is exposed to apply the following principles consistently in a state program of risk management:

(1) To identify those liability and property risks which may have a significant economic impact on the state;

(2) To evaluate risk in terms of the state's ability to fund potential loss rather than the ability of an individual agency to fund potential loss;

(3) To eliminate or improve conditions and practices which contribute to loss whenever practical;

(4) To assume risks to the maximum extent practical;

(5) To provide flexibility within the state program to meet the unique requirements of any state agency for insurance coverage or service;

(6) To purchase commercial insurance:

(a) When the size and nature of the potential loss make it in the best interest of the state to purchase commercial insurance; or

(b) When the fiduciary of encumbered property insists on commercial insurance; or

(c) When the interest protected is not a state interest and an insurance company is desirable as an intermediary; or

(d) When services provided by an insurance company are considered necessary; or

(e) When services or coverages provided by an insurance company are cost-effective; or

(f) When otherwise required by statute; and

(7) To develop plans for the management and protection of the revenues and assets of the state. [1985 c 188 § 2; 1977 ex.s. c 270 § 1.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

43.19.19362 Risk management—Office created—Powers and duties—Reports—Contents. There is hereby created a risk management office within the department of general administration. The director of general administration shall implement the risk management policy in RCW 43.19.19361 through the risk management office. The director of general administration shall appoint a risk manager to supervise the risk management office. The risk management office shall make recommendations when appropriate to state agencies on the application of prudent safety, security, loss prevention, and loss minimization methods so as to reduce or avoid risk or loss. The director of general administration shall submit a risk management report biennially to the governor, with copies to the chairs of the standing committees having jurisdiction on judiciary and insurance and the ways and means and state governmental operations committees in the senate and the house of representatives, including one copy to the staff of each of the committees. The management report shall describe the

plans, policies, and operation of the risk management office and shall at least include the following:

- (1) Success in implementing stated goals and objectives for the risk management office;
- (2) Improving loss control and prevention practices;
- (3) Self-insuring risks of loss to state-owned property except where bond indentures or other special considerations require the purchase of insurance;
- (4) Consolidating insurance coverages for properties requiring insurance by bond indenture;
- (5) Establishing an emergency fund to provide assistance to state agencies in the event of serious property loss;
- (6) Self-insuring liability risks to public and professional third parties;
- (7) Funding of the tort claims revolving fund on an actuarial basis;
- (8) A program of excess liability coverage above a selected self-insurance limit;
- (9) Identification of cost savings and cost avoidances achieved during the preceding two years; and
- (10) Appropriate recommendations for new or amended legislation. [1987 c 505 § 25; 1985 c 188 § 3; 1977 ex.s. c 270 § 2.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

43.19.19363 Risk management—Definitions applicable to RCW 43.19.19361 and 43.19.19362. As used in RCW 43.19.19361 and 43.19.19362:

- (1) "State agency" includes any state office, agency, commission, department, or institution, including colleges, universities, and community colleges, financed in whole or part from funds appropriated by the legislature; and
- (2) "Risk management" means the total effort and continuous step by step process of risk identification, measurement, minimization, assumption, transfer, and loss adjustment which is aimed at protecting assets and revenues against accidental loss. [1977 ex.s. c 270 § 3.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

43.19.19364 Construction—1977 ex.s. c 270. Nothing in *this 1977 amendatory act shall be construed as amending, repealing, or otherwise affecting RCW 28B.20.250 through 28B.20.255. [1977 ex.s. c 270 § 9.]

*Reviser's note: "This 1977 amendatory act" consists of the enactment of RCW 43.19.19361, 43.19.19362, 43.19.19363, 43.19.19364, and 43.19.19365; the 1977 amendments to RCW 43.17.100, 43.19.030, 43.19.190, 43.19.1906, and 43.19.1935; and the repeal of RCW 75.08.023.

43.19.19367 Risk management office—Enforcement of bonds under RCW 39.59.010. The director of general administration, through the risk management office, shall receive and enforce bonds posted pursuant to RCW 39.59.010 (3) and (4). [1988 c 281 § 6.]

Severability—1988 c 281: See RCW 39.59.900.

43.19.19368 Risk management—Safety and loss control program established. (1) The office of risk management shall establish a coordinated safety and loss control program to reduce liability exposure, safeguard state assets, and reduce costs associated with state liability and property losses.

(2) State agencies shall provide top management support and commitment to safety and loss control, and develop awareness through education, training, and information sharing.

(3) The office of risk management shall develop and maintain centralized loss history information for the purpose of identifying and analyzing risk exposures. Loss history information shall be privileged and confidential and reported only to appropriate agencies.

(4) The office of risk management shall develop methods of statistically monitoring agency and state-wide effectiveness in controlling losses.

(5) The office of risk management will routinely review agency loss control programs as appropriate to suggest improvements, and observe and recognize successful safety policies and procedures.

(6) The office of risk management shall provide direct assistance to smaller state agencies in technical aspects of proper safety and loss control procedures, upon request. [1989 c 419 § 6.]

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

43.19.19369 Risk management—Liability account—Actuarial studies. The department of general administration shall conduct periodic actuarial studies to determine the amount of money needed to adequately fund the liability account. [1989 c 419 § 11.]

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Liability account created: RCW 4.92.130.

43.19.1937 Acceptance of benefits, gifts, etc., prohibited—Penalties. No member of the state supply management advisory board or state employee whose duties performed for the state include:

- (1) Advising on or drawing specifications for supplies, equipment, commodities, or services;
- (2) Suggesting or determining vendors to be placed upon a bid list;
- (3) Drawing requisitions for supplies, equipment, commodities, or services;
- (4) Evaluating specifications or bids and suggesting or determining awards; or
- (5) Accepting the receipt of supplies, equipment, and commodities or approving the performance of services or contracts; shall accept or receive, directly or indirectly, a personal financial benefit, or accept any gift, token, membership, or service, as a result of a purchase entered into by the state, from any person, firm, or corporation engaged in the sale, lease, or rental of property, material, supplies, equipment, commodities, or services to the state of Washington.

Violation of this section shall be considered a malfeasance and may cause loss of position, and the violator shall be liable to the state upon his official bond for all damages sustained by the state. Contracts involved may be canceled at the option of the state. Penalties provided in this section are not exclusive, and shall not bar action under any other statute penalizing the same act or omission. [1975-'76 2nd ex.s. c 21 § 13; 1965 c 8 § 43.19.1937. Prior: 1959 c 178 § 19.]

Severability—1975-'76 2nd ex.s. c 21: See note following RCW 43.19.180.

Public officers

code of ethics: Chapters 42.23 and 42.52 RCW.
misconduct: Chapter 42.20 RCW.

43.19.1939 Unlawful to offer, give, accept, benefits as inducement for or to refrain from bidding—Penalty. When any competitive bid or bids are to be or have been solicited, requested, or advertised for by the state under the provisions of RCW 43.19.190 through 43.19.1939, it shall be unlawful for any person acting for himself, or as agent of another, to offer, give, or promise to give, any money, check, draft, property, or other thing of value, to another for the purpose of inducing such other person to refrain from submitting any bids upon such purchase or to enter into any agreement, understanding or arrangement whereby full and unrestricted competition for the securing of such public work will be suppressed, prevented, or eliminated; and it shall be unlawful for any person to solicit, accept or receive any money, check, draft, property, or other thing of value upon a promise or understanding, express or implied, that he individually or as an agent or officer of another will refrain from bidding upon such contract, or that he will on behalf of himself or such others submit or permit another to submit for him any bid upon such purchase in such sum as to eliminate full and unrestricted competition thereon. Any person violating any provision of this section shall be guilty of a misdemeanor. [1965 c 8 § 43.19.1939. Prior: 1959 c 178 § 20.]

Competitive bidding on public works, suppression or collusion, penalty: RCW 9.18.120 through 9.18.150.

43.19.200 Duty of others in relation to purchases—Emergency purchases—Written notifications. (1) The governing authorities of the state's educational institutions, the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and all appointive officers of the state, shall prepare estimates of the supplies required for the proper conduct and maintenance of their respective institutions, offices, and departments, covering periods to be fixed by the director, and forward them to the director in accordance with his directions. No such authorities, officers, or departments, or any officer or employee thereof, may purchase any article for the use of their institutions, offices, or departments, except in case of emergency purchases as provided in subsection (2) of this section.

(2) The authorities, officers, and departments enumerated in subsection (1) of this section may make emergency purchases in response to unforeseen circumstances beyond the control of the agency which present a real, immediate, and extreme threat to the proper performance of essential functions or which may reasonably be expected to result in excessive loss or damage to property, bodily injury, or loss of life. When an emergency purchase is made, the agency head shall submit written notification of the purchase, within three days of the purchase, to the director of general administration. This notification shall contain a description of the purchase, description of the emergency and the circumstances leading up to the emergency, and an explanation of why the circumstances required an emergency purchase.

(3) Purchases made for the state's educational institutions, the offices of the elective state officers, the supreme court, the court of appeals, the administrative and other departments of the state government, and the offices of all appointive officers of the state, shall be paid for out of the moneys appropriated for supplies, material, and service of the respective institutions, offices, and departments.

(4) The director of general administration shall submit, on an annual basis, the written notifications required by subsection (2) of this section to the director of financial management. [1986 c 158 § 10; 1984 c 102 § 2; 1971 c 81 § 111; 1965 c 8 § 43.19.200. Prior: 1955 c 285 § 13; prior: 1921 c 7 § 37, part; RRS § 10795, part.]

Findings—1984 c 102: "The legislature finds that the emergency purchasing provisions of state law are being more liberally construed than the legislature originally intended. Therefore, the legislature finds that it is necessary to clarify the law as it pertains to emergency purchases and to provide a mechanism for legislative oversight." [1984 c 102 § 1.]

43.19.450 Supervisor of engineering and architecture—Qualifications—Appointment—Powers and duties—Delegation of authority. The director of general administration shall appoint and deputize an assistant director to be known as the supervisor of engineering and architecture who shall have charge and supervision of the division of engineering and architecture. With the approval of the director, the supervisor may appoint and employ such assistants and personnel as may be necessary to carry out the work of the division.

No person shall be eligible for appointment as supervisor of engineering and architecture unless he or she is licensed to practice the profession of engineering or the profession of architecture in the state of Washington and for the last five years prior to his or her appointment has been licensed to practice the profession of engineering or the profession of architecture.

As used in this section, "state facilities" includes all state buildings, related structures, and appurtenances constructed for any elected state officials, institutions, departments, boards, commissions, colleges, community colleges, except the state universities, The Evergreen State College and regional universities. "State facilities" does not include facilities owned by or used for operational purposes and constructed for the department of transportation, department of fish and wildlife, department of natural resources, or state parks and recreation commission.

The director of general administration, through the division of engineering and architecture shall:

(1) Prepare cost estimates and technical information to accompany the capital budget and prepare or contract for plans and specifications for new construction and major repairs and alterations to state facilities.

(2) Contract for professional architectural, engineering, and related services for the design of new state facilities and major repair or alterations to existing state facilities.

(3) Provide contract administration for new construction and the repair and alteration of existing state facilities.

(4) In accordance with the public works laws, contract on behalf of the state for the new construction and major repair or alteration of state facilities.

The director may delegate any and all of the functions under subsections (1) through (4) of this section to any

agency upon such terms and conditions as considered advisable.

The director may delegate the authority granted to the department under RCW 39.04.150 to any agency upon such terms as considered advisable. [1994 c 264 § 15; 1988 c 36 § 14; 1982 c 98 § 3; 1981 c 136 § 63; 1979 c 141 § 45; 1965 c 8 § 43.19.450. Prior: 1959 c 301 § 4.]

Effective date—1981 c 136: See RCW 72.09.900.

Department of general administration authorized to establish small works roster of public works contractors: RCW 39.04.150.

43.19.455 Purchase of works of art—Procedure.

Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director of general administration, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director of general administration. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose. [1990 c 33 § 576; 1983 c 204 § 6; 1974 ex.s. c 176 § 3.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

Acquisition of works of art for public buildings and lands—Visual arts program established: RCW 43.46.090.

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

State art collection: RCW 43.46.095.

43.19.500 Department of general administration facilities and services revolving fund. There is hereby created a fund within the state treasury designated as the "department of general administration facilities and services revolving fund". Such revolving fund shall be used by the department of general administration for the payment of certain costs, expenses, and charges, as specified in this section, incurred by it in the operation and administration of the department in the rendering of services, the furnishing or supplying of equipment, supplies and materials, and for providing or allocating facilities, including the operation, maintenance, rehabilitation, or furnishings thereof to other agencies, offices, departments, activities, and other entities enumerated in RCW 43.01.090 and including the rendering of services in acquiring real estate under RCW 43.82.010 and the operation and maintenance of nonassigned public spaces in Thurston county. The department shall treat the rendering of services in acquiring real estate and the operation and maintenance of nonassigned public spaces as separate operating entities within the fund for financial accounting and control.

The schedule of services, facilities, equipment, supplies, materials, maintenance, rehabilitation, furnishings, operations, and administration to be so financed and recovered shall be

determined jointly by the director of general administration and the director of financial management, in equitable amounts which, together with any other income or appropriation, will provide the department of general administration with funds to meet its anticipated expenditures during any allotment period.

The director of general administration may adopt rules governing the provisions of RCW 43.01.090 and this section and the relationships and procedures between the department of general administration and such other entities. [1994 c 219 § 17; 1982 c 41 § 2; 1979 c 151 § 101; 1971 ex.s. c 159 § 2.]

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

Effective dates—1982 c 41: See note following RCW 43.82.010.

Agricultural commodity commissions exempt: RCW 15.04.200.

General administration facilities and services revolving fund—Approval of certain changes required: RCW 43.88.350.

43.19.501 Thurston county capital facilities account.

The Thurston county capital facilities account is created in the state treasury. The account is subject to the appropriation and allotment procedures under chapter 43.88 RCW. Moneys in the account may be expended for capital projects in facilities owned and managed by the department of general administration in Thurston county. [1994 c 219 § 18.]

Findings—Purpose—1994 c 219: See note following RCW 43.01.090.

Finding—1994 c 219: See note following RCW 43.88.030.

43.19.520 Purchase of products and services from sheltered workshops and programs—Intent. It is the intent of the legislature to encourage state agencies and departments to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged. [1974 ex.s. c 40 § 1.]

43.19.525 Purchase of products and services from sheltered workshops and programs—Definitions. As used in RCW 43.19.520 and 43.19.530 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day training centers defined in *RCW 72.33.800. [1974 ex.s. c 40 § 2.]

*Reviser's note: RCW 72.33.800 was repealed by 1988 c 176 § 1007. See Title 71A RCW.

43.19.530 Purchase of products and services from sheltered workshops and programs—Authorized—Fair market price. The state agencies and departments are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by the division of purchasing of the department of general administration. To

determine the fair market price the division shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. The increased cost of labor, materials, and other documented costs since the last comparable bid or the last price paid are additional cost factors which shall be considered in determining fair market price. Upon the establishment of the fair market price as provided for in this section the division is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1977 ex.s. c 10 § 2; 1974 ex.s. c 40 § 3.]

43.19.534 Purchase of articles or products from inmate work programs—Replacement of goods and services obtained from outside the state—Rules. State agencies, the legislature, and departments shall purchase for their use all goods and services required by the legislature, agencies, or departments that are produced or provided in whole or in part from class II inmate work programs operated by the department of corrections through state contract. These goods and services shall not be purchased from any other source unless, upon application by the department or agency: (1) The department of general administration finds that the articles or products do not meet the reasonable requirements of the agency or department, (2) are not of equal or better quality, or (3) the price of the product or service is higher than that produced by the private sector. However, the criteria contained in (1), (2), and (3) of this section for purchasing goods and services from sources other than correctional industries do not apply to goods and services produced by correctional industries that primarily replace goods manufactured or services obtained from outside the state. The department of corrections and department of general administration shall adopt administrative rules that implement this section. [1993 sp.s. c 20 § 1; 1986 c 94 § 2.]

Severability—1993 sp.s. c 20: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 sp.s. c 20 § 9.]

43.19.535 Purchase of goods and services from inmate work programs. Any person, firm, or organization which makes any bid to provide any goods or any services to any state agency shall be granted a preference over other bidders if (1) the goods or services have been or will be produced or provided in whole or in part by an inmate work program of the department of corrections and (2) an amount equal to at least fifteen percent of the total bid amount has been paid or will be paid by the person, firm, or organization to inmates as wages. The preference provided under this section shall be equal to ten percent of the total bid amount. [1981 c 136 § 15.]

Effective date—1981 c 136: See RCW 72.09.900.

43.19.536 Contracts subject to requirements established under office of minority and women's business enterprises. All contracts entered into and purchases made, including leasing or renting, under this chapter on or

after September 1, 1983, are subject to the requirements established under chapter 39.19 RCW. [1983 c 120 § 13.]

Effective date—Applicability—Severability—Conflict with federal requirements—1983 c 120: See RCW 39.19.910, 39.19.920.

43.19.538 Purchase of products containing recycled material—Preference—Specifications and rules—Review. (1) The director of general administration, through the state purchasing director, shall develop specifications and adopt rules for the purchase of products which will provide for preferential purchase of products containing recycled material by:

(a) The use of a weighting factor determined by the amount of recycled material in a product, where appropriate and known in advance to potential bidders, to determine the lowest responsible bidder. The actual dollars bid shall be the contracted amount. If the department determines, according to criteria established by rule that the use of this weighting factor does not encourage the use of more recycled material, the department shall consider and award bids without regard to the weighting factor. In making this determination, the department shall consider but not be limited to such factors as adequate competition, economics or environmental constraints, quality, and availability.

(b) Requiring a written statement of the percentage range of recycled content from the bidder providing products containing recycled [material]. The range may be stated in five percent increments.

(2) The director shall develop a directory of businesses that supply products containing significant quantities of recycled materials. This directory may be combined with and made accessible through the data base of recycled content products to be developed under RCW 43.19A.060.

(3) The director shall encourage all parties using the state purchasing office to purchase products containing recycled materials.

(4) The rules, specifications, and bid evaluation shall be consistent with recycled content standards adopted under RCW 43.19A.020. [1991 c 297 § 5; 1988 c 175 § 2; 1987 c 505 § 26; 1982 c 61 § 2.]

Captions not law—1991 c 297: See RCW 43.19A.900.

Effective date—1988 c 175: "This act shall take effect July 1, 1988." [1988 c 175 § 4.]

Recycled product procurement: Chapter 43.19A RCW.

State purchasing and material control director: RCW 43.19.180.

43.19.540 Bonds of state officers and employees—Fixing amount—Additional bonds—Exemptions—Duties of director. In addition to other powers and duties prescribed by this chapter, the director shall:

(1) Fix the amount of bond to be given by each appointive state officer and each employee of the state in all cases where it is not fixed by law;

(2) Require the giving of an additional bond, or a bond in a greater amount than provided by law, in all cases where in his judgment the statutory bond is not sufficient in amount to cover the liabilities of the officer or employee;

(3) Exempt subordinate employees from giving bond when in his judgment their powers and duties are such as not to require a bond. [1975 c 40 § 13.]

43.19.550 Motor vehicle management—Uniform policies—Legislative finding and intent. The legislature finds that:

(1) Uniform management policies, practices, and data systems governing state-owned passenger motor vehicles will increase efficiency of the state's motor vehicle operations, result in cost savings, and contribute to effective use of motor vehicle assets in support of state employees conducting state business;

(2) To ensure compliance with federal and state environmental protection laws, the state must establish an orderly process for the identification, inspection, and, if necessary, repair or replacement of state-owned fuel storage tanks;

(3) Establishment of a state-wide fuel purchase, distribution, and accounting system will result in savings to the state and its agencies on fuel purchases;

(4) Effective safe driving programs for employees who drive the state's motor vehicles will reduce accidents, protect employees from injury and death, and avoid costs associated with liability claims and damage to state property; and

(5) Establishment of reasonable policies for vehicle life-cycle replacement, vehicle marking, and other efficiency and performance practices can result in significant cost savings to the state.

It is therefore the intent of the legislature to improve the service, efficiency, cost-effectiveness, and safety of passenger motor vehicle operations in state government by requiring the department of general administration to establish policies, procedures, and standards that apply to those operations in all state agencies and institutions of higher education. The policies, procedures, and standards shall be consistent with and carry out the objectives of any general policies adopted by the office of financial management pursuant to RCW 43.41.130. [1989 c 57 § 1.]

Effective date—1989 c 57: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 57 § 11.]

43.19.552 Definitions—Construction. (1) For purposes of RCW 43.19.550 through 43.19.558, (a) the term "state agency" has the meaning given it in RCW 43.19.560; and (b) "passenger motor vehicle" means any sedan, station wagon, van, light truck, or other motor vehicle under ten thousand pounds gross vehicle weight.

(2) Nothing in this chapter may be construed to mean that passenger motor vehicles or related facilities and equipment owned or operated by other agencies are transferred to the department of general administration. [1989 c 57 § 2.]

Effective date—1989 c 57: See note following RCW 43.19.550.

43.19.554 State-wide management of state-owned vehicles—Director's powers and duties. (1) To carry out the purposes of RCW 43.19.550 through 43.19.558 and 46.08.065, the director of general administration has the following powers and duties:

(a) To develop and implement a state-wide information system to collect, analyze, and disseminate data on the acquisition, operation, management, maintenance, repair, disposal, and replacement of all state-owned passenger motor vehicles. State agencies shall provide the department with

such data as is necessary to implement and maintain the system. The department shall provide state agencies with information and reports designed to assist them in achieving efficient and cost-effective management of their passenger motor vehicle operations.

(b) To survey state agencies to identify the location, ownership, and condition of all state-owned fuel storage tanks.

(c) In cooperation with the department of ecology and other public agencies, to prepare a plan and funding proposal for the inspection and repair or replacement of state-owned fuel storage tanks, and for the clean-up of fuel storage sites where leakage has occurred. The plan and funding proposal shall be submitted to the governor no later than December 1, 1989.

(d) To develop and implement a state-wide motor vehicle fuel purchase, distribution, and accounting system to be used by all state agencies and their employees. The director may exempt agencies from participation in the system if the director determines that participation interferes with the statutory duties of the agency.

(e) To establish minimum standards and requirements for the content and frequency of safe driving instruction for state employees operating state-owned passenger motor vehicles, which shall include consideration of employee driving records. In carrying out this requirement, the department shall consult with other agencies that have expertise in this area.

(f) To develop a schedule, after consultation with affected state agencies, for state employees to participate in safe driving instruction.

(g) To require all state employees to provide proof of a driver's license recognized as valid under Washington state law prior to operating a state-owned passenger vehicle.

(h) To develop standards for the efficient and economical replacement of all categories of passenger motor vehicles used by state agencies and provide those standards to state agencies and the office of financial management.

(i) To develop and implement a uniform system and standards to be used for the marking of passenger motor vehicles as state-owned vehicles as provided for in RCW 46.08.065. The system shall be designed to enhance the resale value of passenger motor vehicles, yet ensure that the vehicles are clearly identified as property of the state.

(j) To develop and implement other programs to improve the performance, efficiency, and cost-effectiveness of passenger motor vehicles owned and operated by state agencies.

(k) To consult with state agencies and institutions of higher education in carrying out RCW 43.19.550 through 43.19.558.

(2) The director shall establish an operational unit within the department to carry out subsection (1) of this section. The director shall employ such personnel as are necessary to carry out RCW 43.19.550 through 43.19.558. Not more than three employees within the unit may be exempt from chapter 41.06 RCW.

(3) No later than December 31, 1992, the director shall report to the governor and appropriate standing committees of the legislature on the implementation of programs prescribed by this section, any cost savings and efficiencies realized by their implementation, and recommendations for

statutory changes. [1994 1st sp.s. c 9 § 803; 1990 c 75 § 1; 1989 c 57 § 3.]

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—1989 c 57: See note following RCW 43.19.550.

43.19.558 Motor vehicle management programs—

Costs. The motor transport account shall be used to pay the costs of carrying out the programs provided for in RCW 43.19.550 through 43.19.558, unless otherwise specified by law. The director of general administration may recover the costs of the programs by billing agencies that own and operate passenger motor vehicles on the basis of a per vehicle charge. The director of general administration, after consultation with affected state agencies, shall establish the rates. All rates shall be approved by the director of financial management. The proceeds generated by these charges shall be used solely to carry out RCW 43.19.550 through 43.19.558. [1994 1st sp.s. c 9 § 802; 1989 c 57 § 5.]

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

Effective date—1989 c 57: See note following RCW 43.19.550.

Motor transport account: RCW 43.19.610.

43.19.560 Motor vehicle transportation service—

Definitions. As used in RCW 43.19.565 through 43.19.635, 43.41.130 and 43.41.140, the following definitions shall apply:

(1) "Passenger motor vehicle" means any sedan, station wagon, bus, or light truck which is designed for carrying ten passengers or less and is used primarily for the transportation of persons;

(2) "State agency" shall include any state office, agency, commission, department, or institution financed in whole or in part from funds appropriated by the legislature. It shall also include the Washington state school director's association and the state printer, but it shall not include (a) the state supreme court or any agency of the judicial branch or (b) the legislature or any of its statutory, standing, special, or interim committees, other than at the option of the judicial or legislative agency or committee concerned;

(3) "Employee commuting" shall mean travel by a state officer or employee to or from his or her official residence or other domicile to or from his or her official duty station or other place of work;

(4) "Motor vehicle transportation services" shall include but not be limited to the furnishing of motor vehicles for the transportation of persons or property, with or without drivers, and may also include furnishing of maintenance, storage, and other support services to state agencies for the conduct of official state business. [1983 c 187 § 3; 1975 1st ex.s. c 167 § 2.]

Effective date—1983 c 187: See RCW 28A.345.902.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Power to appoint or employ personnel does not include power to provide state owned or leased vehicle: RCW 43.01.150.

43.19.565 Motor vehicle transportation service—

Powers and duties. The department of general administration shall establish a motor vehicle transportation service

which is hereby empowered to (1) provide suitable motor vehicle transportation services to any state agency on either a temporary or permanent basis upon requisition from a state agency and upon such demonstration of need as the department may require; (2) provide motor pools for the use of state agencies located in the Olympia and Seattle areas and such additional motor pools at other locations in the state as may be necessary to provide economic, efficient, and effective motor vehicle transportation services to state agencies. Such additional motor pools may be under either the direct control of the department or under the supervision of another state agency by agreement with the department; (3) establish an equitable schedule of rental and mileage charges to agencies for motor vehicle transportation services furnished which shall be designed to provide funds to cover replacement of vehicles and to recover the actual total costs of motor pool operations including but not limited to vehicle operation expense, depreciation expense, overhead, and nonrecoverable collision or other damage to vehicles. Additions to capital such as the purchase of additional vehicles shall be budgeted and purchased from funds appropriated for such purposes under such procedures as may be provided by law. [1975 1st ex.s. c 167 § 3.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.570 Motor vehicle transportation service—

Responsibilities—Agreements with other agencies—Alternative fuels. (1) The department shall direct and be responsible for the acquisition, operation, maintenance, storage, repair, and replacement of state motor vehicles under its control. The department shall utilize state facilities available for the maintenance, repair, and storage of such motor vehicles, and may provide directly or by contract for the maintenance, repair, and servicing of all motor vehicles, and other property related thereto and under its control.

(2) The department may arrange, by agreement with agencies, for the utilization by one of the storage, repair, or maintenance facilities of another, with such provision for charges and credits as may be agreed upon. The department may acquire and maintain storage, repair, and maintenance facilities for the motor vehicles under its control from such funds as may be appropriated by the legislature.

(3)(a) The legislature finds that a clean environment is important and that global warming effects may be offset by decreasing the emissions of harmful compounds from motor vehicles. The legislature further finds that the state is in a position to set an example of large scale use of alternative fuels in motor vehicles.

(b) The department shall consider the use of state vehicles to conduct field tests on alternative fuels in areas where air pollution constraints may be eased by these optional fuels. These fuels should include but are not limited to gas-powered and electric-powered vehicles.

(c) For planned purchases of vehicles using alternative fuels, the department and other state agencies shall explore opportunities to purchase these vehicles together with the federal government, agencies of other states, other Washington state agencies, local governments, or private organizations for less cost. [1989 c 113 § 1; 1982 c 163 § 11; 1975 1st ex.s. c 167 § 4.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Alternative fuels: RCW 43.41.130.

43.19.575 Passenger motor vehicles owned or operated by state agencies—Duty of the office of financial management to establish policies as to acquisition, operation, authorized use, etc. See RCW 43.41.130.

43.19.582 Motor vehicle transportation service—Automotive policy board abolished—Transfer of powers, duties, and functions. The automotive policy board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the department of general administration. [1982 c 163 § 10.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.19.585 Motor vehicle transportation service—Supervisor of motor transport—Powers and duties. The director of general administration shall appoint a supervisor of motor transport, who shall have general charge and supervision of state motor pools and motor vehicle transportation services under departmental administration and control. The appointment of all personnel, except the supervisor, shall be made pursuant to chapter 41.06 RCW, the state civil service law, as now or hereafter amended.

With the approval of the director, the supervisor shall (1) appoint and employ such assistants and personnel as may be necessary, (2) acquire by purchase or otherwise a sufficient number of motor vehicles to fulfill state agency needs for motor vehicle transportation service, (3) provide for necessary storage, upkeep, and repair, and (4) provide for servicing motor pool vehicles with fuel, lubricants, and other operating requirements. [1975 1st ex.s. c 167 § 7.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.590 Motor vehicle transportation service—Transfer of employees—Retention of employment rights. All employees of any state agency who are employed exclusively or principally in performing the powers, duties, and functions transferred pursuant to RCW 43.19.595 through 43.19.610 to the department of general administration shall, upon such transfer to employment with the department of general administration, continue to be governed by the provisions of chapter 41.06 RCW, the state civil service law, as now or hereafter amended, and shall automatically retain their permanent or probationary status together with all rights, privileges, and immunities attaching thereto. [1975 1st ex.s. c 167 § 8.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.595 Motor vehicle transportation service—Transfer of motor vehicles, property, etc., from motor pool to department. All passenger motor vehicles, property, facilities, equipment, credits, funds, and all other assets and obligations of the automobile pool and pertaining to

passenger motor vehicles currently operated by the department of highways and funded by that portion of the highway equipment fund known as "District No. 8 (Motor Pool)" shall be transferred to the department of general administration on July 1, 1975. The director of general administration may accept such property prior thereto if he deems it expedient to accomplish an orderly transition. [1975 1st ex.s. c 167 § 9.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.600 Motor vehicle transportation service—Transfer of passenger motor vehicles to department from other agencies—Studies. (1) On or after July 1, 1975, any passenger motor vehicles currently owned or hereafter acquired by any state agency, except vehicles acquired from federal granted funds and over which the federal government retains jurisdiction and control, may be purchased by or transferred to the department of general administration with the consent of the state agency concerned. The director of general administration may accept vehicles subject to the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 prior to July 1, 1975, if he deems it expedient to accomplish an orderly transition.

(2) The department, in cooperation with the office of financial management, shall study and ascertain current and prospective needs of state agencies for passenger motor vehicles and shall recommend transfer to a state motor pool or other appropriate disposition of any vehicle found not to be required by a state agency.

(3) The department shall direct the transfer of passenger motor vehicles from a state agency to a state motor pool or other disposition as appropriate, based on a study under subsection (2) of this section, or after a public hearing held by the department, if a finding is made based on testimony and data therein submitted that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition of passenger motor vehicles. Any dispute over the accuracy of testimony and data submitted as to the benefits in state governmental economy, efficiency, and effectiveness to be gained by such transfer shall be resolved by the governor or the governor's designee. [1982 c 163 § 12; 1979 c 151 § 102; 1975 1st ex.s. c 167 § 10.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.605 Motor vehicle transportation service—Reimbursement for property transferred—Credits—Accounting—Disputes. No cash reimbursement shall be made to agencies for property transferred under RCW 43.19.600 to the extent that such property was originally acquired without cost or was purchased from general fund appropriations. The value of such property shall be entered upon the accounts of the motor transport account as an amount due the agency from which the vehicle was transferred. For such property purchased from dedicated, revolving, or trust funds, the value at the time of transfer shall also be entered upon the accounts of the motor transport account as an amount due the agency and fund from

which the vehicle transferred was purchased and maintained. If surplus funds are available in the motor transport account, the agency may be paid all or part of the amount due to the dedicated, revolving, or trust fund concerned. Otherwise, the credit for the amount due shall be applied proportionately over the remaining undepreciated life of such property. The prorated credits shall be applied monthly by the director of general administration against any monthly or other charges for motor vehicle transportation services rendered the agency.

To the extent surplus funds are available in the motor transport account, the director of general administration may direct a cash reimbursement to a dedicated, revolving, or trust fund where an amount due such a fund will not be charged off to services rendered by the department of general administration within a reasonable time.

Any disagreement between the supervisor of motor transport and an agency as to the amount of reimbursement to which it may be entitled shall be resolved by the director of general administration. [1989 c 57 § 6; 1975 1st ex.s. c 167 § 11.]

Effective date—1989 c 57: See note following RCW 43.19.550.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.610 Motor vehicle transportation service—Motor transport account—Sources—Disbursements. There is hereby established in the state treasury an account to be known as the motor transport account into which shall be paid all moneys, funds, proceeds, and receipts as provided in RCW 43.19.615 and as may otherwise be provided by law. Disbursements therefrom shall be made in accordance with the provisions of RCW 43.19.560 through 43.19.630, 43.41.130 and 43.41.140 as authorized by the director or a duly authorized representative and as may be provided by law. [1991 sp.s. c 13 § 35; 1986 c 312 § 902. Prior: 1985 c 405 § 507; 1985 c 57 § 28; 1975 1st ex.s. c 167 § 12.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1986 c 312: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 312 § 905.]

Severability—1985 c 405: See note following RCW 9.46.100.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Use of account proceeds: RCW 43.19.558.

43.19.615 Motor vehicle transportation service—Deposits—Disbursements. The director of general administration shall deposit in the motor transport account all receipts, including the initial transfer of automobile pool capital from the highway equipment fund and any other funds transferred, rentals or other fees and charges for transportation services furnished, proceeds from the sale of surplus or replaced property under the control of the supervisor of motor transport and other income, and from which shall be paid operating costs, including salaries and wages, administrative expense, overhead, the cost of replacement vehicles, additional passenger vehicles authorized pursuant to RCW 43.19.565, and any other expenses. If it is neces-

sary at any time for the department to request any appropriation from the general fund or various dedicated, revolving, or trust funds to purchase additional vehicles, any appropriation therefor may provide that such advance shall be repaid together with reasonable interest from surpluses of the motor transport account. [1975 1st ex.s. c 167 § 13.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.620 Motor vehicle transportation service—Rules and regulations. The director of general administration, through the supervisor of motor transport, shall adopt, promulgate, and enforce such regulations as may be deemed necessary to accomplish the purpose of RCW 43.19.560 through 43.19.630, 43.41.130, and 43.41.140. Such regulations, in addition to other matters, shall provide authority for any agency director or his delegate to approve the use on official state business of personally owned or commercially owned rental passenger motor vehicles. Before such an authorization is made, it must first be reasonably determined that state owned passenger vehicles or other suitable transportation is not available at the time or location required or that the use of such other transportation would not be conducive to the economical, efficient, and effective conduct of business.

Such regulations shall be consistent with and shall carry out the objectives of the general policies and guidelines adopted by the office of financial management pursuant to RCW 43.41.130. [1989 c 57 § 7; 1979 c 151 § 103; 1975 1st ex.s. c 167 § 14.]

Effective date—1989 c 57: See note following RCW 43.19.550.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.625 Employee commuting in state owned or leased vehicle—Policies and regulations. See RCW 43.41.140.

43.19.630 Motor vehicle transportation service—Use of personal motor vehicle. RCW 43.19.560 through 43.19.620, 43.41.130, and 43.41.140 shall not be construed to prohibit a state officer or employee from using his personal motor vehicle on state business and being reimbursed therefor, where permitted under state travel policies, rules, and regulations promulgated by the office of financial management, and where such use is in the interest of economic, efficient, and effective management and performance of official state business. [1989 c 57 § 8; 1979 c 151 § 104; 1975 1st ex.s. c 167 § 16.]

Effective date—1989 c 57: See note following RCW 43.19.550.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.635 Motor vehicle transportation service—Unauthorized use of state vehicles—Procedure—Disciplinary action. (1) The governor, acting through the department of general administration and any other appropriate agency or agencies as he may direct, is empowered to utilize all reasonable means for detecting the unauthorized use of state owned motor vehicles, including the execution of agreements with the state patrol for compliance enforce-

ment. Whenever such illegal use is discovered which involves a state employee, the employing agency shall proceed as provided by law to establish the amount, extent, and dollar value of any such use, including an opportunity for notice and hearing for the employee involved. When such illegal use is so established, the agency shall assess its full cost of any mileage illegally used and shall recover such amounts by deductions from salary or allowances due to be paid to the offending official or employee by other means. Recovery of costs by the state under this subsection shall not preclude disciplinary or other action by the appropriate appointing authority or employing agency under subsection (2) of this section.

(2) Any wilful and knowing violation of any provision of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 shall subject the state official or employee committing such violation to disciplinary action by the appropriate appointing or employing agency. Such disciplinary action may include, but shall not be limited to, suspension without pay, or termination of employment in the case of repeated violations.

(3) Any casual or inadvertent violation of RCW 43.19.560 through 43.19.620, 43.41.130 and 43.41.140 may subject the state official or employee committing such violation to disciplinary action by the appropriate appointing authority or employing agency. Such disciplinary action may include, but need not be limited to, suspension without pay. [1975 1st ex.s. c 167 § 17.]

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.19.637 Clean-fuel vehicles—Purchasing requirements. (1) At least thirty percent of all new vehicles purchased through a state contract shall be clean-fuel vehicles.

(2) The percentage of clean-fuel vehicles purchased through a state contract shall increase at the rate of five percent each year.

(3) In meeting the procurement requirement established in this section, preference shall be given to vehicles designed to operate exclusively on clean fuels. In the event that vehicles designed to operate exclusively on clean fuels are not available or would not meet the operational requirements for which a vehicle is to be procured, conventionally powered vehicles may be converted to clean fuel or dual fuel use to meet the requirements of this section.

(4) Fuel purchased through a state contract shall be a clean fuel when the fuel is purchased for the operation of a clean-fuel vehicle.

(5)(a) Weight classes are established by the following motor vehicle types:

(i) Passenger cars;

(ii) Light duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of less than eight thousand five hundred pounds;

(iii) Heavy duty trucks, trucks with a gross vehicle weight rating by the vehicle manufacturer of eight thousand five hundred pounds or more.

(b) This subsection does not place an obligation upon the state or its political subdivisions to purchase vehicles in any number or weight class other than to meet the percent procurement requirement.

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(6) For the purposes of this section, "clean fuels" and "clean-fuel vehicles" shall be those fuels and vehicles meeting the specifications provided for in RCW 70.120.210. [1991 c 199 § 213.]

Finding—1991 c 199: See note following RCW 70.94.011.

Effective dates—Severability—Captions not law—1991 c 199: See RCW 70.94.904 through 70.94.906.

43.19.640 Printing and duplicating management center—Intent. It is the intent of RCW 43.19.640 through 43.19.665 that the current activities of the printing and duplicating committee, presently fragmented within the department of general administration, the office of the public printer, and the office of financial management, be consolidated as an organizational entity, within the department of general administration, which shall expire on June 30, 1981. [1979 c 151 § 105; 1977 ex.s. c 86 § 1.]

Severability—1977 ex.s. c 86: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 86 § 7.]

43.19.645 Printing and duplicating management center—Established—Expiration. The director of the department of general administration shall establish and staff an activity within the department to be known as the printing and duplicating management center. On June 30, 1981, all powers, duties, and functions of the printing and duplicating management center shall cease to exist. Not later than January 31, 1981, the director of the department of general administration shall submit to the forty-seventh legislature recommendations regarding functional disposition of the center's responsibilities. [1977 ex.s. c 86 § 2.]

Severability—1977 ex.s. c 86: See note following RCW 43.19.640.

43.19.650 Printing and duplicating management center—Powers and duties. The director of general administration, through the printing and duplicating management center, shall hereafter approve or take such other action as is deemed necessary regarding the purchase or acquisition of any printing, microfilm, or other duplicating equipment, other than typewriters, by any official or agency of the state.

The staff of the printing and duplicating management center shall develop a copier, duplicating, printing, and microfilm plan for the state, shall monitor implementation of the plan, shall recommend any necessary changes in the plan to the director, and shall develop and promulgate status reports to the governor and to the pertinent executive branch agencies. [1986 c 158 § 11; 1977 ex.s. c 86 § 3.]

Severability—1977 ex.s. c 86: See note following RCW 43.19.640.

43.19.655 Printing and duplicating management center—Acquisition of duplicating equipment by state agencies prohibited unless authorized by center. Hereafter no state agency, as defined in RCW 43.19.560(2), shall acquire by purchase or otherwise any printing, microfilm, or other duplicating equipment, other than typewriters, unless authorized by the printing and duplicating management center to so acquire. [1977 ex.s. c 86 § 4.]

Severability—1977 ex.s. c 86: See note following RCW 43.19.640.

43.19.660 Printing and duplicating management center—Fees and charges—Intent. The operation of the printing and duplicating management center shall be financed by the director of the department of general administration from moneys appropriated by the legislature.

The director of the department of general administration shall be responsible for establishing realistic fees to be charged for services rendered by the printing and duplicating management center. The director of financial management shall approve any fees prior to their implementation. All fees and charges collected for services rendered by the printing and duplicating management center shall be deposited in the general fund. It is the intent of RCW 43.19.640 through 43.19.665 that the fees paid by the agencies and the savings experienced from the activities of the printing and duplicating management center shall more than offset the operating costs of the center. [1987 c 505 § 27; 1986 c 158 § 12; 1979 c 151 § 106; 1977 ex.s. c 86 § 5.]

Severability—1977 ex.s. c 86: See note following RCW 43.19.640.

43.19.665 Printing and duplicating management center—Printing and duplicating committee abolished—Transfer of powers, duties and functions. The state printing and duplicating committee is hereby abolished, and all powers, duties, and functions thereof are transferred to the director of the department of general administration, to be exercised through the printing and duplicating management center. [1977 ex.s. c 86 § 6.]

Severability—1977 ex.s. c 86: See note following RCW 43.19.640.

43.19.668 Energy conservation—Legislative finding—Declaration. The legislature finds and declares that the buildings, facilities, equipment, and vehicles owned or leased by state government consume significant amounts of energy and that energy conservation actions to provide for efficient energy use in these buildings, facilities, equipment, and vehicles will reduce the costs of state government. In order for the operations of state government to provide the citizens of this state an example of energy use efficiency, the legislature further finds and declares that state government should undertake an aggressive program designed to reduce energy use in state buildings, facilities, equipment, and vehicles within a reasonable period of time. The use of appropriate tree plantings for energy conservation is encouraged as part of this program. [1993 c 204 § 6; 1980 c 172 § 1.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.669 Energy conservation—Purpose. It is the purpose of RCW 43.19.670 through 43.19.685 to require energy audits in state-owned buildings, to require energy audits as a lease condition in all new, renewed, and renegotiated leases of buildings by the state, to undertake such modifications and installations as are necessary to maximize the efficient use of energy in these buildings, and to establish a policy for the purchase of state vehicles, equipment, and materials which results in efficient energy use by the state. [1980 c 172 § 2.]

43.19.670 Energy conservation—Definitions. As used in RCW 43.19.670 through 43.19.685, the following

terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Energy audit" means a determination of the energy consumption characteristics of a facility which consists of the following elements:

(a) An energy consumption survey which identifies the type, amount, and rate of energy consumption of the facility and its major energy systems. This survey shall be made by the agency responsible for the facility.

(b) A walk-through survey which determines appropriate energy conservation maintenance and operating procedures and indicates the need, if any, for the acquisition and installation of energy conservation measures. This survey shall be made by the agency responsible for the facility if it has technically qualified personnel available. The director of general administration shall provide technically qualified personnel to the responsible agency if necessary.

(c) A technical assistance study, which is an intensive engineering analysis of energy conservation measures for the facility, net energy savings, and a cost-effectiveness determination. This element is required only for those facilities designated in the technical assistance study schedule adopted under RCW 43.19.680(3).

(2) "Energy conservation measure" means an installation or modification of an installation in a facility which is primarily intended to reduce energy consumption or allow the use of an alternative energy source, including:

(a) Insulation of the facility structure and systems within the facility;

(b) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated windows and door systems, additional glazing, reductions in glass area, and other window and door system modifications;

(c) Automatic energy control systems;

(d) Equipment required to operate variable steam, hydraulic, and ventilating systems adjusted by automatic energy control systems;

(e) Solar space heating or cooling systems, solar electric generating systems, or any combination thereof;

(f) Solar water heating systems;

(g) Furnace or utility plant and distribution system modifications including replacement burners, furnaces, and boilers which substantially increase the energy efficiency of the heating system; devices for modifying flue openings which will increase the energy efficiency of the heating system; electrical or mechanical furnace ignitions systems which replace standing gas pilot lights; and utility plant system conversion measures including conversion of existing oil- and gas-fired boiler installations to alternative energy sources;

(h) Caulking and weatherstripping;

(i) Replacement or modification of lighting fixtures which increase the energy efficiency of the lighting system;

(j) Energy recovery systems; and

(k) Such other measures as the director finds will save a substantial amount of energy.

(3) "Energy conservation maintenance and operating procedure" means modification or modifications in the maintenance and operations of a facility, and any installations within the facility, which are designed to reduce energy consumption in the facility and which require no significant expenditure of funds.

(4) "Facility" means a building, a group of buildings served by a central energy distribution system, or components of a central energy distribution system.

(5) "Implementation plan" means the annual tasks and budget required to complete all acquisitions and installations necessary to satisfy the recommendations of the energy audit. [1982 c 48 § 1; 1980 c 172 § 3.]

43.19.675 Energy audits of state-owned facilities required—Completion dates. The director of general administration, in cooperation with the director of the state energy office, shall conduct, by contract or other arrangement, an energy audit for each state-owned facility. All energy audits shall be coordinated with and complement other governmental energy audit programs. The energy audit for each state-owned facility located on the capitol campus shall be completed no later than July 1, 1981, and the results and findings of each energy audit shall be compiled and transmitted to the governor and the legislature no later than October 1, 1981. For every other state-owned facility, the energy consumption surveys shall be completed no later than October 1, 1982, and the walk-through surveys shall be completed no later than July 1, 1983. [1982 c 48 § 2; 1980 c 172 § 4.]

Energy audits of school district buildings: RCW 28A.320.330.

43.19.680 Implementation of energy conservation and maintenance procedures after walk-through survey—Transmission of results of energy consumption and walk-through surveys—Schedule for technical assistance studies—Schedule for completion of energy conservation measures—Reports—Private investment in energy conservation measures. (1) Upon completion of each walk-through survey required by RCW 43.19.675, the director of general administration or the agency responsible for the facility if other than the department of general administration shall implement energy conservation maintenance and operation procedures that may be identified for any state-owned facility. These procedures shall be implemented as soon as possible but not later than twelve months after the walk-through survey.

(2) By December 31, 1981, for the capitol campus the director of general administration, in cooperation with the director of the state energy office, shall prepare and transmit to the governor and the legislature an implementation plan.

(3) By December 31, 1983, for all other state-owned facilities, the director of general administration in cooperation with the director of the state energy office shall prepare and transmit to the governor and the legislature the results of the energy consumption and walk-through surveys and a schedule for the conduct of technical assistance studies. This submission shall contain the energy conservation measures planned for installation during the ensuing biennium. Priority considerations for scheduling technical assistance studies shall include but not be limited to a facility's energy efficiency, responsible agency participation, comparative cost and type of fuels, possibility of outside funding, logistical considerations such as possible need to vacate the facility for installation of energy conservation measures, coordination with other planned facility modifications, and the total cost of a facility modification, including other work

which would have to be done as a result of installing energy conservation measures. Energy conservation measure acquisitions and installations shall be scheduled to be twenty-five percent complete by June 30, 1985, or at the end of the capital budget biennium which includes that date, whichever is later, fifty-five percent complete by June 30, 1989, or at the end of the capital budget biennium which includes that date, whichever is later, eighty-five percent complete by June 30, 1993, or at the end of the capital budget biennium which includes that date, whichever is later, and fully complete by June 30, 1995, or at the end of the capital budget biennium which includes that date, whichever is later. Each state agency shall implement energy conservation measures with a payback period of twenty-four months or less that have a positive cash flow in the same biennium.

For each biennium until all measures are installed, the director of general administration shall report to the governor and legislature installation progress, measures planned for installation during the ensuing biennium, and changes, if any, to the technical assistance study schedule. This report shall be submitted by December 31, 1984, or at the end of the following year whichever immediately precedes the capital budget adoption, and every two years thereafter until all measures are installed.

(4) The director of general administration shall adopt rules to facilitate private investment in energy conservation measures for state-owned buildings consistent with state law. [1986 c 325 § 2; 1983 c 313 § 1; 1982 c 48 § 3; 1980 c 172 § 5.]

Findings—1986 c 325: See note following RCW 43.41.170.

Budgeting process—Guidelines to ensure agencies implementing energy conservation retain cost savings: RCW 43.41.170.

Energy consumption data—Quarterly reports by facilities or agencies: RCW 43.41.175.

43.19.682 Energy conservation to be included in landscape objectives. The director of the department of general administration shall seek to further energy conservation objectives among other landscape objectives in planting and maintaining trees upon grounds administered by the department. [1993 c 204 § 9.]

Findings—1993 c 204: See note following RCW 35.92.390.

43.19.685 Lease covenants, conditions, and terms to be developed—Applicability. The director of general administration shall develop lease covenants, conditions, and terms which:

(1) Obligate the lessor to conduct or have conducted a walk-through survey of the leased premises;

(2) Obligate the lessor to implement identified energy conservation maintenance and operating procedures upon completion of the walk-through survey; and

(3) Obligate the lessor to undertake technical assistance studies and subsequent acquisition and installation of energy conservation measures if the director of general administration, in accordance with rules adopted by the department, determines that these studies and measures will both conserve energy and can be accomplished with a state funding contribution limited to the savings which would result in utility expenses during the term of the lease.

These lease covenants, conditions, and terms shall be incorporated into all specified new, renewed, and renegotiated leases executed on or after January 1, 1983. This section applies to all leases under which state occupancy is at least half of the facility space and includes an area greater than three thousand square feet. [1982 c 48 § 4; 1980 c 172 § 6.]

43.19.700 In-state preference clauses—Finding—

Intent. The legislature finds that in-state preference clauses used by other states in procuring goods and services have a discriminatory effect against Washington vendors with resulting harm to this state's revenues and the welfare of this state's citizens. *This act is intended to promote fairness in state government procurement by requiring that, when appropriate, Washington exercise reciprocity with those states having in-state preferences, and it shall be liberally construed to that effect. [1983 c 183 § 1.]

*Reviser's note: "This act" consists of the enactment of RCW 43.19.700, 43.19.702, and 43.19.704 and the 1983 c 183 amendment to RCW 43.19.1911.

43.19.702 List of statutes and regulations of each state on state purchasing which grant preference to in-state vendors. The director of general administration shall compile a list of the statutes and regulations, relating to state purchasing, of each state, which statutes and regulations the director believes grant a preference to vendors located within the state or goods manufactured within the state. At least once every twelve months the director shall update the list. [1983 c 183 § 2.]

43.19.704 Rules for reciprocity in bidding. The director of general administration shall adopt and apply rules designed to provide for some reciprocity in bidding between Washington and those states having statutes or regulations on the list under RCW 43.19.702. The director of general administration shall have broad discretionary power in developing these rules and the rules shall provide for reciprocity only to the extent and in those instances where the director considers it appropriate. For the purpose of determining the lowest responsible bidder pursuant to RCW 43.19.1911, such rules shall (1) require the director to impose a reciprocity increase on bids when appropriate under the rules and (2) establish methods for determining the amount of the increase. In no instance shall such increase, if any, be paid to a vendor whose bid is accepted. [1983 c 183 § 3.]

43.19.710 Consolidated mail service—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this section and RCW 43.19.715.

(1) "Consolidated mail service" means incoming, outgoing, and internal mail processing.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Agency" means:

(a) The office of the governor; and

(b) Any office, department, board, commission, or other separate unit or division, however designated, of the state government, together with all personnel thereof: Upon which the statutes confer powers and impose duties in connection with operations of either a governmental or proprietary nature; and that has as its chief executive officer a person or combination of persons such as a commission, board, or council, by law empowered to operate it, responsible either to: (i) No other public officer or (ii) the governor.

(5) "Incoming mail" means mail, packages, or similar items received by an agency, through the United States postal service, private carrier services, or other courier services.

(6) "Outgoing mail" means mail, packages, or similar items processed for agencies to be sent through the United States postal service, private carrier services, or other courier services.

(7) "Internal mail" means interagency mail, packages, or similar items that are delivered or to be delivered to a state agency, the legislature, the supreme court, or the court of appeals, and their officers and employees. [1993 c 219 § 2.]

Intent—1993 c 219: "It is the intent of the legislature to consolidate mail functions for state government in a manner that will provide timely, effective, efficient, and less-costly mail service for state government." [1993 c 219 § 1.]

Effective date—1993 c 219: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 219 § 6.]

43.19.715 Consolidated mail service—Area served.

The director shall establish a consolidated mail service to handle all incoming, outgoing, and internal mail in the 98504 zip code area or successor zip code areas for agencies in the Olympia, Tumwater, and Lacey area. The director may include additional geographic areas within the consolidated mail service, based upon his or her determination. The department shall also provide mail services to legislative and judicial agencies in the Olympia, Tumwater, and Lacey area upon request.

The director may bill state agencies and other entities periodically for mail services rendered. [1993 c 219 § 3.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

43.19.720 Consolidated mail service—Review needs of state agencies. The department, in cooperation with the office of financial management, shall review current and prospective needs of state agencies for any equipment to process mail throughout state government. If after such consultation, the department should find that the economy, efficiency, or effectiveness of state government would be improved by such a transfer or other disposition, then the property shall be transferred or otherwise disposed.

After making such finding, the department shall direct the transfer of existing state property, facilities, and equipment pertaining to the consolidated mail service or United States postal service. Any dispute concerning the benefits in state governmental economy, efficiency, and effectiveness shall be resolved by the office of financial management. [1993 c 219 § 5.]

Intent—Effective date—1993 c 219: See notes following RCW 43.19.710.

Chapter 43.19A

RECYCLED PRODUCT PROCUREMENT

Sections

- 43.19A.005 Purpose.
- 43.19A.010 Definitions.
- 43.19A.020 Recycled content standards.
- 43.19A.030 Local government duties.
- 43.19A.040 Local government adoption of preferential purchase policy optional.
- 43.19A.050 Mandatory plan for state agency procurement.
- 43.19A.060 Data base of products and vendors.
- 43.19A.070 Education program—Product substitution list—Model procurement guidelines.
- 43.19A.080 Bid notification to state recycled content requirements.
- 43.19A.090 Vendor certification of percentage of recycled content.
- 43.19A.100 Procurement of compost products.
- 43.19A.110 Local road projects—Compost products.
- 43.19A.900 Captions not law—1991 c 297.

Recycled material products purchase: RCW 43.19.538.

43.19A.005 Purpose. It is the purpose of this chapter to:

(1) Substantially increase the procurement of recycled content products by all local and state governmental agencies and public schools, and provide a model to encourage a comparable commitment by Washington state citizens and businesses in their purchasing practices;

(2) Target government procurement policies and goals toward those recycled products for which there are significant market development needs or that may substantially contribute to solutions to the state's waste management problem;

(3) Provide standards for recycled products for use in procurement programs by all governmental agencies;

(4) Provide the authority for all governmental agencies to adopt preferential purchasing policies for recycled products;

(5) Direct state agencies to develop strategies to increase recycled product purchases, and to provide specific goals for procurement of recycled paper products and organic recovered materials; and

(6) Provide guidance and direction for local governments and other public agencies to develop plans for increasing the procurement of recycled content products. [1991 c 297 § 1.]

43.19A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Compost products" means mulch, soil amendments, ground cover, or other landscaping material derived from the biological or mechanical conversion of biosolids or cellulose-containing waste materials.

(2) "Department" means the department of general administration.

(3) "Director" means the director of the department of general administration.

(4) "Local government" means a city, town, county, special purpose district, school district, or other municipal corporation.

(5) "Lubricating oil" means petroleum-based oils for reducing friction in engine parts and other mechanical parts.

(6) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection.

(7) "Municipal sewage sludge" means a semisolid substance consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a publicly owned wastewater treatment plant.

(8) "Biosolids" means municipal sewage sludge or septic tank septage sludge that meets the requirements of chapter 70.95J RCW.

(9) "Paper and paper products" means all items manufactured from paper or paperboard.

(10) "Postconsumer waste" means a material or product that has served its intended use and has been discarded for disposal or recovery by a final consumer.

(11) "Procurement officer" means the person that has the primary responsibility for procurement of materials or products.

(12) "State agency" means all units of state government, including divisions of the governor's office, the legislature, the judiciary, state agencies and departments, correctional institutions, vocational technical institutions, and universities and colleges.

(13) "Recycled content product" or "recycled product" means a product containing recycled materials.

(14) "Recycled materials" means waste materials and by-products that have been recovered or diverted from solid waste and that can be utilized in place of a raw or virgin material in manufacturing a product and consists of materials derived from postconsumer waste, manufacturing waste, industrial scrap, agricultural wastes, and other items, all of which can be used in the manufacture of new or recycled products.

(15) "Re-refined oils" means used lubricating oils from which the physical and chemical contaminants acquired through previous use have been removed through a refining process. Re-refining may include distillation, hydrotreating, or treatments employing acid, caustic, solvent, clay, or other chemicals, or other physical treatments other than those used in reclaiming.

(16) "USEPA product standards" means the product standards of the United States environmental protection agency for recycled content published in the code of federal regulations. [1992 c 174 § 12; 1991 c 297 § 2.]

43.19A.020 Recycled content standards. (1) The director shall adopt standards specifying the minimum content of recycled materials in products or product categories. The standards shall:

(a) Be consistent with the USEPA product standards, unless the director finds that a different standard would significantly increase recycled product availability or competition;

(b) Consider the standards of other states, to encourage consistency of manufacturing standards;

(c) Consider regional product manufacturing capability;

(d) Address specific products or classes of products; and
 (e) Consider postconsumer waste content and the recyclability of the product.

(2) The director shall consult with the supply management board and department of ecology prior to adopting the recycled content standards.

(3) The director shall adopt recycled content standards for at least the following products by the dates indicated:

(a) By July 1, 1992:

- (i) Paper and paper products;
- (ii) Organic recovered materials; and
- (iii) Latex paint products;

(b) By July 1, 1993:

- (i) Products for lower value uses containing recycled plastics;
- (ii) Retread and remanufactured tires;
- (iii) Lubricating oils;
- (iv) Automotive batteries; and
- (v) Building insulation.

(4) The standards required by this section shall be applied to recycled product purchasing by the department and other state agencies. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards. [1991 c 297 § 3.]

43.19A.030 Local government duties. (1) By January 1, 1993, each local government shall review its existing procurement policies and specifications to determine whether recycled products are intentionally or unintentionally excluded. The policies and specifications shall be revised to include such products unless a recycled content product does not meet an established performance standard of the agency.

(2) By fiscal year 1994, each local government shall adopt a minimum purchasing goal for recycled content as a percentage of the total dollar value of supplies purchased. To assist in achieving this goal each local government shall adopt a strategy by January 1, 1993, and shall submit a description of the strategy to the department. The department shall report to the appropriate standing committees of the legislature by October 1, 1993, on the progress of implementation by local governments, and shall thereafter periodically report on the progress of recycled product purchasing by state and other public agencies. All public agencies shall respond to requests for information from the department for the purpose of its reporting requirements under this section.

(3) Each local government shall designate a procurement officer who shall serve as the primary contact with the department for compliance with the requirements of this chapter.

(4) This section shall apply only to local governments with expenditures for supplies exceeding five hundred thousand dollars for fiscal year 1989. Expenditures for capital goods and for electricity, water, or gas for resale shall not be considered a supply expenditure. [1991 c 297 § 4.]

43.19A.040 Local government adoption of preferential purchase policy optional. (1) Each local government shall consider the adoption of policies, rules, or ordinances

to provide for the preferential purchase of recycled content products. Any local government may adopt the preferential purchasing policy of the department of general administration, or portions of such policy, or another policy that provides a preference for recycled content products.

(2) The department of general administration shall prepare one or more model recycled content preferential purchase policies suitable for adoption by local governments. The model policy shall be widely distributed and provided through the technical assistance and workshops under RCW 43.19A.070.

(3) A local government that is not subject to the purchasing authority of the department of general administration, and that adopts the preferential purchase policy or rules of the department, shall not be limited by the percentage price preference included in such policy or rules. [1991 c 297 § 6.]

43.19A.050 Mandatory plan for state agency procurement. The department shall prepare a mandatory state plan to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The plan shall include purchases from public works contracts. The plan shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the plan shall incorporate actions to achieve the following purchase level goals of recycled content paper and compost products:

(1) Paper products as a percentage of the total dollar amount purchased on an annual basis:

- (a) At least forty percent by 1993;
- (b) At least fifty percent by 1994;
- (c) At least sixty percent by 1995.

(2) Compost products as a percentage of the total dollar amount on an annual basis:

- (a) At least twenty-five percent by 1993;
- (b) At least forty percent by 1995;
- (c) At least sixty percent by 1997. [1991 c 297 § 7.]

43.19A.060 Data base of products and vendors. (1) The department shall develop a data base of available products with recycled-content products, and vendors supplying such products. The data base shall incorporate information regarding product consistency with the content standards adopted under RCW 43.19A.020. The data base shall incorporate information developed through state and local government procurement of recycled-content products.

(2) By December 1, 1992, the department shall report to the appropriate standing committees of the legislature on the cost of making the data base accessible to all state and local governments and to the private sector.

(3) The department shall compile information on purchases made by the department or pursuant to the department's purchasing authority, and information provided by local governments, regarding:

(a) The percentage of recycled content and, if known, the amount of postconsumer waste in the products purchased;

- (b) Price;

(c) Agency experience with the performance of recycled products and the supplier under the terms of the purchase; and

(d) Any other information deemed appropriate by the department. [1991 c 297 § 8.]

43.19A.070 Education program—Product substitution list—Model procurement guidelines. (1) The department shall implement an education program to encourage maximum procurement of recycled products by state and local government entities. The program shall include at least the following:

(a) Technical assistance to all state and local governments and their designated procurement officers on the requirements of this chapter, including preparation of model purchase contracts, the preparation of procurement plans, and the availability of recycled products;

(b) Two or more workshops annually in which all state and local government entities are invited;

(c) Information on intergovernmental agreements to facilitate procurement of recycled products.

(2) The director shall, in consultation with the department of ecology, make available to the public, local jurisdictions, and the private sector, a comprehensive list of substitutes for extremely hazardous, hazardous, toxic, and nonrecyclable products, and disposable products intended for a single use. The department and all state agencies exercising the purchasing authorities of the department shall include the substitute products on bid notifications, except where the department allows an exception based upon product availability, price, suitability for intended use, or similar reasons.

(3) The department shall prepare model procurement guidelines for use by local governments. [1991 c 297 § 9.]

43.19A.080 Bid notification to state recycled content requirements. A notification regarding a state or local government's intent to procure products with recycled content must be prominently displayed in the procurement solicitation or invitation to bid including:

(1) A description of the postconsumer waste content or recycled content requirements; and

(2) A description of the agency's recycled content preference program. [1991 c 297 § 11.]

43.19A.090 Vendor certification of percentage of recycled content. (1) After July 1, 1992, vendors shall certify the percentage of recycled content in products sold to state and local governments, including the percentage of postconsumer waste that is in the product. The certification shall be in the form of a label on the product or a statement by the vendor attached to the bid documents.

(2) The certification on multicomponent or multimaterial products shall verify the percentage and type of postconsumer waste and recycled content by volume contained in the major constituents of the product.

(3) The procuring agency may state in bid solicitations that permission to verify the certification by review of the bidder or manufacturer's records must be granted as a condition of the bid award, in the event of a bidder's protest or other challenge to the bid accepted.

(4) The department shall adopt rules by May 1, 1992, describing the contents of the certification required by this section. [1991 c 297 § 12.]

43.19A.100 Procurement of compost products. (1) The department shall increase the procurement of compost products for all state facilities and grounds that require landscaping or similar work. The department shall survey available vendors and state facilities for which such products are suitable, and attempt to match such supplies and need to lower transportation and other costs. The department shall consider and implement modification of performance standards where appropriate to achieve greater procurement of compost products.

(2) Beginning July 1, 1992, the total of department contracts awarded in whole or in part for the purchase of landscaping materials or soil amendments shall include compost products as follows:

(a) For the period July 1, 1992, through June 30, 1994, twenty-five percent of the total dollar amount of purchases; and

(b) On and after July 1, 1994, fifty percent of the total annual dollar amount of purchases. [1991 c 297 § 13.]

43.19A.110 Local road projects—Compost products. (1) Each county and city required to prepare a strategy under RCW 43.19A.030 shall adopt specifications for compost products to be used in road projects. The specifications developed by the department of transportation under RCW 47.28.220 may be adopted by the city or county in lieu of developing specifications.

(2) After July 1, 1992, any contract awarded in whole or in part for applying soils, soil covers, or soil amendments to road rights of way shall specify that compost materials be purchased in accordance with the following schedule:

(a) For the period July 1, 1992, through June 30, 1994, at least twenty-five percent of the total dollar amount of purchases by the city or county;

(b) On and after July 1, 1994, at least fifty percent of the annual total dollar amount of purchases by the city or county.

(3) The city or county may depart from the schedule in subsection (2) of this section where it determines that no suitable product is available at a reasonable price. [1991 c 297 § 17.]

43.19A.900 Captions not law—1991 c 297. Captions as used in this act constitute no part of the law. [1991 c 297 § 21.]

Chapter 43.20

STATE BOARD OF HEALTH

Sections

43.20.025	Definitions.
43.20.030	State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members.
43.20.035	State board of health—Cooperation with environmental agencies
43.20.050	Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules.

- 43.20.100 Annual report.
- 43.20.110 Federal act on maternal and infancy hygiene accepted.
- 43.20.140 Services to crippled children—Rules and regulations.
- 43.20.175 Violations—Injunctions and legal proceedings authorized.
- 43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer.
- 43.20.195 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator.
- 43.20.200 Grant-in-aid payments for local health departments.
- 43.20.215 Right of person to rely on prayer to alleviate ailments not abridged.
- 43.20.220 Cooperation with federal government—Construction of Title 70 RCW.
- 43.20.230 Water resource planning—Procedures, criteria, technical assistance.
- 43.20.235 Water conservation—Water delivery rate structures—Report.
- 43.20.240 Public water systems—Complaint process.

Cold storage food workers, health certificates: RCW 19.32.110.

Contagious diseases abatement: RCW 70.05.070.

report of local officers and physicians: RCW 70.05.110.

Control of pet animals infected with diseases communicable to humans, state board of health duties: Chapter 16.70 RCW.

Death certificates: RCW 70.58.150 through 70.58.190.

Drinking water quality consumer complaints: RCW 80.04.110.

Food and beverage service workers' permits, prescribed by: RCW 69.06.010.

Health, department of: Chapter 43.70 RCW.

Hospitals

disclosure of information: RCW 70.41.150.

enforcement of board rules: RCW 70.41.040.

inspection: RCW 70.41.120.

Immunization program, state board of health participation: RCW 28A.210.060 through 28A.210.170.

Physicians, regulation of professional services: RCW 70.41.180.

Screening program for scoliosis, state board of health participation: RCW 28A.210.180 through 28A.210.250.

Sexually transmitted diseases: Chapter 70.24 RCW.

Social and health services, department created: RCW 43.17.010, 43.20A.030.

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

(1) "Consumer representative" means any person who is not an elected official, who has no fiduciary obligation to a health facility or other health agency, and who has no material financial interest in the rendering of health services.

(2) "Council" means the health care access and cost control council.

(3) "Department" means the department of health.

(4) "Secretary" means the secretary of health, or the secretary's designee.

(5) "Local health board" means a health board created pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(6) "Local health officer" means the legally qualified physician appointed as a health officer pursuant to chapter 70.05, 70.08, or 70.46 RCW.

(7) "State board" means the state board of health created under chapter 43.20 RCW. [1989 1st ex.s. c 9 § 208; 1984 c 243 § 1.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. (Effective until July 1, 1995.) The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, an elected city official who is a member of a local health board, an elected county official who is a member of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the city official, the governor shall consider any recommendations submitted by the association of Washington cities. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department of social and health services shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 75; 1984 c 243 § 2; 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030. Prior: 1921 c 7 § 56, part; RRS § 10814, part.]

Reviser's note: This section was amended by 1984 c 287 § 75 and by 1984 c 243 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.20.030 State board of health—Members—Chairman—Staff support—Executive director, confidential secretary—Compensation and travel expenses of members. (Effective July 1, 1995.) The state board of health shall be composed of ten members. These shall be the secretary or the secretary's designee and nine other persons to be appointed by the governor, including four persons experienced in matters of health and sanitation, two elected county officials who are members of a local health board, a local health officer, and two persons representing the consumers of health care. Before appointing the county official, the governor shall consider any recommendations submitted by the Washington state association of counties. Before appointing the local health officer, the governor shall consider any recommendations submitted by the Washington state association of local public health officials. Before appointing one of the two consumer representatives, the governor shall consider any recommendations submitted by

the state council on aging. The chairman shall be selected by the governor from among the nine appointed members. The department shall provide necessary technical staff support to the board. The board may employ an executive director and a confidential secretary, each of whom shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

Members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 492 § 255. Prior: 1984 c 287 § 75; 1984 c 243 § 2; prior: 1970 ex.s. c 18 § 11; 1965 c 8 § 43.20.030; prior: 1921 c 7 § 56, part; RRS § 10814, part.]

~~Findings—Intent—1993 c 492:~~ See notes following RCW 43.72.005.

~~Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:~~ See RCW 43.72.910 through 43.72.915.

~~Legislative findings—Severability—Effective date—1984 c 287:~~ See notes following RCW 43.03.220.

~~Effective date—Severability—1970 ex.s. c 18:~~ See notes following RCW 43.20A.010.

43.20.035 State board of health—Cooperation with environmental agencies. See RCW 43.70.310.

43.20.050 Powers and duties of state board of health—State public health report—Delegation of authority—Enforcement of rules. (1) The state board of health shall provide a forum for the development of public health policy in Washington state. It is authorized to recommend to the secretary means for obtaining appropriate citizen and professional involvement in all public health policy formulation and other matters related to the powers and duties of the department. It is further empowered to hold hearings and explore ways to improve the health status of the citizenry.

(a) At least every five years, the state board shall convene regional forums to gather citizen input on public health issues.

(b) Every two years, in coordination with the development of the state biennial budget, the state board shall prepare the state public health report that outlines the health priorities of the ensuing biennium. The report shall:

(i) Consider the citizen input gathered at the forums;

(ii) Be developed with the assistance of local health departments;

(iii) Be based on the best available information collected and reviewed according to RCW 43.70.050 and recommendations from the council;

(iv) Be developed with the input of state health care agencies. At least the following directors of state agencies shall provide timely recommendations to the state board on suggested health priorities for the ensuing biennium: The secretary of social and health services, the health care authority administrator, the insurance commissioner, the superintendent of public instruction, the director of labor and industries, the director of ecology, and the director of agriculture;

(v) Be used by state health care agency administrators in preparing proposed agency budgets and executive request legislation;

(vi) Be submitted by the state board to the governor by January 1 of each even-numbered year for adoption by the governor. The governor, no later than March 1 of that year, shall approve, modify, or disapprove the state public health report.

(c) In fulfilling its responsibilities under this subsection, the state board may create ad hoc committees or other such committees of limited duration as necessary.

(2) In order to protect public health, the state board of health shall:

(a) Adopt rules necessary to assure safe and reliable public drinking water and to protect the public health. Such rules shall establish requirements regarding:

(i) The design and construction of public water system facilities, including proper sizing of pipes and storage for the number and type of customers;

(ii) Drinking water quality standards, monitoring requirements, and laboratory certification requirements;

(iii) Public water system management and reporting requirements;

(iv) Public water system planning and emergency response requirements;

(v) Public water system operation and maintenance requirements;

(vi) Water quality, reliability, and management of existing but inadequate public water systems; and

(vii) Quality standards for the source or supply, or both source and supply, of water for bottled water plants.

(b) Adopt rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, solid and liquid, including but not limited to sewage, garbage, refuse, and other environmental contaminants; adopt standards and procedures governing the design, construction, and operation of sewage, garbage, refuse and other solid waste collection, treatment, and disposal facilities;

(c) Adopt rules controlling public health related to environmental conditions including but not limited to heating, lighting, ventilation, sanitary facilities, cleanliness and space in all types of public facilities including but not limited to food service establishments, schools, institutions, recreational facilities and transient accommodations and in places of work;

(d) Adopt rules for the imposition and use of isolation and quarantine;

(e) Adopt rules for the prevention and control of infectious and noninfectious diseases, including food and vector borne illness, and rules governing the receipt and conveyance of remains of deceased persons, and such other sanitary matters as admit of and may best be controlled by universal rule; and

(f) Adopt rules for accessing existing data bases for the purposes of performing health related research.

(3) The state board may delegate any of its rule-adopting authority to the secretary and rescind such delegated authority.

(4) All local boards of health, health authorities and officials, officers of state institutions, police officers, sheriffs, constables, and all other officers and employees of the state, or any county, city, or township thereof, shall enforce all rules adopted by the state board of health. In the event of failure or refusal on the part of any member of such boards or any other official or person mentioned in this

section to so act, he shall be subject to a fine of not less than fifty dollars, upon first conviction, and not less than one hundred dollars upon second conviction.

(5) The state board may advise the secretary on health policy issues pertaining to the department of health and the state. [1993 c 492 § 489; 1992 c 34 § 4. Prior: 1989 1st ex.s. c 9 § 210; 1989 c 207 § 1; 1985 c 213 § 1; 1979 c 141 § 49; 1967 ex.s. c 102 § 9; 1965 c 8 § 43.20.050; prior: (i) 1901 c 116 § 1; 1891 c 98 § 2; RRS § 6001. (ii) 1921 c 7 § 58; RRS § 10816.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Severability—1992 c 34: See note following RCW 69.07.170.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Savings—1985 c 213: "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted under those sections." [1985 c 213 § 31.]

Effective date—1985 c 213: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 213 § 33.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

Rules and regulations—Visual and auditory screening of pupils: RCW 28A.210.020.

43.20.100 Annual report. The state board of health shall make an annual report to the governor including therein suggestions for such legislative action as it deems necessary. [1977 c 75 § 44; 1965 c 8 § 43.20.100. Prior: 1891 c 98 § 11; RRS § 6007.]

43.20.110 Federal act on maternal and infancy hygiene accepted. The provisions of the act of congress entitled "An Act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, are hereby accepted by the state of Washington. [1965 c 8 § 43.20.110. Prior: 1923 c 127 § 1; RRS § 10814-1.]

43.20.140 Services to crippled children—Rules and regulations. The director of the state board of health shall be empowered to promulgate such rules and regulations as shall be necessary to effectuate and carry out the purposes of RCW 43.20A.635. [1979 c 141 § 58; 1965 c 8 § 43.20.140. Prior: 1941 c 129 § 2; Rem. Supp. 1941 § 9992-107b. Formerly RCW 74.12.220.]

43.20.175 Violations—Injunctions and legal proceedings authorized. See RCW 43.70.190.

43.20.185 Enforcement of health laws and state or local rules and regulations upon request of local health officer. See RCW 43.70.200.

43.20.195 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney

to institute proceedings—Notice to alleged violator. See RCW 43.20A.660.

43.20.200 Grant-in-aid payments for local health departments. The state board of health is hereby authorized to provide grant-in-aid payments with state funds to assist in the cost of general operation of local health departments in accordance with standards established by the board. [1967 ex.s. c 102 § 11.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20.215 Right of person to rely on prayer to alleviate ailments not abridged. See RCW 43.70.210.

43.20.220 Cooperation with federal government—Construction of Title 70 RCW. See RCW 70.01.010.

43.20.230 Water resource planning—Procedures, criteria, technical assistance. Consistent with the water resource planning process of the department of ecology, the department of health shall:

(1) Develop procedures and guidelines relating to water use efficiency, as defined in *section 4(3), chapter 348, Laws of 1989, to be included in the development and approval of cost-efficient water system plans required under RCW 43.20.050;

(2) Develop criteria, with input from technical experts, with the objective of encouraging the cost-effective reuse of greywater and other water recycling practices, consistent with protection of public health and water quality;

(3) Provide advice and technical assistance upon request in the development of water use efficiency plans; and

(4) Provide advice and technical assistance on request for development of model conservation rate structures for public water systems. Subsections (1), (2), and (3) of this section are subject to the availability of funding. [1993 sp.s. c 4 § 9; 1989 c 348 § 12.]

*Reviser's note: 1989 c 348 § 4 was vetoed.

Findings—Grazing lands—1993 sp.s. c 4: See note following RCW 75.28.760.

Severability—1989 c 348: See note following RCW 90.54.020.

Rights not impaired—1989 c 348: See RCW 90.54.920.

43.20.235 Water conservation—Water delivery rate structures—Report. Water purveyors required to develop a water system plan pursuant to RCW 43.20.230 shall evaluate the feasibility of adopting and implementing water delivery rate structures that encourage water conservation. This information shall be included in water system plans submitted to the department of health for approval after July 1, 1993. The department shall evaluate the following:

(1) Rate structures currently used by public water systems in Washington; and

(2) Economic and institutional constraints to implementing conservation rate structures.

The department shall provide its findings to the appropriate committees of the legislature no later than December 31, 1995. [1993 sp.s. c 4 § 10.]

Findings—Grazing lands—1993 sp.s. c 4: See note following RCW 75.28.760.

43.20.240 Public water systems—Complaint process. (1) The department shall have primary responsibility among state agencies to receive complaints from persons aggrieved by the failure of a public water system. If the remedy to the complaint is not within the jurisdiction of the department, the department shall refer the complaint to the state or local agency that has the appropriate jurisdiction. The department shall take such steps as are necessary to inform other state agencies of their primary responsibility for such complaints and the implementing procedures.

(2) Each county shall designate a contact person to the department for the purpose of receiving and following up on complaint referrals that are within county jurisdiction. In the absence of any such designation, the county health officer shall be responsible for performing this function.

(3) The department and each county shall establish procedures for providing a reasonable response to complaints received from persons aggrieved by the failure of a public water system.

(4) The department and each county shall use all reasonable efforts to assist customers of public water systems in obtaining a dependable supply of water at all times. The availability of resources and the public health significance of the complaint shall be considered when determining what constitutes a reasonable effort.

(5) The department shall, in consultation with local governments, water utilities, water districts, public utility districts, and other interested parties, develop a booklet or other single document that will provide to members of the public the following information:

(a) A summary of state law regarding the obligations of public water systems in providing drinking water supplies to their customers;

(b) A summary of the activities, including planning, rate setting, and compliance, that are to be performed by both local and state agencies;

(c) The rights of customers of public water systems, including identification of agencies or offices to which they may address the most common complaints regarding the failures or inadequacies of public water systems.

This booklet or document shall be available to members of the public no later than January 1, 1991. [1990 c 132 § 3.]

Legislative findings—1990 c 132: "The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use planning and public health and safety; and

(3) Existing procedures and processes for water system planning are strengthened and fully implemented by state agencies, local government, and public water systems." [1990 c 132 § 1.]

Severability—1990 c 132: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 132 § 7.]

Chapter 43.20A

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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43.20A.010 Purpose. The department of social and health services is designed to integrate and coordinate all those activities involving provision of care for individuals who, as a result of their economic, social or health condition, require financial assistance, institutional care, rehabilitation or other social and health services. In order to provide for maximum efficiency of operation consistent with meeting the needs of those served or affected, the department will encompass substantially all of the powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the

veterans' rehabilitation council and the division of vocational rehabilitation of the coordinating council on occupational education. The department will concern itself with changing social needs, and will expedite the development and implementation of programs designed to achieve its goals. In furtherance of this policy, it is the legislative intent to set forth only the broad outline of the structure of the department, leaving specific details of its internal organization and management to those charged with its administration. [1989 1st ex.s. c 9 § 211; 1979 c 141 § 60; 1970 ex.s. c 18 § 1.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Effective date—1970 ex.s. c 18: *"Except as otherwise in this amendatory act provided, this 1970 amendatory act shall take effect on July 1, 1970." [1970 ex.s. c 18 § 69.]

***Reviser's note:** Phrase "Except as otherwise in this amendatory act provided" refers to 1970 ex.s. c 18 § 67, uncodified, which pertained to laws amended in existing education code and as the same were reenacted in the new education code, effective July 1, 1970, not otherwise pertinent hereto.

Severability—1970 ex.s. c 18: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application to other persons or circumstances, is not affected." [1970 ex.s. c 18 § 70.]

43.20A.020 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "Deputy secretary" means the deputy secretary of the department of social and health services.

(4) "Overpayment" means any department payment or department benefit to a recipient or to a vendor in excess of that to which the recipient or vendor is entitled by law, rule, or contract, including amounts in dispute pending resolution.

(5) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions. [1987 c 283 § 1; 1979 c 141 § 61; 1970 ex.s. c 18 § 2.]

Severability—1987 c 283: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 283 § 17.]

Savings—1987 c 283: "The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is in existence on July 26, 1987." [1987 c 283 § 18.]

43.20A.030 Department created—Powers and duties transferred to. There is hereby created a department of state government to be known as the department of social and health services. All powers, duties and functions vested by law on June 30, 1970, in the department of public assistance, the department of institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education are transferred to the department. Powers, duties and functions to be transferred shall include, but not be limited to, all those powers, duties and functions involving cooperation with other governmental units, such as cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid pro-

grams. [1989 1st ex.s. c 9 § 212; 1979 c 141 § 62; 1970 ex.s. c 18 § 3.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Department of social and health services created: RCW 43.17.030.

43.20A.035 Inventory of charitable, educational, penal, and reformatory land. The department shall conduct an inventory of real properties as provided in RCW 79.01.006. [1991 c 204 § 2.]

43.20A.037 Affordable housing—Inventory of suitable housing. (1) The department shall identify and catalog real property that is no longer required for department purposes and is suitable for the development of affordable housing for very low-income, and moderate-income households as defined in RCW 43.63A.510. The inventory shall include the location, approximate size, and current zoning classification of the property. The department shall provide a copy of the inventory to the *department of community development by November 1, 1993, and every November 1 thereafter.

(2) By November 1 of each year, beginning in 1994, the department shall purge the inventory of real property of sites that are no longer available for the development of affordable housing. The department shall include an updated listing of real property that has become available since the last update. As used in this section, "real property" means buildings, land, or buildings and land. [1993 c 461 § 8.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Finding—1993 c 461: See note following RCW 43.63A.510.

43.20A.040 Secretary of social and health services—Appointment—Term—Salary—Temporary appointment if vacancy—As executive head and appointing authority. The executive head and appointing authority of the department shall be the secretary of social and health services. He shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. He shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. [1970 ex.s. c 18 § 4.]

43.20A.050 Secretary of social and health services—Powers and duties generally—Employment of assistants and personnel, limitation. It is the intent of the legislature wherever possible to place the internal affairs of the department under the control of the secretary in order that he may institute therein the flexible, alert and intelligent management of its business that changing contemporary circumstances require. Therefore, whenever his authority is not specifically limited by law, he shall have complete charge and supervisory powers over the department. He is authorized to create such administrative structures as he may deem appropriate, except as otherwise specified by law. The secretary shall

have the power to employ such assistants and personnel as may be necessary for the general administration of the department: PROVIDED, That, except as elsewhere specified, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1979 c 141 § 63; 1970 ex.s. c 18 § 5.]

43.20A.060 Departmental divisions—Plan establishing and organizing. The department of social and health services shall be subdivided into divisions, including a division of vocational rehabilitation. Except as otherwise specified or as federal requirements may differently require, these divisions shall be established and organized in accordance with plans to be prepared by the secretary and approved by the governor. In preparing such plans, the secretary shall endeavor to promote efficient public management, to improve programs, and to take full advantage of the economies, both fiscal and administrative, to be gained from the consolidation of the departments of public assistance, institutions, the veterans' rehabilitation council, and the division of vocational rehabilitation of the coordinating council on occupational education. [1989 1st ex.s. c 9 § 213; 1979 c 141 § 64; 1970 ex.s. c 18 § 6.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

43.20A.090 Deputy secretary—Department personnel director—Assistant secretaries—Appointment—Duties—Salaries. The secretary shall appoint a deputy secretary, a department personnel director and such assistant secretaries as shall be needed to administer the department. The deputy secretary shall have charge and general supervision of the department in the absence or disability of the secretary, and in case of a vacancy in the office of secretary, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting secretary. The secretary shall appoint an assistant secretary to administer the juvenile rehabilitation responsibilities required of the department by chapters 13.04, 13.40, and 13.50 RCW. The officers appointed under this section, and exempt from the provisions of the state civil service law by the terms of RCW 41.06.076, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1994 1st sp.s. c 7 § 515; 1970 ex.s. c 18 § 7.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.20A.100 Certain personnel exempted from state civil service law—Minimum qualifications for confidential secretaries. See RCW 41.06.076.

43.20A.110 Secretary's delegation of powers and duties. The secretary may delegate any power or duty vested in or transferred to him by law, or executive order, to his deputy secretary or to any other assistant or subordinate; but the secretary shall be responsible for the official acts of the officers and employees of the department. [1970 ex.s. c 18 § 9.]

43.20A.130 Secretary or designee as member of state board of health. See RCW 43.20.030.

43.20A.158 Health protection for certain children, expectant mothers and adult retarded, powers and duties of secretary of health. See RCW 74.15.060.

43.20A.160 Department as state radiation control agency. See RCW 70.98.050.

43.20A.165 Federal Safe Drinking Water Act—Department to participate in and administer in conjunction with other departments. See RCW 43.21A.445.

43.20A.167 Federal Older Americans Act of 1965—Department to participate in and administer. See RCW 74.36.100.

43.20A.168 Community programs and projects for the aging. See RCW 74.36.110 through 74.36.130.

43.20A.205 Denial, suspension, revocation, or modification of license. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(3) A license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification

and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1989 c 175 § 95.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.20A.215 Assessment of civil fine. This section governs the assessment of a civil fine against a person by the department.

(1) The department shall written give [written] notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1989 c 175 § 96.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.20A.240 Veterans' rehabilitation council under department's jurisdiction—Secretary's duties. See chapter 43.61 RCW.

43.20A.300 Department as state agency for receipt of federal funds for vocational rehabilitation—Exception. Except as provided in RCW 74.18.060, the department of social and health services shall serve as the sole agency of

the state for the receipt of federal funds made available by acts of congress for vocational rehabilitation within this state. [1983 c 194 § 28; 1977 ex.s. c 40 § 15; 1970 ex.s. c 18 § 40.]

Severability—Effective dates—1983 c 194: See RCW 74.18.902 and 74.18.903.

Severability—1977 ex.s. c 40: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 40 § 25.]

43.20A.310 Vocational rehabilitation, powers and duties of secretary or designee. In addition to his other powers and duties, the secretary or his designee, shall have the following powers and duties:

(1) To prepare, adopt and certify the state plan for vocational rehabilitation;

(2) With respect to vocational rehabilitation, to adopt necessary rules and regulations and do such other acts not forbidden by law necessary to carry out the duties imposed by state law and the federal acts;

(3) To carry out the aims and purposes of the acts of congress pertaining to vocational rehabilitation. [1979 c 141 § 65; 1970 ex.s. c 18 § 42.]

43.20A.320 Consultation with coordinating council for occupational education. The secretary or his designee shall consult with the coordinating council for occupational education in order to maintain close contact with developing programs of vocational education, particularly as such programs may affect programs undertaken in connection with vocational rehabilitation. [1970 ex.s. c 18 § 43.]

43.20A.350 Committees and councils—Declaration of purpose. The legislature declares that meaningful citizen involvement with and participation in the planning and programs of the department of social and health services are essential in order that the public may better understand the operations of the department, and the department staff may obtain the views and opinions of concerned and affected citizens. As a result of the creation of the department of social and health services and the resulting restructuring of programs and organization of the department's components, and as a further result of the legislative mandate to the department to organize and deliver services in a manner responsive to changing needs and conditions, it is necessary to provide for flexibility in the formation and functioning of the various committees and councils which presently advise the department, to restructure the present committees and councils, and to provide for new advisory committees and councils, so that all such committees and councils will more appropriately relate to the changing programs and services of the department. [1971 ex.s. c 189 § 1.]

43.20A.360 Committees and councils—Appointment—Memberships—Terms—Vacancies—Travel expenses. (1) The secretary is hereby authorized to appoint such advisory committees or councils as may be required by any federal legislation as a condition to the receipt of federal funds by the department. The secretary may appoint state-wide committees or councils in the

following subject areas: (a) Health facilities; (b) children and youth services; (c) blind services; (d) medical and health care; (e) drug abuse and alcoholism; (f) social services; (g) economic services; (h) vocational services; (i) rehabilitative services; and on such other subject matters as are or come within the department's responsibilities. The secretary shall appoint committees or councils advisory to the department in each service delivery region to be designated by the secretary. The state-wide and the regional councils shall have representation from both major political parties and shall have substantial consumer representation. Such committees or councils shall be constituted as required by federal law or as the secretary in his or her discretion may determine. The members of the committees or councils shall hold office for three years except in the case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive terms.

(2) Members of such state advisory committees or councils may be paid their travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Members of regional advisory committees may, in the discretion of the secretary, be paid the same travel expenses as set forth above. [1989 1st ex.s. c 9 § 214; 1989 c 11 § 14; 1984 c 259 § 1; 1981 c 151 § 6; 1977 c 75 § 45; 1975-'76 2nd ex.s. c 34 § 98; 1971 ex.s. c 189 § 2.]

Reviser's note: This section was amended by 1989 c 11 § 14 and by 1989 1st ex.s. c 9 § 214, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1989 c 11: See note following RCW 9A.56.220.

Effective date—1981 c 151: See note following RCW 43.20A.680.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.20A.370 State advisory committee to department—Created—Membership—Terms—Vacancies. There is hereby created a state advisory committee to the department of social and health services which shall serve in an advisory capacity to the secretary of the department of social and health services. The committee shall be composed of not less than nine nor more than twenty members, to be appointed by the governor, who shall appoint a chairman, who shall serve as such at the governor's pleasure. In selecting members of the committee, the governor shall provide for a reasonable age, sex, ethnic, and geographic balance from throughout the state. A broad range of interests, including business owners, professions, labor, local government, and consumers should be considered for membership. The members of the committee shall serve three years. Appointments to fill a vacant unexpired term shall be only for the remainder of the unexpired term for which the vacancy occurs. No member shall serve more than two consecutive full terms. An unexpired term is considered a full term when one-half or more of the regular term is served. A member of the state advisory committee with two unexcused absences in a twelve-month period shall be deemed to have vacated the position held on the state

advisory committee. [1988 c 49 § 1; 1984 c 259 § 2; 1971 ex.s. c 189 § 13.]

43.20A.375 State advisory committee to department—Powers and duties. The state advisory committee shall have the following powers and duties:

(1) To serve in an advisory capacity to the secretary on all matters pertaining to the department of social and health services.

(2) To acquaint themselves fully with the operations of the department and periodically recommend such changes to the secretary as they deem advisable.

(3) To review and make recommendations as to the continued operation, possible consolidation, or elimination of department advisory committees including those required by federal law or specifically created by statute. The review shall include review of the statement of purpose for each advisory committee and the time frames during which the committee is accountable to achieve its stated purposes. The state advisory committee shall conduct the review and report to the appropriate legislative committees no later than January 1, 1989.

(4) To encourage public awareness and understanding of the department of social and health services and the department's programs and services.

(5) To develop agendas to foster periodic meetings with and communication between representatives of program-specific advisory committees.

(6) To encourage each regional advisory committee established under RCW 43.20A.360 to send a representative to regular state advisory committee meetings to foster communication between the regional advisory committees and: (a) The state advisory committee, and (b) headquarters of the department. [1988 c 49 § 2; 1984 c 259 § 3; 1971 ex.s. c 189 § 14.]

43.20A.380 State advisory committee to department—Travel expenses. Members of the state advisory committee shall be reimbursed for travel expenses in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 99; 1971 ex.s. c 189 § 15.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.20A.390 Per diem or mileage—Limitation. Notwithstanding any other provision of *this act, no person shall receive as compensation or reimbursement for per diem or mileage authorized in *this act any amount that would exceed the per diem or mileage provided in RCW 43.03.050 and 43.03.060. [1971 ex.s. c 189 § 16.]

***Reviser's note:** "This act" [1971 ex.s. c 189] consists of the 1971 amendments to RCW 18.20.090, 18.45.130, 43.61.030, 43.61.040, 43.61.060, 70.41.020, 70.41.030, 70.98.050, 72.60.270, 72.60.280; the enactment of RCW 43.20A.350 through 43.20A.390; and the repeal of RCW 18.20.080, 18.45.520 through 18.45.540, 43.20A.230, 43.61.010, 43.61.020, 69.30.040, 70.40.050, 70.41.050 through 70.41.070, 70.98.060, 72.01.250, 72.05.180, 72.05.190, 74.32.010 through 74.32.900, 74.36.010 through 74.36.040.

43.20A.400 Purchase of services from public or nonprofit agencies—Utilization of nonappropriated funds. Notwithstanding any other provisions of law, the secretary of the department of social and health services is authorized to utilize nonappropriated funds made available to the department, in order to compliment the social and health services programs of the department by purchase of services from public or nonprofit agencies. The purpose of this authorization is to augment the services presently offered and to achieve pooling of public and nonprofit resources. [1971 ex.s. c 309 § 1.]

43.20A.405 Purchase of services from public or nonprofit agencies—Vendor rates—Establishment. After obtaining the review and advice of the governor's advisory committee on vendor rates, the secretary shall establish rates of payment for services which are to be purchased: **PROVIDED,** That the secretary shall afford all interested persons reasonable opportunity to submit data, views, or arguments, and shall consider fully all submissions respecting the proposed rates. Prior to the establishment of such rates, the secretary shall give at least twenty days notice of such intended action by mail to such persons or agencies as have made timely request of the secretary for advance notice of establishment of such vendor rates. Such rates shall not exceed the amounts reasonable and necessary to assure quality services and shall not exceed the costs reasonably assignable to such services pursuant to cost finding and monitoring procedures to be established by the secretary. Information to support such rates of payment shall be maintained in a form accessible to the public. [1971 ex.s. c 309 § 2.]

43.20A.410 Purchase of services from public or nonprofit agencies—Factors to be considered. In determining whether services should be purchased from other public or nonprofit agencies, the secretary shall consider:

- (1) Whether the particular service or services is available or might be developed.
- (2) The probability that program and workload performance standards will be met, by means of the services purchased.
- (3) The availability of reasonably adequate cost finding and performance evaluation criteria.

Nothing in RCW 43.20A.400 through 43.20A.430 is to be construed to authorize reduction in state employment in service component areas presently rendering such services. [1971 ex.s. c 309 § 3.]

43.20A.415 Purchase of services from public or nonprofit agencies—Retention of basic responsibilities by secretary. When, pursuant to RCW 43.20A.400 through 43.20A.430, the secretary elects to purchase a service or services, he shall retain continuing basic responsibility for:

- (1) Determining the eligibility of individuals for services;
- (2) The selection, quality, effectiveness, and execution of a plan or program of services suited to the need of an individual or of a group of individuals; and
- (3) Measuring the cost effectiveness of purchase of services. [1971 ex.s. c 309 § 4.]

43.20A.420 Purchase of services from public or nonprofit agencies—Secretary to provide consultative, technical and development services to suppliers—Review of services. The secretary shall work with the suppliers of purchased services by:

- (1) Providing consultation and technical assistance;
- (2) Monitoring and periodically reviewing services in order to assure satisfactory performance including adherence to state prescribed workload and quality standards; and
- (3) Developing new and more effective and efficient approaches to and methods of delivering services. [1971 ex.s. c 309 § 5.]

43.20A.425 Purchase of services from public or nonprofit agencies—Qualifications of vendors. The secretary shall assure that sources from which services are purchased are: (1) Licensed, or (2) meet applicable accrediting standards, or (3) in the absence of licensing or accrediting standards, meet standards or criteria established by the secretary to assure quality of service: **PROVIDED,** That this section shall not be deemed to dispense with any licensing or accrediting requirement imposed by any other provision of law, by any county or municipal ordinance, or by rule or regulation of any public agency. [1971 ex.s. c 309 § 6.]

43.20A.430 Purchase of services from public or nonprofit agencies—Retention of sums to pay departmental costs. The secretary shall, if not otherwise prohibited by law, pursuant to agreement between the department and the agency in each contract, retain from such nonappropriated funds sufficient sums to pay for the department's administrative costs, monitoring and evaluating delivery of services, and such other costs as may be necessary to administer the department's responsibilities under RCW 43.20A.400 through 43.20A.430. [1971 ex.s. c 309 § 7.]

43.20A.445 State-operated workshops at institutions—Authorized—Standards. The department may establish and operate workshops for the training, habilitation, and rehabilitation of residents of institutions of the department. Products, goods, wares, articles, or merchandise manufactured or produced by the workshops may be sold to governmental agencies or on the open market at fair value. Prior to establishment of new state-operated workshops at institutions, the department shall consider the availability, appropriateness, and relative cost of contracting with and giving first preference to private nonprofit sheltered workshops, as defined in RCW 82.04.385, to provide workshop activities for residents of the institution.

The secretary shall credit the moneys derived from the sale of items from workshops under this section to a revolving fund under the control of the superintendent of the institution or facility where the items were manufactured. These moneys shall be expended for the purchase of supplies and materials for use in the workshop, to provide pay and training incentives for residents, and for other costs of the operation of the workshop. Payment of residents for work performed on workshop projects shall take into account resident productivity in comparison to the productivity of a nondisabled person earning the minimum wage as well as other factors consistent with goals of rehabilitation and

treatment. Institutional work training programs shall be operated in accordance with standards required by the department for private vendors for the same or similar service.

Workshop materials and supplies may be purchased through state purchasing or from private vendors. Each institution or facility shall maintain records to demonstrate that purchases are made at the fair market value or best available price. [1983 1st ex.s. c 41 § 20.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

43.20A.550 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Statutes to be construed to meet federal law—Conflicting parts deemed inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs under the jurisdiction of the department, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt of federal funds. Any section or provision of law dealing with the department which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any law dealing with the department is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of *this act is declared to be inoperative solely to the extent of the conflict. [1979 c 141 § 66; 1970 ex.s. c 18 § 66.]

***Reviser's note:** "This act" refers to the enactment of RCW 41.06.076, 43.20A.010, 43.20A.020, 43.20A.030, 43.20A.040, 43.20A.050, 43.20A.060, 43.20A.090, 43.20A.110, 43.20A.120, 43.20A.140, 43.20A.180, 43.20A.190, 43.20A.200, 43.20A.210, 43.20A.220, 43.20A.230, 43.20A.300, 43.20A.310, 43.20A.320, 43.20A.500, 43.20A.505, 43.20A.510, 43.20A.515, 43.20A.520, 43.20A.525, 43.20A.550, 43.20A.900, 43.20A.910, and 43.20A.920 and to the 1970 ex.s. c 18 amendments to RCW 28.10.010, 28.10.080, 28.85.160, 28.85.220, 28A.10.010, 28A.10.080, 28B.50.160, 28B.50.220, 43.17.010, 43.17.020, 43.20.030, 43.61.010, 43.61.020, 43.61.030, 43.61.040, 43.61.050, 43.61.070, 70.98.050, 70.98.060, 70.98.070, 72.01.010, 72.01.042, 72.01.043, 72.02.040, 72.05.020, 72.06.010, 74.15.060, 74.32.051, 74.32.053, 74.36.010, 74.36.020, 74.36.030, 74.36.040, and 74.36.100.

43.20A.605 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before him together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings are governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions

shall be governed by RCW 34.05.588(2). [1989 c 175 § 97; 1983 1st ex.s. c 41 § 21; 1979 c 141 § 47; 1967 ex.s. c 102 § 2. Formerly RCW 43.20.015.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20A.607 Authority to appoint a single executive officer for multiple institutions—Exception. The secretary may appoint one individual to serve as chief executive officer, administrator, or superintendent for more than one facility or institution of the department where one or both facilities or institutions are required by law to have a chief executive officer, administrator, or superintendent. This section, however, shall not apply to RCW 72.40.020. [1983 1st ex.s. c 41 § 25.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

Chief executive officers—Appointment: RCW 72.01.060.

43.20A.610 Employment of deputies, experts, physicians, etc. The secretary may appoint and employ such deputies, scientific experts, physicians, nurses, sanitary engineers, and other personnel including consultants, and such clerical and other assistants as may be necessary to carry on the work of the department of social and health services. [1979 c 141 § 48; 1967 ex.s. c 102 § 8; 1965 c 8 § 43.20.040. Prior: 1961 ex.s. c 5 § 1; 1921 c 7 § 57; RRS § 10815. Formerly RCW 43.20.040.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20A.635 Services to crippled children. It shall be the duty of the secretary of social and health services and he shall have the power to establish and administer a program of services for children who are crippled or who are suffering from physical conditions which lead to crippling, which shall provide for developing, extending, and improving services for locating such children, and for providing for medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and after care; to supervise the administration of those services, included in the program, which are not administered directly by it; to extend and improve any such services, including those in existence on April 1, 1941; to cooperate with medical, health, nursing, and welfare groups and organizations, and with any agency of the state charged with the administration of laws providing for vocational rehabilitation of physically handicapped children; to cooperate with the federal government, through its appropriate agency or instrumentality in developing, extending, and improving such services; and to receive and expend all funds made available to the department by the federal government, the state or its political subdivisions or from other sources, for such purposes. [1979 c 141 § 52; 1965 c 8 § 43.20.130. Prior: 1941 c 129 § 1; Rem. Supp. 1941 § 9992-107a; prior: 1937 c 114 § 7. Formerly RCW 74.12.210; 43.20.130.]

Children's center for research and training in mental retardation, assistant secretaries as members of advisory committee: RCW 28B.20.412.

Handicapped children

copy of commitment order transmitted to department: RCW 26.40.060.

statistical data: RCW 70.58.340.

43.20A.637 Services to crippled children—Rules and regulations. See RCW 43.20.140.

43.20A.660 Reports of violations by secretary—Duty of attorney general, prosecuting attorney or city attorney to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20A RCW, or regulations promulgated thereunder, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20A RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [1989 1st ex.s. c 9 § 215; 1979 c 141 § 57; 1967 ex.s. c 102 § 7. Formerly RCW 43.20.190.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.20A.680 State council on aging established. The state council on aging is hereby established as an advisory council to the governor, the secretary of social and health services, and the office of aging or any other office solely designated as the state unit on aging. The state council on aging may be designated by the governor to serve as the state advisory council to the state unit on aging with respect to federally funded programs as required by federal regulation. The director of the state unit on aging shall provide appropriate staff support. [1981 c 151 § 1.]

Effective date—1981 c 151: "This act shall take effect September 1, 1981." [1981 c 151 § 8.]

43.20A.685 State council on aging—Membership—Terms—Vacancies—Chairperson—Secretary—Compensation of legislative members. (1) The initial members of the council shall be appointed by the governor to staggered terms such that approximately one-third of the members serve terms of one year, one-third serve terms of two years, and one-third serve terms of three years. Thereafter, members of the council shall be appointed by the governor to terms of three years, except in the case of a vacancy, in which event appointment shall be for the remainder of the unexpired term for which the vacancy occurs. No member of the council may serve more than two consecutive three-year terms. One member shall be appointed from each state-designated planning and service area from a list of names transmitted by each area agency on aging advisory council, such list including the names of all persons nominated within the planning and service area together with the area agency on aging advisory council's recommendations. The governor shall appoint one additional member from names submitted by the association of Washington cities and one additional member from names submitted by the Washington state association of counties. In addition,

the governor may appoint not more than five at large members, in order to ensure that rural areas (those areas outside of a standard metropolitan statistical area), minority populations, and those individuals with special skills which could assist the state council are represented. The members of the state council on aging shall elect, at the council's initial meeting and at the council's first meeting each year, one member to serve as chairperson of the council and another member to serve as secretary of the council.

(2) The speaker of the house of representatives and the president of the senate shall each appoint two nonvoting members to the council; one from each of the two largest caucuses in each house. The terms of the members so appointed shall be for approximately two years and the terms shall expire before the first day of the legislative session in odd-numbered years. They shall be compensated by their respective houses as provided under RCW 44.04.120, as now or hereafter amended.

(3) With the exception of the members from the Washington state association of cities, the Washington state association of counties, and the nonvoting legislative members, all members of the council shall be at least fifty-five years old. [1981 c 151 § 2.]

Effective date—1981 c 151: See note following RCW 43.20A.680.

43.20A.690 State council on aging—Meetings—Compensation of nonlegislative members. The state council on aging shall meet monthly unless determined otherwise by a majority vote of the members, which vote shall be taken at a regular meeting of the council. Nonlegislative members shall serve without compensation but shall be reimbursed for travel expenses and per diem in the performance of their duties as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1981 c 151 § 3.]

Effective date—1981 c 151: See note following RCW 43.20A.680.

43.20A.695 State council on aging—Powers and duties—Bylaws. (1) The state council on aging has the following powers and duties:

(a) To serve in an advisory capacity to the governor, the secretary of social and health services, and the state unit on aging on all matters pertaining to policies, programs, and services affecting older persons;

(b) To create public awareness of the special needs and potentialities of older persons; and

(c) To provide for self-advocacy by older citizens of the state through sponsorship of training, legislative and other conferences, workshops, and such other methods as may be deemed appropriate.

(2) The council shall establish bylaws to aid in the performance of its powers and duties. [1981 c 151 § 4.]

Effective date—1981 c 151: See note following RCW 43.20A.680.

43.20A.710 State employment in the supervision, provision, care, or treatment of children or individuals with mental illness or developmental disabilities—Investigation of conviction records or pending charges. The secretary shall investigate the conviction records, pending charges or disciplinary board final decisions of: (1) Persons being considered for state employment in positions

directly responsible for the supervision, care, or treatment of children or individuals with mental illness or developmental disabilities; and (2) individual providers who are paid by the state for in-home services and hired by individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment. The investigation may include an examination of state and national criminal identification data and the child abuse and neglect register established under chapter 26.44 RCW. The secretary shall provide the results of the state background check on individual providers to the individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who hired them and to their legal guardians, if any. The secretary shall use the information solely for the purpose of determining the character, suitability, and competence of these applicants except that in the case of individuals with physical disabilities, developmental disabilities, mental illness, or mental impairment who employ individual providers, the determination of character, suitability, and competence of applicants shall be made by the individual with a physical disability, developmental disability, mental illness, or mental impairment. Criminal justice agencies shall provide the secretary such information as they may have and that the secretary may require for such purpose. If necessary, persons may be employed on a conditional basis pending completion of the background investigation. [1993 c 210 § 1; 1989 c 334 § 13; 1986 c 269 § 1.]

Prospective application—1993 c 210: "This act applies prospectively except individuals who currently employ individual providers paid by the state may be given the option to request a state background check during reassessment for services." [1993 c 210 § 2.]

Children or vulnerable adults: RCW 43.43.830 through 43.43.842.

State employment in the supervision, care, or treatment of children or developmentally disabled persons—Rules on background investigation: RCW 41.06.475.

State hospitals: RCW 72.23.035.

43.20A.720 Telecommunications devices and services for the hearing and speech impaired—Definitions. "Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

"Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

"Text telephone (TT)," formerly known as a telecommunications device for the deaf (TDD) means a telecommunications device that has a typewriter or computer keyboard and a readable display that couples with the telephone, allowing messages to be typed rather than spoken. The device allows a person to make a telephone call directly to another person possessing similar equipment. The conversation is typed through one machine to the other machine instead of spoken.

"Telecommunications relay service (TRS)" is a service for hearing and speech impaired people who have a TT to call someone who does not have a TT or vice versa. The service consists of several telephones being utilized by TRS communications assistants who receive either TT or voice phone calls. If a TRS communications assistant receives a phone call from a hearing or speech impaired person wishing to call a hearing person, the operator will call the hearing

person and act as an intermediary by translating what is displayed on the TT to voice and typing what is voiced into the TT to be read by the hearing or speech impaired caller. This process can also be reversed with a hearing person calling a deaf person through the telecommunications relay service. "TRS program" as used in this chapter includes both the relay function and TTs.

"Qualified trainer" is a person who is knowledgeable about TTs, signal devices, and amplifying accessories; familiar with the technical aspects of equipment designed to meet hearing impaired people's needs; and is fluent in American sign language.

"Qualified contractor" shall have staff bilingual in American sign language and standard English available for quality language/cultural interpretations; quality training of operators; and policies, training, and operational procedures to be determined by the office.

"The department" means the department of social and health services of the state of Washington.

"Office" means the office of deaf services within the state department of social and health services. [1992 c 144 § 2; 1990 c 89 § 2; 1987 c 304 § 2.]

Legislative findings—1992 c 144: "The legislature finds that the state of Washington has shown national leadership in providing telecommunications access for the hearing impaired and speech impaired communities. The legislature further finds that the federal Americans with Disabilities Act requires states to further enhance telecommunications access for disabled persons and that the state should be positioned to allow this service to be delivered with fairness, flexibility, and efficiency." [1992 c 144 § 1.]

Severability—1992 c 144: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 144 § 6.]

Legislative finding—1990 c 89: "The legislature finds that provision of telecommunications devices and relay capability for hearing impaired persons is an effective and needed service which should be continued. The legislature further finds that the same devices and relay capability can serve and should be extended to serve speech impaired persons." [1990 c 89 § 1.]

Legislative findings—1987 c 304: "The legislature finds that it is more difficult for hearing impaired people to have access to the telecommunications system than hearing persons. It is imperative that hearing impaired people be able to reach government offices and health, human, and emergency services with the same ease as other taxpayers. Regulations to provide telecommunications devices for the deaf with a relay system will help ensure that the hearing impaired community has equal access to the public accommodations and telecommunications system in the state of Washington in accordance with chapter 49.60 RCW." [1987 c 304 § 1.]

Relation to other telecommunications device systems—1987 c 304: "Nothing in RCW 43.20A.725 and 43.20A.730 is inconsistent with any telecommunications device systems created by county legislative authorities under RCW 70.54.180. To the extent possible, the office, utilities and transportation commission, the TDD advisory committee, and any other persons or organizations implementing the provisions of RCW 43.20A.725 and 43.20A.730 will use the telecommunications devices already in place and work with county governments in ensuring that no duplication of services occurs." [1987 c 304 § 5.]

Short title—1987 c 304: "This act shall be known as the "Clyde Randolph Ketchum Act"." [1987 c 304 § 6.]

43.20A.725 Telecommunications devices for the hearing and speech impaired—Program for provision of devices—Generally—TRS excise tax—Report. (1) The department shall maintain a program whereby TTs, signal devices, and amplifying accessories capable of serving the needs of the hearing and speech impaired shall be provided

under the standards established in subsection (11) of this section to an individual of school age or older:

(a) Who is certified as hearing impaired by a licensed physician, audiologist, or a qualified state agency, and to any subscriber that is an organization representing the hearing impaired, as determined and specified by the TRS program advisory committee; or

(b) Who is certified as speech impaired by a licensed physician, speech pathologist, or a qualified state agency, and to any subscriber that is an organization representing the speech impaired, as determined and specified by the TRS program advisory committee.

For the purpose of this section, certification implies that individuals cannot use the telephone for expressive or receptive communications due to hearing or speech impairment.

(2) The office shall award contracts on a competitive basis, to qualified persons for which eligibility to contract is determined by the office, for the distribution and maintenance of such TTs, signal devices, and amplifying accessories as shall be determined by the office. When awarding such contracts, the office may consider the quality of equipment and, with the director's approval, may award contracts on a basis other than cost. Such contracts may include a provision for the employment and use of a qualified trainer and the training of recipients in the use of such devices.

(3) The office shall establish and implement a policy for the ultimate responsibility for recovery of TTs, signal devices, and amplifying accessories from recipients who have been provided with the equipment without cost and who are moving from this state or who for other reasons are no longer using them.

(4) Pursuant to recommendations of the TRS program advisory committee, until July 26, 1993, the office shall maintain a program whereby a relay system will be provided state-wide using operator intervention to connect hearing impaired and speech impaired persons and offices or organizations representing the hearing impaired and speech impaired, as determined and specified by the TDD advisory committee pursuant to RCW 43.20A.730. The relay system shall be the most cost-effective possible and shall operate in a manner consistent with federal requirements for such systems.

(5) Pursuant to the recommendations of the TDD task force report of December 1991, and with the express purpose of maintaining state control and jurisdiction, the office shall seek certification by the federal communications commission of the state-wide relay service.

(6) The office shall award contracts for the operation and maintenance of the state-wide relay service. The initial contract shall be for service commencing on or before July 26, 1993. The contract shall be awarded to an individual company registered as a telecommunications company by the utilities and transportation commission, to a group of registered telecommunications companies, or to any other company or organization determined by the office as qualified to provide relay services, contingent upon that company or organization being approved as a registered telecommunications company prior to final contract approval.

(7) The program shall be funded by a telecommunications relay service (TRS) excise tax applied to each switched

access line provided by the local exchange companies. The office shall determine, in consultation with the TRS program advisory committee, the budget needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. The budget proposed by the office, together with documentation and supporting materials, shall be submitted to the office of financial management for review and approval. The approved budget shall be given by the department in an annual budget to the utilities and transportation commission no later than March 1 prior to the beginning of the fiscal year. The utilities and transportation commission shall then determine the amount of TRS excise tax to be placed on each access line and shall inform each local exchange company of this amount no later than May 15. The utilities and transportation commission shall determine the amount of TRS excise tax by dividing the total of the program budget, as submitted by the office, by the total number of access lines, and shall not exercise any further oversight of the program under this subsection. The TRS excise tax shall not exceed nineteen cents per month per access line. Each local exchange company shall impose the amount of excise tax determined by the commission as of July 1, and shall remit the amount collected directly to the department on a monthly basis. The TRS excise tax shall be separately identified on each ratepayer's bill with the following statement: "Funds federal ADA requirement." All proceeds from the TRS excise tax shall be put into a fund to be administered by the office through the department.

(8) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services in accordance with the provisions of RCW 43.20A.725.

(9) The department shall provide the legislature with a biennial report on the operation of the program. The first report shall be provided no later than December 1, 1990, and successive reports every two years thereafter. Reports shall be prepared in consultation with the TRS program advisory committee and the utilities and transportation commission. The reports shall, at a minimum, briefly outline the accomplishments of the program, the number of persons served, revenues and expenditures, the prioritizing of services to those eligible based on such factors as degree of physical handicap or the allocation of the program's revenue between provision of devices to individuals and operation of the state-wide relay service, other major policy or operational issues, and proposals for improvements or changes for the program. The first report shall contain a study which includes examination of like programs in other states, alternative methods of financing the program, alternative methods of using the telecommunications system, advantages and disadvantages of operating the TRS program from within the department, by telecommunications companies, and by a private, nonprofit corporation, and means to limit demand for system usage.

(10) The program shall be consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the deaf or hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for ensuring compliance with federal requirements and shall

provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

(11)(a) The department shall provide TTs, signal devices, and amplifying accessories to a person eligible under subsection (1) of this section at no charge in addition to the basic exchange rate if:

(i) The person is eligible for participation in the Washington telephone assistance program under RCW 80.36.470;

(ii) The person's annual family income is equal to or less than one hundred sixty-five percent of the federal poverty level; or

(iii) The person is a child eighteen years of age or younger with a family income less than or equal to two hundred percent of the federal poverty level.

(b) A person eligible under subsection (1) of this section with a family income greater than one hundred sixty-five percent and less than or equal to two hundred percent of the federal poverty level shall be assessed a charge for the cost of TTs, signal devices, and amplifying accessories based on a sliding scale of charges established by rule adopted by the department.

(c) The department shall charge a person eligible under subsection (1) of this section whose income exceeds two hundred percent of the federal poverty level the cost to the department of purchasing the equipment provided to that person.

(d) The department may waive part or all of the charges assessed under this subsection if the department finds that (i) the eligible person requires telebraille equipment or other equipment of similar cost and (ii) the charges normally assessed for the equipment under this subsection would create an exceptional or undue hardship on the eligible person.

(e) For the purposes of this subsection, certification of family income by the eligible person or the person's guardian or head of household is sufficient to determine eligibility. [1993 c 425 § 1; 1992 c 144 § 3; 1990 c 89 § 3; 1987 c 304 § 3.]

Effective date—1993 c 425: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 15, 1993]." [1993 c 425 § 2.]

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

Legislative finding—1990 c 89: See note following RCW 43.20A.720.

43.20A.730 TRS program advisory committee—Generally. (1) The department advisory committee on deafness shall establish a TRS program advisory committee to oversee operation of the TRS program. The TRS program advisory committee shall consist of no more than thirteen individuals representing the hearing impaired and speech impaired communities, the department, the utilities and transportation commission, agencies and services serving the hearing impaired and speech impaired, and local exchange companies in the state. The membership on the TRS program advisory committee shall, to the maximum extent possible, include representatives from (a) the major state-wide organizations representing the hearing impaired and speech impaired, (b) organizations for the hearing impaired and speech impaired located in areas of the state with high

populations of such persons, and (c) organizations that reflect the different geographic regions of the state. In order to develop, implement, and maintain a state-wide relay system providing cost-effective relay centers at a reasonable cost and that will meet the requirements of the hearing impaired and speech impaired, the TRS program advisory committee shall investigate options, conduct public hearings as needed to develop recommendations on the most cost-effective method of operating a state-wide relay system providing relay centers to the hearing impaired and speech impaired, and solicit the advice, counsel, and assistance of interested parties and nonprofit consumer organizations for hearing impaired and speech impaired persons state-wide. The TRS program advisory committee shall also, in conjunction with the department, monitor the activities and moneys that are being spent by the department for the program herein.

(2) The TRS program advisory committee shall provide reports at least four times per year to the administrators and operators of the TRS state-wide relay service. The committee shall report on the extent to which the relay system is meeting the needs of disabled citizens in the state, and shall include program elements that are successful, program elements in need of improvement, and any recommendations from the committee.

(3) The TRS program advisory committee shall establish criteria and specify state-wide organizations representing the hearing or speech impaired meeting such criteria that are to receive telecommunications devices pursuant to RCW 43.20A.725(1), and in which offices the equipment shall be installed if an organization has more than one office. [1992 c 144 § 4; 1990 c 89 § 4; 1987 c 304 § 4.]

Legislative findings—Severability—1992 c 144: See notes following RCW 43.20A.720.

Legislative finding—1990 c 89: See note following RCW 43.20A.720.

43.20A.750 Grants for services in timber impact areas—Funding—Family support centers—Timber impact area defined. (1) The department of social and health services shall help families and workers in timber impact areas make the transition through economic difficulties and shall provide services to assist workers to gain marketable skills. The department, as a member of the agency timber task force and in consultation with the economic recovery coordination board, and, where appropriate, under an interagency agreement with the department of community, trade, and economic development, shall provide grants through the office of the secretary for services to the unemployed in timber impact areas, including providing direct or referral services, establishing and operating service delivery programs, and coordinating delivery programs and delivery of services. These grants may be awarded for family support centers, reemployment centers, or other local service agencies.

(2) The services provided through the grants may include, but need not be limited to: Credit counseling; social services including marital counseling; psychotherapy or psychological counseling; mortgage foreclosures and utilities problems counseling; drug and alcohol abuse services; medical services; and residential heating and food acquisition.

(3) Funding for these services shall be coordinated through the economic recovery coordination board which will establish a fund to provide child care assistance, mortgage assistance, and counseling which cannot be met through current programs. No funds shall be used for additional full-time equivalents for administering this section.

(4)(a) Grants for family support centers are intended to provide support to families by responding to needs identified by the families and communities served by the centers. Services provided by family support centers may include parenting education, child development assessments, health and nutrition education, counseling, and information and referral services. Such services may be provided directly by the center or through referral to other agencies participating in the interagency team.

(b) The department shall consult with the council on child abuse or neglect regarding grants for family support centers.

(5) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (i) A lumber and wood products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection. [1993 c 280 § 38; 1992 c 21 § 4; 1991 c 315 § 28.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.20A.770 Administration of statutes applicable to runaway youth, at-risk youth, and families in conflict—Consistency required. The department shall ensure that the administration of chapter 13.32A RCW and applicable portions of chapter 74.13 RCW relating to runaway youth, at-risk youth, and families in conflict is consistent in all areas of the state and in accordance with statutory requirements. [1991 c 364 § 6.]

Conflict with federal requirements—1991 c 364: See note following RCW 70.96A.020.

43.20A.780 Administration of family services and programs. The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 9.]

Severability—Effective date—1992 c 198: See RCW 70.190.910 and 70.190.920.

43.20A.800 Vision services for the homeless—Coordination. The secretary of the department of social and health services shall coordinate the efforts of nonprofit agencies working with the homeless, the Washington academy of eye physicians and surgeons, the Washington optometric association, and the opticians association of Washington to deliver vision services to the homeless free of charge. The secretary shall enter into agreements identifying cooperating agencies and the circumstances under which specified services will be delivered. [1993 c 96 § 2.]

Findings—1993 c 96: "The legislature finds that many homeless people in the state of Washington have impaired eyesight that reduces their chances of obtaining employment or training for employment. The legislature finds that it is in the public interest to facilitate ophthalmologists, optometrists, and opticians in providing free vision services to homeless people of the state." [1993 c 96 § 1.]

43.20A.810 Vision services for the homeless—Funding. To the extent consistent with the department's budget, the secretary shall pay for the eyeglasses hardware prescribed and dispensed pursuant to the program set up in RCW 43.20A.800 through 43.20A.840. The secretary shall also attempt to obtain private sector funding for this program. [1993 c 96 § 3.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.820 Vision services for the homeless—Use of used eyeglass frames by providers. Ophthalmologists, optometrists, and dispensing opticians may utilize used eyeglass frames obtained through donations to this program. [1993 c 96 § 4.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.830 Vision services for the homeless—Provider liability. An ophthalmologist, optometrist, or dispensing optician who provides:

(1) Free vision services; or

(2) Eyeglasses, or any part thereof, including used frames, at or below retail cost to homeless people in the state of Washington

and who is not reimbursed for such services or eyeglasses as allowed for in RCW 43.20A.840, is not liable for civil damages for injury to a homeless person resulting from any act or omission in providing such services or eyeglasses, other than an act or omission constituting gross negligence or intentional conduct. [1993 c 96 § 5.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.840 Vision services for the homeless—Third party payers. Nothing in RCW 43.20A.800 through 43.20A.840 shall prevent ophthalmologists, optometrists, or dispensing opticians from collecting for either their goods or services, or both from third-party payers covering the goods or services for homeless persons. [1993 c 96 § 6.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.845 Vision services for the homeless—Program name. The program created in RCW 43.20A.800

through 43.20A.840 shall be known as the eye care for the homeless program in Washington. [1993 c 96 § 7.]

Findings—1993 c 96: See note following RCW 43.20A.800.

43.20A.850 Group homes—Availability of evaluations and data. The secretary of social and health services shall make all of the department's evaluation and research materials and data on private nonprofit group homes available to group home contractors. The department may delete any information from the materials that identifies a specific client or contractor, other than the contractor requesting the materials. [1994 1st sp.s. c 7 § 322.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.20A.930 Effective date—Severability—1970 ex.s. c 18. See notes following RCW 43.20A.010.

Chapter 43.20B

REVENUE RECOVERY FOR DEPARTMENT OF SOCIAL AND HEALTH SERVICES

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GENERAL PROVISIONS

43.20B.010 Definitions. The definitions in this section apply throughout this chapter:

(1) "Department" means the department of social and health services.

(2) "Secretary" means the secretary of the department of social and health services.

(3) "License" means that exercise of regulatory authority by the secretary to grant permission, authority, or liberty to do or to forbear certain activities. The term includes licenses, permits, certifications, registrations, and other similar terms.

(4) "Vendor" means an entity that provides goods or services to or for clientele of the department and that controls operational decisions.

(5) "Overpayment" means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute. [1987 c 75 § 42.]

43.20B.020 Fees for services—Department of health and department of social and health services. The department of social and health services and the department of health are authorized to charge fees for services provided unless otherwise prohibited by law. The fees may be sufficient to cover the full cost of the service provided if practical or may be charged on an ability-to-pay basis if practical. This section does not supersede other statutory authority enabling the assessment of fees by the departments. Whenever the department of social and health services is authorized by law to collect total or partial reimbursement for the cost of its providing care of or exercising custody over any person, the department shall collect the reimbursement to the extent practical. [1991 c 3 § 295; 1981 1st ex.s. c 6 § 25. Formerly RCW 43.20A.670.]

Effective date—Severability—1981 1st ex.s. c 6: See notes following RCW 74.04.005.

43.20B.030 Overpayments and debts due the department—Time limit—Write-offs and compromises. Except as otherwise provided by law, there will be no collection of overpayments and other debts due the department after the expiration of six years from the date of notice of such overpayment or other debt unless the department has commenced recovery action in a court of law or unless an administrative remedy authorized by statute is in place. However, any amount due in a case thus extended shall cease to be a debt due the department at the expiration of ten years from the date of the notice of the overpayment or other debt unless a court-ordered remedy would be in effect for a longer period.

The department, at any time, may accept offers of compromise of disputed claims or may grant partial or total write-off of any debt due the department if it is no longer cost-effective to pursue. The department shall adopt rules establishing the considerations to be made in the granting or denial of a partial or total write-off of debts. [1989 c 78 § 4; 1987 c 283 § 6; 1979 c 141 § 308; 1965 ex.s. c 91 § 2. Formerly RCW 74.04.306.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.040 Chapter does not apply where another party liable—Statement of lien—Form. The form of the lien in RCW 43.20B.060 shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to, a person who was injured on or about the day of in the county of state of, and the said department hereby asserts a lien, to the extent provided in RCW 43.20B.060, for the amount of such assistance or residential care, upon any sum due and owing (name of injured person) from, alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES

By: (Title)

STATE OF WASHINGTON }
COUNTY OF } ss.

I,, being first duly sworn, on oath state: That I am (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

Signed and sworn to or affirmed before me this day of, 19. . . . by (name of person making statement).

(Seal or stamp)

Notary Public in and for the State of Washington
My appointment expires:

[1990 c 100 § 3; 1979 c 141 § 341; 1969 ex.s. c 173 § 9. Formerly RCW 74.09.182.]

43.20B.050 Liens—Compromise—Settlement or judgment. (1) No settlement made by and between the recipient and tort feisor and/or insurer shall discharge or otherwise compromise the lien created in RCW 43.20B.060 without the express written consent of the secretary. Discretion to compromise such liens rests solely with the secretary or the secretary's designee.

(2) No settlement or judgment shall be entered purporting to compromise the lien created by RCW 43.20B.060 without the express written consent of the secretary or the secretary's designee. [1990 c 100 § 4; 1969 ex.s. c 173 § 12. Formerly RCW 74.09.186.]

Application—1990 c 100 §§ 2, 4, 7(1), 8(2): See note following RCW 43.20B.060.

43.20B.060 Reimbursement for medical care or residential care—Lien—Subrogation. (1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or

habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tortfeasor or the tortfeasor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tortfeasor or the tortfeasor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tortfeasor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tortfeasor or insurer of the tortfeasor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs. The determination of the proportionate share to be borne by the department shall be based upon:

(a) The fees and costs approved by the court in which the action was initiated; or

(b) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(c) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(d) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature. [1990 c 100 § 7.]

Application—1990 c 100 §§ 2, 4, 7(1), 8(2): "Sections 2, 4, 7(1), and 8(2) of this act apply to all existing claims against third parties for which settlements have not been reached or judgments entered by June 7, 1990." [1990 c 100 § 13.]

43.20B.070 Torts committed against recipients of state assistance—Duties of attorney representing recipient. An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive assistance under chapter 74.09 RCW, or residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, shall:

(1) Notify the department at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tortfeasor or the tortfeasor's insurer, or both; and

(2) Give the department thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness. [1990 c 100 § 8.]

Application—1990 c 100 §§ 2, 4, 7(1), 8(2): See note following RCW 43.20B.060.

43.20B.080 Recovery for paid medical assistance—Rules. (1) The department shall file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual as required by this chapter and 42 U.S.C. Sec. 1396p.

(2) In the case of an individual who was fifty-five years or [of] age or older when the individual received medical assistance, the department shall seek adjustment or recovery from the individual's estate, but only for medical assistance consisting of nursing facility services, home and community-based services, and related hospital and prescription drug services.

(3) The department shall establish procedures consistent with standards established by the federal department of health and human services and pursuant to 42 U.S.C. Sec. 1396p to waive recovery when such recovery would work an undue hardship.

(4) The department is authorized to adopt rules to effect recovery under this section. The department may adopt by rule later enactments of the federal laws referenced in this section. [1994 c 21 § 3.]

Conflict with federal requirements—1994 c 21: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state." [1994 c 21 § 5.]

Effective date—1994 c 21: "This act shall take effect July 1, 1994." [1994 c 21 § 6.]

NONRESIDENTIAL FEES AND COSTS OF SERVICES

43.20B.110 License fees to be charged by secretary—Waiver—Review and comment. (1) The secretary shall charge fees to the licensee for obtaining a license. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of social and health services advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees.

(4) Fees associated with the licensing or regulation of health professions or health facilities administered by the department of health, shall be in accordance with RCW 43.70.110 and 43.70.250. [1991 c 3 § 296; 1989 1st ex.s. c 9 § 216; 1987 c 75 § 6; 1982 c 201 § 2. Formerly RCW 43.20A.055.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

43.20B.120 Funeral assistance—Lien against assets. If the department furnishes funeral assistance for deceased recipients under RCW 74.08.120, the department shall have a lien against those assets left to a surviving spouse or minor children under those conditions defined in RCW 74.08.120. The lien is valid for six years from the date of filing with the county auditor and has preference over the claims of all unsecured creditors. If the assets remain exempt or if no probate is commenced, the lien automatically terminates without further action six years after filing. [1987 c 75 § 45.]

RESIDENTIAL SERVICES

43.20B.310 Residential care payments by families, when not collected. No payment may be collected by the department for residential care if the collection will reduce the income as defined in RCW 74.04.005 of the head of household and remaining dependents below one hundred percent of the need standard for aid to families with dependent children. [1983 1st ex.s. c 41 § 34. Formerly RCW 74.04.780.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

43.20B.320 Mental illness—Treatment costs—Criminally insane—Liability. Patients hospitalized at state hospitals as criminally insane shall be responsible for payment of hospitalization charges. [1987 c 75 § 12; 1959 c 25 § 71.02.380. Prior: 1951 c 139 § 62. Formerly RCW 71.02.380.]

Criminally insane, reimbursement for costs: RCW 10.77.250.

43.20B.325 Mental illness—Hospitalization charges—How computed. Charges for hospitalization of patients in state hospitals are to be based on the actual cost of operating such hospitals for the previous year, taking into consideration the overhead expense of operating the hospital and expense of maintenance and repair, including in both cases all salaries of supervision and management as well as material and equipment actually used or expended in operation as computed by the department: PROVIDED, That a schedule of differing hospitalization charges may be computed, including a schedule of charges for outpatient

services, considering the costs of care, treatment and maintenance in accordance with the classification of mental illness, type and intensity of treatment rendered, which may vary among and within the several state hospitals. Costs of transportation shall be computed by the department. [1967 ex.s. c 127 § 1; 1959 c 25 § 71.02.410. Prior: 1951 c 139 § 52. Formerly RCW 71.02.410.]

43.20B.330 Mental illness—Treatment costs—Liability. Any person admitted or committed to a state hospital for the mentally ill, and their estates and responsible relatives are liable for reimbursement to the state of the costs of hospitalization and/or outpatient services, as computed by the secretary, or his designee, in accordance with RCW 43.20B.325: PROVIDED, That such mentally ill person, and his or her estate, and the husband or wife of such mentally ill person and their estate shall be primarily responsible for reimbursement to the state for the costs of hospitalization and/or outpatient services; and, the parents of such mentally ill person and their estates, until such person has attained the age of eighteen years, shall be secondarily liable. [1987 c 75 § 13; 1971 ex.s. c 292 § 64; 1967 ex.s. c 127 § 4. Formerly RCW 71.02.411.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

43.20B.335 Mental illness—Treatment costs—Determination of ability to pay—Standards—Rules and regulations. The department is authorized to investigate the financial condition of each person liable under the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and is further authorized to make determinations of the ability of each such person to pay hospitalization charges and/or charges for outpatient services, in accordance with the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350, and, for such purposes, to set a standard as a basis of judgment of ability to pay, which standard shall be recomputed periodically to reflect changes in the costs of living, and other pertinent factors, and to make provisions for unusual and exceptional circumstances in the application of such standard.

In accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW, the department shall adopt appropriate rules and regulations relating to the standards to be applied in determining ability to pay such charges, the schedule of charges pursuant to RCW 43.20B.325, and such other rules and regulations as are deemed necessary to administer the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. [1987 c 75 § 14; 1979 c 141 § 126; 1967 ex.s. c 127 § 5. Formerly RCW 71.02.412.]

43.20B.340 Mental illness—Treatment costs—Notice and finding of responsibility—Period—Adjudicative proceedings. In any case where determination is made that a person, or the estate of such person, is able to pay all, or any portion of the charges for hospitalization, and/or charges for outpatient services, a notice and finding of responsibility shall be served on such person or the court-appointed personal representative of such person. The notice shall set forth the amount the department has determined that such person, or his or her estate, is able to pay not to exceed the

costs of hospitalization, and/or costs of outpatient services, as fixed in accordance with the provisions of RCW 43.20B.325, or as otherwise limited by the provisions of RCW 43.20B.355 and 43.20B.325 through 43.20B.350. The responsibility for the payment to the department shall commence twenty-eight days after service of such notice and finding of responsibility which finding of responsibility shall cover the period from the date of admission of such mentally ill person to a state hospital, and for the costs of hospitalization, and/or the costs of outpatient services, accruing thereafter. The notice and finding of responsibility shall be served upon all persons found financially responsible in the manner prescribed for the service of summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding may be filed with the secretary, or the secretary's designee within twenty-eight days from the date of service of such notice and finding of responsibility. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 98; 1987 c 75 § 15; 1985 c 245 § 3; 1981 c 67 § 33; 1971 c 81 § 133; 1969 ex.s. c 268 § 1; 1967 ex.s. c 127 § 6. Formerly RCW 71.02.413.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Savings—1985 c 245: "Sections 3 and 6 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on May 10, 1985." [1985 c 245 § 11.] Sections 3 and 6 of this act consist of the 1985 c 245 amendments to RCW 71.02.413 and 72.33.670.

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

43.20B.345 Mental illness—Treatment costs—Judgment for accrued amounts. Whenever any notice and finding of responsibility, or appeal therefrom, shall have become final, the superior court, wherein such person or persons reside or have property either real or personal, shall, upon application of the secretary enter a judgment in the amount of the accrued monthly charges for the costs of hospitalization, and/or the costs of outpatient services, and such judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court. [1987 c 75 § 16; 1979 c 141 § 127; 1967 ex.s. c 127 § 7. Formerly RCW 71.02.414.]

43.20B.347 Mental illness—Treatment costs—Lien against real and personal property. Whenever a notice and finding of responsibility, or appeal therefrom, has become final, the department may file a lien against the real and personal property of all persons found financially responsible under RCW 43.20B.330 with the county auditor of the county where the persons reside or own property. [1993 c 272 § 1.]

Savings—1993 c 272: "This act does not have the effect of terminating or in any way modifying any liability, civil or criminal, that is already in existence on the effective date of this act." [1993 c 272 § 6.]

Severability—1993 c 272: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 272 § 7.]

43.20B.350 Mental illness—Treatment costs—Modification or vacation of findings of responsibility. The secretary, or the secretary's designee, upon application of the person responsible for payment of reimbursement to the state of the costs of hospitalization, and/or the costs of outpatient services, or the legal representative of such person, and, after investigation, or after investigation without application, the secretary, or the secretary's designee, if satisfied of the financial ability or inability of such person to reimburse the state in accordance with the original finding of responsibility, may, modify or vacate such original finding of responsibility and enter a new finding of responsibility. The determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedures for appeals of original findings of responsibility. [1987 c 75 § 17; 1967 ex.s. c 127 § 8. Formerly RCW 71.02.415.]

43.20B.355 Mental illness—Hospitalization charges—Due date—Collection. Hospitalization charges are payable on the tenth day of each calendar month, for services rendered during the preceding month, and the department may make all necessary rules and regulations relative to the billing and collection of such charges. [1967 ex.s. c 127 § 2; 1959 c 25 § 71.02.320. Prior: 1951 c 139 § 56. Formerly RCW 71.02.320.]

43.20B.360 Mental illness—Hospitalization charges—Collection—Statutes of limitation. No statutes of limitations shall run against the state of Washington for hospitalization charges: PROVIDED, HOWEVER, That periods of limitations for the filing of creditors' claims against probate and guardianship estates shall apply against such claims. [1959 c 25 § 71.02.360. Prior: 1951 c 139 § 61. Formerly RCW 71.02.360.]

*Period of limitation for claims against guardianship estate: RCW 11.92.035.
probate estate: RCW 11.40.010.*

43.20B.370 Mental illness—Hospitalization charges—Collection—Prosecuting attorneys to assist. The prosecuting attorneys of the various counties shall assist the department in the collection of hospitalization charges. [1959 c 25 § 71.02.370. Prior: 1951 c 139 § 64. Formerly RCW 71.02.370.]

43.20B.410 Residential habilitation centers—Liability for costs of services—Declaration of purpose. The purpose of RCW 43.20B.410 through 43.20B.455 is to place financial responsibility for cost of care, support and treatment upon those residents of residential habilitation centers operated under chapter 71A.20 RCW who possess assets over and above the minimal amount required to be retained for personal use; to provide procedures for establish-

ing such liability and the monthly rate thereof, and the process for appeal therefrom to the secretary of social and health services and the courts by any person deemed aggrieved thereby. [1988 c 176 § 902; 1987 c 75 § 23; 1979 c 141 § 237; 1967 c 141 § 1. Formerly RCW 72.33.650.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: "This 1967 amendatory act shall become effective July 1, 1967." [1967 c 141 § 13.]

43.20B.415 State residential schools—Liability for costs of services—Limitation. The estates of all mentally or physically deficient persons who have been admitted to the state residential schools listed in *RCW 72.33.030 either by application of their parents or guardian or by commitment of court, or who may hereafter be admitted or committed to such institutions, shall be liable for their per capita costs of care, support and treatment: PROVIDED, That the estate funds may not be reduced as a result of such liability below an amount as set forth in *RCW 72.33.180. [1971 ex.s. c 118 § 2; 1967 c 141 § 2. Formerly RCW 72.33.655.]

*Reviser's note: RCW 72.33.030 and 72.33.180 were repealed by 1988 c 176 § 1007. See Title 71A RCW. The term "residential schools" was changed to "residential habilitation centers" by 1988 c 176.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.420 Residential habilitation centers—Determination of costs of services—Establishment of rates—Collection. The charges for services as provided in RCW 43.20B.425 shall be based on the rates established for the purpose of receiving federal reimbursement for the same services. For those services for which there is no applicable federal reimbursement-related rate, charges shall be based on the average per capita costs, adjusted for inflation, of operating each of the residential habilitation centers for the previous reporting year taking into consideration all expenses of institutional operation, maintenance and repair, salaries and wages, equipment and supplies: PROVIDED, That all expenses directly related to the cost of education for persons under the age of twenty-two years shall be excluded from the computation of the average per capita cost. The department shall establish rates on a per capita basis and promulgate those rates or the methodology used in computing costs and establishing rates as rules of the department in accordance with chapter 34.05 RCW. The department shall be charged with the duty of collection of charges incurred under RCW 43.20B.410 through 43.20B.455, which may be enforced by civil action instituted by the attorney general within or without the state. [1988 c 176 § 903; 1987 c 75 § 24; 1984 c 200 § 1; 1979 c 141 § 238; 1967 c 141 § 3. Formerly RCW 72.33.660.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.425 Residential habilitation centers—Costs of services—Investigation and determination of ability to pay—Exemptions. The department shall investigate and determine the assets of the estates of each resident of a residential habilitation center and the ability of each such estate to pay all, or any portion of, the average monthly charge for care, support and treatment at a residential habilitation center as determined by the procedure set forth

in RCW 43.20B.420: PROVIDED, That the sum as set forth in RCW 71A.20.100 shall be retained by the estate of the resident at all times for such personal needs as may arise: PROVIDED FURTHER, That where any person other than a resident or the guardian of the resident's estate deposits funds so that the depositor and a resident become joint tenants with the right of survivorship, such funds shall not be considered part of the resident's estate so long as the resident is not the sole survivor among such joint tenants. [1988 c 176 § 904; 1987 c 75 § 25; 1971 ex.s. c 118 § 3; 1967 c 141 § 4. Formerly RCW 72.33.665.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.430 Residential habilitation centers—Costs of services—Notice and finding of responsibility—Service—Adjudicative proceeding. In all cases where a determination is made that the estate of a resident of a residential habilitation center is able to pay all or any portion of the charges, a notice and finding of responsibility shall be served on the guardian of the resident's estate, or if no guardian has been appointed then to the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident. The notice shall set forth the amount the department has determined that such estate is able to pay, not to exceed the charge as fixed in accordance with RCW 43.20B.420, and the responsibility for payment to the department shall commence twenty-eight days after personal service of such notice and finding of responsibility. Service shall be in the manner prescribed for the service of a summons in a civil action or may be served by certified mail, return receipt requested. The return receipt signed by addressee only is prima facie evidence of service. An application for an adjudicative proceeding from the determination of responsibility may be made to the secretary by the guardian of the resident's estate, or if no guardian has been appointed then by the resident, the resident's spouse, or other person acting in a representative capacity and having property in his or her possession belonging to a resident of a state school, within such twenty-eight day period. The application must be written and served on the secretary by registered or certified mail, or by personal service. If no application is filed, the notice and finding of responsibility shall become final. If an application is filed, the execution of notice and finding of responsibility shall be stayed pending the final adjudicative order. The hearing shall be conducted in a local department office or other location in Washington convenient to the appellant. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. [1989 c 175 § 99; 1988 c 176 § 905; 1987 c 75 § 26; 1985 c 245 § 6; 1982 c 189 § 7; 1979 c 141 § 239; 1970 ex.s. c 75 § 1; 1967 c 141 § 5. Formerly RCW 72.33.670.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1988 c 176: See RCW 71A.10.900.

Savings—1985 c 245: See note following RCW 43.20B.340.

Effective date—1982 c 189: See note following RCW 34.12.020.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.435 State residential habilitation centers—Costs of services—Modification or vacation of finding of

responsibility. The secretary, upon application of the guardian of the estate of the resident, and after investigation, or upon investigation without application, may, if satisfied of the financial ability or inability of such person to make payments in accordance with the original finding of responsibility, modify or vacate such original finding of responsibility, and enter a new finding of responsibility. The secretary's determination to modify or vacate findings of responsibility shall be served and be appealable in the same manner and in accordance with the same procedure for appeals of original findings of responsibility. [1979 c 141 § 240; 1967 c 141 § 7. Formerly RCW 72.33.680.]

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.440 Residential habilitation centers—Costs of services—Charges payable in advance. The charges for care, support, maintenance and treatment of persons at residential habilitation centers as provided by RCW 43.20B.410 through 43.20B.455 shall be payable in advance on the first day of each and every month to the department. [1988 c 176 § 906; 1987 c 75 § 27; 1979 c 141 § 241; 1967 c 141 § 8. Formerly RCW 72.33.685.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.445 Residential habilitation centers—Costs of services—Reimbursement from property subsequently acquired—Placement outside school—Liability after death of resident. The provisions of RCW 43.20B.410 through 43.20B.455 shall not be construed to prohibit or prevent the department of social and health services from obtaining reimbursement from any person liable under RCW 43.20B.410 through 43.20B.455 for payment of the full amount of the accrued per capita cost from any property acquired by gift, devise or bequest subsequent to and regardless of the initial findings of responsibility under RCW 43.20B.430: PROVIDED, That the estate of any resident of a residential habilitation center shall not be liable for such reimbursement subsequent to termination of services for that resident at the residential habilitation center: PROVIDED FURTHER, That upon the death of any person while a resident in a residential habilitation center, the person's estate shall become liable to the same extent as the resident's liability on the date of death. [1988 c 176 § 907; 1987 c 75 § 28; 1979 c 141 § 242; 1967 c 141 § 9. Formerly RCW 72.33.690.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.450 State residential habilitation centers—Costs of services—Liabilities created apply to care, support, and treatment after July 1, 1967. The liabilities created by RCW 43.20B.410 through 43.20B.455 shall apply to the care, support and treatment occurring after July 1, 1967. [1987 c 75 § 29; 1967 c 141 § 11. Formerly RCW 72.33.695.]

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.455 Residential habilitation centers—Costs of services—Discretionary allowance in resident's fund.

Notwithstanding any other provision of RCW 43.20B.410 through 43.20B.455, the secretary may, if in the secretary's discretion any resident of a residential habilitation center can be terminated from receiving services at the habilitation center more rapidly and assimilated into a community, keep an amount not exceeding five thousand dollars in the resident's fund for such resident and such resident shall not thereafter be liable thereon for per capita costs of care, support and treatment as provided for in RCW 43.20B.415. [1988 c 176 § 908; 1987 c 75 § 30; 1979 c 141 § 243; 1967 c 141 § 12. Formerly RCW 72.33.700.]

Severability—1988 c 176: See RCW 71A.10.900.

Effective date—1967 c 141: See note following RCW 43.20B.410.

43.20B.460 Guardianship fees and additional costs for incapacitated clients paying part of costs—Maximum amount—Rules. The department of social and health services shall establish by rule the maximum amount of guardianship fees and additional compensation for administrative costs that may be allowed by the court as compensation for a guardian or limited guardian of an incapacitated person who is a department of social and health services client residing in a nursing facility or in a residential or home setting and is required by the department of social and health services to contribute a portion of their income towards the cost of residential or supportive services. [1994 c 68 § 2.]

RECOVERY OF OVERPAYMENTS

43.20B.620 Overpayments of assistance—Lien against recipient's property—Recovery methods. Overpayments of public assistance or food stamps under RCW 74.04.300 shall become a lien against the real and personal property of the recipient from the time of filing by the department with the county auditor of the county in which the recipient resides or owns property, and the lien claim has preference over the claims of all unsecured creditors.

Debts due the state for overpayments of public assistance or food stamps may be recovered by the state by deduction from the subsequent assistance payments to such persons, lien and foreclosure, or order to withhold and deliver, or may be recovered by civil action. [1987 c 75 § 43.]

43.20B.630 Overpayments of assistance—Procedures—Adjudicative proceeding. (1) Any person who owes a debt to the state for an overpayment of public assistance and/or food stamps shall be notified of that debt by either personal service or certified mail, return receipt requested. Personal service, return of the requested receipt, or refusal by the debtor of such notice is proof of notice to the debtor of the debt owed. Service of the notice shall be in the manner prescribed for the service of a summons in a civil action. The notice shall include a statement of the debt owed; a statement that the property of the debtor will be subject to collection action after the debtor terminates from public assistance and/or food stamps; a statement that the property will be subject to lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver; and a

statement that the net proceeds will be applied to the satisfaction of the overpayment debt. Action to collect the debt by lien and foreclosure, distraint, seizure and sale, or order to withhold and deliver, is lawful after ninety days from the debtor's termination from public assistance and/or food stamps or the receipt of the notice of debt, whichever is later. This does not preclude the department from recovering overpayments by deduction from subsequent assistance payments, not exceeding deductions as authorized under federal law with regard to financial assistance programs: PROVIDED, That subject to federal legal requirement, deductions shall not exceed five percent of the grant payment standard if the overpayment resulted from error on the part of the department or error on the part of the recipient without willful or knowing intent of the recipient in obtaining or retaining the overpayment.

(2) A current or former recipient who is aggrieved by a claim that he or she owes a debt for an overpayment of public assistance or food stamps has the right to an adjudicative proceeding pursuant to RCW 74.08.080. If no application is filed, the debt will be subject to collection action as authorized under this chapter. If a timely application is filed, the execution of collection action on the debt shall be stayed pending the final adjudicative order or termination of the debtor from public assistance and/or food stamps, whichever occurs later. [1989 c 175 § 100; 1982 c 201 § 18; 1981 c 163 § 1. Formerly RCW 74.04.700.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Overpayments and debts due the state: RCW 74.04.300.

43.20B.635 Overpayments of assistance—Orders to withhold property of debtor—Procedures. After service of a notice of debt for an overpayment as provided for in RCW 43.20B.630, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW 6.27.150 and 6.27.160, chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the department of social and health

services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW 6.27.150 and 6.27.160; chapters 6.13 and 6.15 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy. [1990 c 100 § 1; 1987 c 75 § 37; 1981 c 163 § 2. Formerly RCW 74.04.710.]

43.20B.640 Overpayments of assistance—Failure to withhold property of debtor. If any person, firm, corporation, association, political subdivision, or department of the state fails to answer an order to withhold and deliver within the time prescribed in RCW 43.20B.635, or fails or refuses to deliver property pursuant to the order, or after actual notice of filing of a lien as provided for in this chapter, pays over, releases, sells, transfers, or conveys real or personal property subject to such lien to or for the benefit of the debtor or any other person, or fails or refuses to surrender upon demand property distrained under RCW 43.20B.635, or

fails or refuses to honor an assignment of wages presented by the secretary, such person, firm, corporation, association, political subdivision, or department of the state is liable to the department in an amount equal to one hundred percent of the value of the debt which is the basis of the lien, order to withhold and deliver, distraint, or assignment of wages, together with costs, interest, and reasonable attorney fees. [1987 c 75 § 38; 1981 c 163 § 3. Formerly RCW 74.04.720.]

43.20B.645 Overpayments of assistance—Assignment of earnings. Any person, firm, corporation, association, political subdivision, or department employing a person owing a debt for overpayment of public assistance received as defined in RCW 74.04.300, shall honor, according to its terms, a duly executed assignment of earnings presented to the employer by the secretary as a plan to satisfy or retire an overpayment debt. This requirement to honor the assignment of earnings is applicable whether the earnings are to be paid presently or in the future and continues in force and effect until released in writing by the secretary. Payment of moneys pursuant to an assignment of earnings presented to the employer by the secretary serves as full acquittance under any contract of employment, and the state warrants and represents it shall defend and hold harmless such action taken pursuant to the assignment of earnings. The secretary is released from liability for improper receipt of moneys under assignment of earnings upon return of any moneys so received. [1981 c 163 § 4. Formerly RCW 74.04.730.]

43.20B.660 Improper realty transfer—Suit to rescind—Recovery from recipient's estate. If an improper real property transfer is made as defined in RCW 74.08.331 through 74.08.338, the department may request the attorney general to file suit to rescind the transaction except as to subsequent bona fide purchasers for value. If it is established by judicial proceedings that a fraudulent conveyance occurred, the value of any public assistance which has been furnished may be recovered in any proceedings from the recipient or the recipient's estate. [1987 c 75 § 46.]

43.20B.670 Excess property assistance program—Lien—Department as creditor. When the department provides grant assistance to persons who possess excess real property under RCW 74.04.005(10)(f), the department may file a lien against, or otherwise perfect its interest in such real property as a condition of granting such assistance, and the department shall have the status of a secured creditor. [1985 c 245 § 10. Formerly RCW 74.04.007.]

43.20B.680 Vendor overpayments—Lien or other security—Setoff or recoupment—Exception. (1) The department may, at the secretary's discretion, secure the repayment of any outstanding overpayment, plus interest, if any, through the filing of a lien against the vendor's real property, or by requiring the posting of a bond, assignment of deposit, or some other form of security acceptable to the department, or by doing both.

(a) Any lien shall be effective from the date of filing for record with the county auditor of the county in which the

property is located and the lien claim shall have preference over the claims of all unsecured creditors.

(b) The department shall review and determine the acceptability of all other forms of security.

(c) Any bond must be issued by a company licensed as a surety in the state of Washington.

(d) This subsection does not apply to nursing homes licensed under chapter 18.51 RCW or portions of hospitals licensed under chapter 70.41 RCW and operating as a nursing home, if those facilities are subject to chapter 74.46 RCW.

(2) The department may recover any overpayment, plus interest, if any, by setoff or recoupment against subsequent payments to the vendor. [1987 c 283 § 10.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.685 Vendor overpayments—Liens—Duration—Enforcement. Liens created under RCW 43.20B.680 shall bind the affected property for a period of ten years after the lien has been recorded or ten years after the resolution of all good faith disputes as to the overpayment, whichever is later. Any civil action by the department to enforce such lien must be timely commenced before the ten-year period expires or the lien shall be released. A civil action to enforce such lien shall not be timely commenced unless the summons and complaint are filed within the ten-year period in a court having jurisdiction and service of the summons and complaint is made upon all parties in the manner prescribed by appropriate civil court rules. [1987 c 283 § 11.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.688 Limitation on actions to enforce vendor overpayment debts. Any action to enforce a vendor overpayment debt shall be commenced within six years from the date of the department's notice to the vendor. [1987 c 283 § 15. Formerly RCW 43.20A.440.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

Vendor overpayments: RCW 43.20B.680 through 43.20B.695.

43.20B.690 Vendor overpayments—Remedies nonexclusive. The remedies under RCW 43.20B.680 and 43.20B.685 are nonexclusive and nothing contained in this chapter may be construed to impair or affect the right of the department to maintain a civil action or to pursue any other remedies available to it under the laws of this state to recover such debt. [1987 c 283 § 12.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

43.20B.695 Vendor overpayments—Interest—Exceptions. (1) Except as provided in subsection (4) of this section, vendors shall pay interest on overpayments at the rate of one percent per month or portion thereof. Where partial repayment of an overpayment is made, interest accrues on the remaining balance. Interest will not accrue when the overpayment occurred due to department error.

(2) If the overpayment is discovered by the vendor prior to discovery and notice by the department, the interest shall begin accruing ninety days after the vendor notifies the department of such overpayment.

(3) If the overpayment is discovered by the department prior to discovery and notice by the vendor, the interest shall begin accruing as follows, whichever occurs first:

(a) Thirty days after the date of notice by the department to the vendor; or

(b) Ninety days after the date of overpayment to the vendor.

(4) This section does not apply to:

(a) Interagency or intergovernmental transactions;

(b) Contracts for public works, goods and services procured for the exclusive use of the department, equipment, or travel; and

(c) Contracts entered into before September 1, 1979, for contracts with medical assistance funding, and August 23, 1983, for all other contracts. [1987 c 283 § 2; 1983 1st ex.s. c 41 § 17. Formerly RCW 43.20A.435.]

Severability—Savings—1987 c 283: See notes following RCW 43.20A.020.

Savings—1983 1st ex.s. c 41 § 17: "The enactment of section 17 of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on August 23, 1983." [1983 1st ex.s. c 41 § 18.]

Severability—1983 1st ex.s. c 41: See note following RCW 26.09.060.

43.20B.710 Medical assistance—Improper transfer or assignment of resources—Penalty—Presumption, rebuttal—Attorney's fees. If cash or resources are improperly transferred or assigned under *RCW 74.09.538, a person who knowingly or willingly receives the assets for less than fair market value is liable for a civil penalty equal to the uncompensated value of the cash or resources transferred or assigned at less than fair market value. The civil penalty shall not exceed the cost of assistance rendered by the department to the applicant or recipient. The person may rebut the presumption that the transfer or assignment was made for the purpose of enabling the applicant or recipient to qualify or continue to qualify for assistance. The prevailing party in such an action shall be awarded reasonable attorney's fees. [1987 c 75 § 47.]

*Reviser's note: RCW 74.09.538 was repealed by 1989 c 87 § 11. *Transfer of spousal resources: RCW 74.09.530 through 74.09.595.*

43.20B.720 Recipient receiving industrial insurance compensation—Subrogation rights of department—Lien—Withhold and deliver notice. By accepting public assistance from the department of social and health services, the recipient thereof shall be deemed to have subrogated said department to the recipient's right to recover time loss compensation due to such recipient and his or her dependents pursuant to the provisions of Title 51 RCW to the extent of such assistance or compensation, whichever is less, furnished to the recipient and his or her dependents for or during the period for which time loss compensation is payable: PROVIDED, That the amount to be repaid to the department of social and health services shall bear its proportionate share of attorney's fees and costs, if any, incurred by the injured worker or the worker's dependents.

The department of social and health services may assert and enforce a lien and notice to withhold and deliver as hereinafter provided to secure reimbursement of any public assistance paid for or during the period and for the purposes expressed in this section. [1985 c 245 § 7; 1982 c 201 § 17; 1973 1st ex.s. c 102 § 1. Formerly RCW 74.04.530.]

43.20B.725 Recipient receiving industrial insurance compensation—Lien and notice to withhold and deliver. The lien and notice to withhold and deliver in RCW 43.20B.720 shall be signed by the secretary or the secretary's authorized representative and shall identify the recipient of public assistance and time loss compensation, the amount claimed by the department, and the demand to withhold and deliver the sum claimed by the department. [1987 c 75 § 33; 1985 c 245 § 8; 1973 1st ex.s. c 102 § 2. Formerly RCW 74.04.540.]

43.20B.730 Recipient receiving industrial insurance compensation—Effective date of lien and notice—Service. The effective date of the statement of lien and notice to withhold and deliver provided in RCW 43.20B.725, shall be the day that it is received by the director of the department of labor and industries, an employee of the director's office of suitable discretion, or a self-insurer as defined in chapter 51.08 RCW: PROVIDED, That service of such statement of lien and notice to withhold and deliver may be made personally or by regular mail, postage prepaid: PROVIDED, FURTHER, That a copy of the statement of lien and notice to withhold and deliver shall be mailed to the recipient at the recipient's last known address by certified mail, return receipt requested, no later than the next business day after such statement of lien and notice to withhold and deliver has been mailed or delivered to the department of labor and industries or to a self-insurer as defined in chapter 51.08 RCW. [1987 c 75 § 34; 1985 c 245 § 9; 1973 1st ex.s. c 102 § 3. Formerly RCW 74.04.550.]

43.20B.735 Recipient receiving industrial insurance compensation—Duty to withhold and deliver—Amount. The director of the department of labor and industries, following receipt of the statement of lien and notice to withhold and deliver, shall deliver to the secretary of the department of social and health services or his designee any funds up to the amount claimed he may hold, or which may at any time come into his possession, on account of time loss compensation payable to said recipient for or during the period stated, immediately upon a final determination of the recipient's entitlement to the time loss compensation in accordance with the provisions of Title 51 RCW. [1973 1st ex.s. c 102 § 4. Formerly RCW 74.04.560.]

43.20B.740 Recipient receiving industrial insurance compensation—Adjudicative proceeding. Any person feeling aggrieved by the action of the department of social and health services in impounding his or her time loss compensation as provided in RCW 43.20B.720 through 43.20B.745 shall have the right to an adjudicative proceeding.

Any such person who desires a hearing shall, within twenty-eight days after the notice to withhold and deliver has

been mailed to or served upon the director of the department of labor and industries and said appellant, file with the secretary an application for an adjudicative proceeding.

The proceeding shall be governed by chapter 34.05 RCW, the Administrative Procedure Act. [1989 c 175 § 101; 1987 c 75 § 35; 1973 1st ex.s. c 102 § 5. Formerly RCW 74.04.570.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.20B.745 Recipient receiving industrial insurance compensation—Application. RCW 43.20B.720 through 43.20B.745 shall not apply to persons whose eligibility for benefits under Title 51 RCW, is based upon an injury or illness occurring prior to July 1, 1972. [1987 c 75 § 36; 1973 1st ex.s. c 102 § 6. Formerly RCW 74.04.580.]

CONSTRUCTION

43.20B.900 Savings—1987 c 75. The enactment of this act shall not have the effect of terminating or in any way modifying any liability, civil or criminal, which is already in existence on July 26, 1987. [1987 c 75 § 48.]

43.20B.901 Severability—1987 c 75. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 75 § 51.]

Chapter 43.21A

DEPARTMENT OF ECOLOGY

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43.21A.010 Legislative declaration of state policy on environment and utilization of natural resources. The legislature recognizes and declares it to be the policy of this state, that it is a fundamental and inalienable right of the people of the state of Washington to live in a healthful and pleasant environment and to benefit from the proper development and use of its natural resources. The legislature further recognizes that as the population of our state grows, the need to provide for our increasing industrial, agricultural, residential, social, recreational, economic and other needs will place an increasing responsibility on all segments of our society to plan, coordinate, restore and regulate the utilization of our natural resources in a manner that will protect and conserve our clean air, our pure and abundant waters, and the natural beauty of the state. [1970 ex.s. c 62 § 1.]

Savings—Other powers and rights not affected—Permits, standards, not affected—1970 ex.s. c 62: "The provisions of this act shall not impair or supersede the powers or rights of any person, committee, association, public, municipal or private corporations, state or local governmental agency, federal agency, or political subdivision of the state of Washington under any other law except as specifically provided herein. Pollution control permits, water quality standards, air pollution permits, air quality standards, and permits for disposal of solid waste materials of this state are not changed hereby and the laws governing the same are to be protected and preserved." [1970 ex.s. c 62 § 61.]

Effective date—1970 ex.s. c 62: "This 1970 amendatory act shall take effect on July 1, 1970." [1970 ex.s. c 62 § 64.]

Severability—1970 ex.s. c 62: "If any provision of this 1970 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances, shall not be affected." [1970 ex.s. c 62 § 65.]

43.21A.020 Purpose. In recognition of the responsibility of state government to carry out the policies set forth in RCW 43.21A.010, it is the purpose of this chapter to establish a single state agency with the authority to manage and develop our air and water resources in an orderly, efficient, and effective manner and to carry out a coordinated program of pollution control involving these and related land resources. To this end a department of ecology is created by this chapter to undertake, in an integrated manner, the various water regulation, management, planning and development programs now authorized to be performed by the department of water resources and the water pollution control commission, the air regulation and management program now performed by the state air pollution control board, the solid waste regulation and management program authorized to be performed by state government as provided by chapter 70.95 RCW, and such other environmental, management protection and development programs as may be authorized by the legislature. [1970 ex.s. c 62 § 2.]

43.21A.030 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of ecology.
- (2) "Director" means the director of the department of ecology.
- (3) "Commission" means the ecological commission. [1970 ex.s. c 62 § 3.]

43.21A.040 Department of ecology—Created. There is created a department of state government to be known as the department of ecology. [1970 ex.s. c 62 § 4.]

43.21A.050 Department of ecology—Director—Appointment—Powers and duties—Salary—Temporary appointment when vacancy. The executive and administrative head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate. He shall have complete charge of and supervisory powers over the department. He shall be paid a salary fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate at which time he shall present to that body his nomination for the position. [1970 ex.s. c 62 § 5.]

43.21A.061 Powers and duties—Reclamation. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to the reclamation and development of arid, swamp, overflow, and logged-off lands in the state and such other duties as may be prescribed by law. [1987 c 109 § 26; 1965 c 8 § 43.21.110. Prior: 1921 c 7 § 70; RRS § 10828. Formerly RCW 43.21.110.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.064 Powers and duties—Water resources. The director of the department of ecology shall have the following powers and duties:

- (1) The supervision of public waters within the state and their appropriation, diversion, and use, and of the various officers connected therewith;
- (2) Insofar as may be necessary to assure safety to life or property, he shall inspect the construction of all dams, canals, ditches, irrigation systems, hydraulic power plants, and all other works, systems, and plants pertaining to the use of water, and he may require such necessary changes in the construction or maintenance of said works, to be made from time to time, as will reasonably secure safety to life and property;
- (3) He shall regulate and control the diversion of water in accordance with the rights thereto;
- (4) He shall determine the discharge of streams and springs and other sources of water supply, and the capacities of lakes and of reservoirs whose waters are being or may be utilized for beneficial purposes;
- (5) He shall keep such records as may be necessary for the recording of the financial transactions and statistical data thereof, and shall procure all necessary documents, forms, and blanks. He shall keep a seal of the office, and all

certificates by him covering any of his acts or the acts of his office, or the records and files of his office, under such seal, shall be taken as evidence thereof in all courts;

(6) He shall render when required by the governor, a full written report of the work of his office with such recommendations for legislation as he may deem advisable for the better control and development of the water resources of the state;

(7) The director and duly authorized deputies may administer oaths;

(8) He shall establish and promulgate rules governing the administration of chapter 90.03 RCW;

(9) He shall perform such other duties as may be prescribed by law. [1977 c 75 § 46; 1965 c 8 § 43.21.130. Prior: 1961 c 19 § 1; prior: (i) 1951 c 57 § 3; 1921 c 7 § 72; RRS § 10830. (ii) 1951 c 57 § 3; 1917 c 117 § 8; RRS § 7358. Formerly RCW 43.21.130.]

Review of permit applications to divert and store water, water flow policy: RCW 75.20.050.

Water power development, license fees: RCW 90.16.050, 90.16.060, 90.16.090.

43.21A.067 Water resources—"Basic data fund" created. The director of ecology may create within his department a fund to be known as the "basic data fund."

Into such fund shall be deposited all moneys contributed by persons for stream flow, ground water and water quality data or other hydrographic information furnished by the department in cooperation with the United States geological survey, and the fund shall be expended on a matching basis with the United States geological survey for the purpose of obtaining additional basic information needed for an intelligent inventory of water resources in the state.

Disbursements from the basic data fund shall be on vouchers approved by the department and the district engineer of the United States geological survey. [1987 c 109 § 27; 1967 c 53 § 1; 1965 c 8 § 43.21.140. Prior: 1951 c 57 § 4; 1943 c 30 § 1; Rem. Supp. 1943 § 5505-1. Formerly RCW 43.21.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.069 Powers and duties—Flood control. The department of ecology shall exercise all the powers and perform all the duties prescribed by law with respect to flood control. [1987 c 109 § 28; 1965 c 8 § 43.21.160. Prior: 1941 c 204 § 2, part; Rem. Supp. 1941 § 9663F-2, part. Formerly RCW 43.21.160.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.070 Application of administrative procedure act to the review of decisions by director. The administrative procedure act, chapter 34.05 RCW, shall apply to the review of decisions by the director to the same extent as it applied to decisions issued by the directors of the various departments whose powers, duties and functions are transferred by *this 1970 amendatory act to the department of ecology. The administrative procedure act shall further apply to all other decisions of the director as in chapter 34.05 RCW provided. [1970 ex.s. c 62 § 7.]

***Reviser's note:** For "this 1970 amendatory act" [1970 ex.s. c 62], see Codification Tables, Volume 0.

43.21A.080 Rules and regulations. The director of the department of ecology is authorized to adopt such rules and regulations as are necessary and appropriate to carry out the provisions of this chapter. [1970 ex.s. c 62 § 8.]

43.21A.085 Technical assistance officer and units—Coordination of voluntary compliance with regulatory laws. The department, to the greatest extent possible, within available resources and without jeopardizing the department's ability to carry out its legal responsibilities, may designate one or more of its employees as a technical assistance officer, and may organize the officers into one or more technical assistance units within the department. The duties of a technical assistance officer are to coordinate voluntary compliance with the regulatory laws administered by the department and to provide technical assistance concerning compliance with the laws. [1992 c 19 § 1.]

43.21A.087 Technical assistance officer and units—Authority to issue orders or assess penalties. (1) An employee designated by the department as a technical assistance officer or as a member of a technical assistance unit may not, during the period of the designation, have authority to issue orders or assess penalties on behalf of the department. Such an employee who provides on-site consultation at an industrial or commercial facility and who observes violations of the law shall inform the owner or operator of the facility of the violations. On-site consultation visits by such an employee may not be regarded as inspections or investigations and no notices or citations may be issued or civil penalties assessed during such a visit. However, violations of the law must be reported to the appropriate officers within the department. If the owner or operator of the facility does not correct the observed violations within a reasonable time, the department may reinspect the facility and take appropriate enforcement action. If a technical assistance officer or member of a technical assistance unit observes a violation of the law that places a person in danger of death or substantial bodily harm, or has caused or is likely to cause physical damage to the property of others in an amount exceeding one thousand dollars, the department may initiate enforcement action immediately upon observing the violation.

(2) The state, the department, and officers or employees of the state shall not be liable for damages to a person to the extent that liability is asserted to arise from the performance by technical assistance officers of their duties, or if liability is asserted to arise from the failure of the department to supply technical assistance. [1992 c 19 § 2.]

43.21A.090 Powers, duties and functions transferred to department to be performed by director—Delegation by director, limitations. All powers, duties and functions transferred to the department by the terms of *this 1970 amendatory act shall be performed by the director: PROVIDED, That the director may delegate, by appropriate rule or regulation, the performance of such of his powers, duties, and functions, other than those relating to the

adoption, amendment or rescission of rules and regulations, to employees of the department whenever it appears desirable in fulfilling the policy and purposes of this chapter. [1970 ex.s. c 62 § 9.]

*Reviser's note: For "this 1970 amendatory act" [1970 ex.s. c 62], see Codification Tables, Volume 0.

43.21A.100 Departmental administrative divisions—Deputy director, duties—Assistant directors, duties—As exempt from state civil service law—Salaries. In order to obtain maximum efficiency and effectiveness within the department, the director may create such administrative divisions within the department as he deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The deputy director shall have charge and general supervision of the department in the absence or disability of the director. In the case of a vacancy in the office of director, the deputy director shall administer the department until the governor appoints a successor to the director or an acting director. The officers appointed under this section and exempt from the provisions of the state civil service law as provided in RCW 41.06.073, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1970 ex.s. c 62 § 10.]

43.21A.120 Director to employ personnel—Application of state civil service law. The director shall have the power to employ such personnel as may be necessary for the general administration of this chapter: PROVIDED, That except as specified in RCW 41.06.073, such employment shall be in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1970 ex.s. c 62 § 12.]

43.21A.130 Studies by director—Limitation. In addition to any other powers granted the director, the director may undertake studies dealing with all aspects of environmental problems involving land, water, or air: PROVIDED, That in the absence of specific legislative authority, such studies shall be limited to investigations of particular problems, and shall not be implemented by positive action. [1987 c 505 § 28; 1980 c 87 § 22; 1970 ex.s. c 62 § 13.]

43.21A.140 Director to consult with department, state board of health. The director in carrying out his powers and duties under this chapter shall consult with the department of social and health services and the state board of health, or their successors, insofar as necessary to assure that those agencies concerned with the preservation of life and health may integrate their efforts to the fullest extent possible and endorse policies in common. [1979 c 141 § 67; 1970 ex.s. c 62 § 14.]

43.21A.150 Director to consult with other states, federal government and Canadian provinces—Authority to receive and disburse grants, funds and gifts. The director, whenever it is lawful and feasible to do so, shall

consult and cooperate with the federal government, as well as with other states and Canadian provinces, in the study and control of environmental problems. On behalf of the department, the director is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter. [1970 ex.s. c 62 § 15.]

43.21A.160 Request for certification of records as confidential—Procedure. Whenever any records or other information furnished under the authority of this chapter to the director, the department, or any division of the department, relate to the processes of production unique to the owner or operator thereof, or may affect adversely the competitive position of such owner or operator if released to the public or to a competitor, the owner or operator of such processes or production may so certify, and request that such information or records be made available only for the confidential use of the director, the department, or the appropriate division of the department. The director shall give consideration to the request, and if such action would not be detrimental to the public interest and is otherwise within accord with the policies and purposes of this chapter, may grant the same. [1970 ex.s. c 62 § 16.]

43.21A.230 Certification of environmental laboratories authorized—Fees—Use of certified laboratories by persons submitting data or results to department. The director of ecology may certify environmental laboratories which conduct tests or prepare data for submittal to the department. Fees for certification may be charged by the department to cover the department's costs. Such certification may consider:

- (1) Evaluating protocols and procedures;
- (2) Determining the accuracy and reliability of test results, including internal quality assurance and quality control procedures and proficiency at analyzing test samples supplied by the department;
- (3) Certifying laboratories based on prior certification by another state or federal agency whose certification requirements are deemed satisfactory by the director; and
- (4) Such other factors as the director considers appropriate.

The director of ecology may require that any person submitting laboratory data or test results to the department use laboratories certified by the department or laboratories which participate in quality assurance programs administered by the federal environmental protection agency.

Persons receiving a federal permit for wastewater discharge who operate a lab solely for their own use and who require certification for only conventional pollutants shall not be charged an annual certification fee in excess of the actual costs of providing the certification or four thousand dollars, whichever is less. Conventional pollutants as used in this subsection means those conventional pollutants regulated under the federal clean water act (33 U.S.C. Sec. 1314).

Fees and lab quality control requirements for persons receiving state or federal wastewater discharge permits shall

not be implemented before September 30, 1988. The department shall not duplicate any laboratory quality control requirements imposed by the United States environmental protection agency. [1987 c 481 § 1.]

43.21A.235 Exemption from laboratory certification and fee requirements. Laboratories owned by persons holding wastewater discharge permits and operated solely for their own use which participate in quality assurance programs administered by the federal environmental protection agency shall be exempt from certification and fee requirements for the specific methods and tests which are the subject of such quality assurance programs. [1987 c 481 § 2.]

43.21A.250 Pollution control hearings board of the state as affecting department, director and commission. See chapter 43.21B RCW.

43.21A.350 Master plan of development. The department of ecology shall prepare and perfect from time to time a state master plan for flood control, state public reservations, financed in whole or in part from moneys collected by the state, sites for state public buildings and for the orderly development of the natural and agricultural resources of the state. The plan shall be a guide in making recommendations to the officers, boards, commissions, and departments of the state.

Whenever an improvement is proposed to be established by the state, the state agency having charge of the establishment thereof shall request of the director a report thereon, which shall be furnished within a reasonable time thereafter. In case an improvement is not established in conformity with the report, the state agency having charge of the establishment thereof shall file in its office and with the department a statement setting forth its reasons for rejecting or varying from such report which shall be open to public inspection.

The department shall insofar as possible secure the cooperation of adjacent states, and of counties and municipalities within the state in the coordination of their proposed improvements with such master plan. [1987 c 109 § 29; 1965 c 8 § 43.21.190. Prior: 1957 c 215 § 22; 1933 ex.s. c 54 § 3; RRS § 10930-3. Formerly RCW 43.21.190.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21A.355 Master plan of development—Public hearings. The director may hold public hearings, in connection with any duty prescribed in RCW 43.21A.350 and may compel the attendance of witnesses and the production of evidence. [1988 c 127 § 7; 1965 c 8 § 43.21.200. Prior: 1957 c 215 § 23; 1933 ex.s. c 54 § 4; RRS § 10930-4. Formerly RCW 43.21.200.]

43.21A.405 Marine pollution—Baseline study program—Legislative finding and declaration. The legislature recognizes that there exists a great risk of potential damage from oil pollution of the waters of the state of Washington and further declares that immediate steps must be undertaken to reduce this risk. The legislature also is aware that such danger is expected to increase in future

years in proportion to the increase in the size and cargo capacity of ships, barges, and other waterborne carriers, the construction and operational characteristics of these carriers, the density of waterborne traffic, and the need for a greater supply of petroleum products.

A program of systematic baseline studies to be conducted by the department of ecology has been recognized as a vital part of the efforts to reduce the risk of oil pollution of marine waters, and the legislature recognizes that many factors combine to make this effort one of considerable magnitude and difficulty. The marine shoreline of the state is about two thousand seven hundred miles long, a greater length than the combined coastlines of Oregon and California. There are some three million acres of submerged land and more than three hundred islands in these marine waters. The average depth of Puget Sound is two hundred twenty feet. There is a great diversity of animal life in the waters of the state. These waters have a multitude of uses by both humans and nonhumans, and the interaction between man's activities and natural processes in these waters varies greatly with locale. [1973 2nd ex.s. c 30 § 1.]

Oil and hazardous substances pollution: RCW 90.56.010 through 90.56.280.

43.21A.410 Marine pollution—Baseline study program established—Utilization of related programs—Coordination—Contracts. As part of the state effort to prevent and control oil pollution, a continuing, comprehensive program of systematic baseline studies for the waters of the state shall be established by the department of ecology. Full utilization of related historical data shall be made in planning these studies. Data from these and other scientific investigations made pursuant to RCW 43.21A.405 through 43.21A.420 should, whenever possible, have multiple use, including use as supporting evidence of environmental damage resulting from oil pollution, as indicators of the potential or existing risks and impacts of oil pollution, as aids to developing a methodology for implementing the reduction of risks, and as aids to maintaining water quality standards.

A baseline study program shall take full advantage of the data and information produced by related programs, such as the marine ecosystems analysis (MESA) program of the national oceanic and atmospheric administration, studies and inventories made pursuant to the state shorelines management act of 1971, and others. All phases of the program, including planning, operations, data analysis, interpretation, storage, retrieval, and dissemination phases, shall be coordinated to the greatest possible extent with appropriate governmental, academic, and industrial organizations. Whenever possible, the department shall contract with existing state agencies, boards, commissions, and institutions of higher education for the scientific investigation programs to be conducted. [1973 2nd ex.s. c 30 § 2.]

43.21A.415 Marine pollution—Baseline study program—Scope of data base produced. The data base produced by such studies should include chemical, physical, and biological parameters of the waters, complete information on marine pollution accidents, and an economic evaluation of the marine resources and shoreline properties that

may be damaged or impaired by oil pollution. Where oceanographic and water quality instrumentation is used to gather data, such instruments shall be standardized and intercalibrated. [1973 2nd ex.s. c 30 § 3.]

43.21A.420 Marine pollution—Baseline study program—Priority factors. In planning the state baseline studies program, priority shall be given to those waters (1) in which the greatest risk of damage from oil spills exists; (2) which contain marine and fresh water life that is particularly sensitive to toxins contained in crude oil, oil products, and oil wastes; and (3) which are used or may be used for the harvesting, gathering, or production of food or food products. [1973 2nd ex.s. c 30 § 4.]

43.21A.430 Catalytic converters in police, ambulance or emergency aid vehicles—Department's powers restricted in respect thereto. The department of ecology may not adopt, maintain in effect, or enforce any rule requiring the installation or maintenance of a catalytic converter in the exhaust system of any motor vehicle used as a police vehicle, or ambulance, an emergency aid vehicle, or a fire department vehicle, and any catalytic converter in the exhaust system of any such vehicle may be lawfully removed. [1977 ex.s. c 264 § 1.]

43.21A.440 Department authorized to participate in and administer federal Comprehensive Environmental Response, Compensation and Liability Act. The department of ecology is authorized to participate fully in and is empowered to administer all programs of the federal Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.), as it exists on July 24, 1983, contemplated for state participation and administration under that act. [1983 c 270 § 3.]

Severability—1983 c 270: See note following RCW 90.48.260.

43.21A.445 Departments authorized to participate in and administer federal Safe Drinking Water Act—Agreements with other departments. The department of ecology, the department of natural resources, the department of health, and the *oil and gas conservation committee are authorized to participate fully in and are empowered to administer all programs of Part C of the federal Safe Drinking Water Act (42 U.S.C. Sec. 300h et seq.), as it exists on June 19, 1986, contemplated for state participation in administration under the act.

The department of ecology, in the implementation of powers provided herein shall enter into agreements of administration with the departments of health and natural resources and the *oil and gas conservation committee to administer those portions of the state program, approved under the federal act, over which the said departments and committee have primary subject-matter authority under existing state law. The departments of health and natural resources and the *oil and gas conservation committee are empowered to enter into such agreements and perform the administration contained therein. [1989 1st ex.s. c 9 § 218; 1988 c 279 § 1; 1983 c 270 § 4.]

*Reviser's note: The duties of the oil and gas conservation committee were transferred to the department of natural resources by 1994 1st sp.s. c 9.

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1983 c 270: See note following RCW 90.48.260.

Adoption of rules for on-site sewage disposal systems adjacent to marine waters: RCW 90.48.264.

Drinking water quality consumer complaints: RCW 80.04.110.

43.21A.450 Control of outflow and level of Lake Osoyoos—Lake Osoyoos International Water Control Structure authorized. (1) The legislature recognizes the need for the state of Washington to implement an understanding reached with the Province of British Columbia in relation to a joint venture with British Columbia for controlling the outflow and level of Lake Osoyoos, an international lake, and in connection therewith to replace an existing lake control structure on the Okanogan river in Washington state which has been classified as deteriorated and unsafe.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design, construct, own, operate, and maintain a project to be known as the Lake Osoyoos International Water Control Structure and may acquire all real property interests necessary thereto by purchase, grant, gift, or eminent domain; provided that the authority of eminent domain as granted to the department under this section is limited to acquiring property necessary for access to the control structure, location of abutments for the control structure, and flowage easements if necessary.

(3) The department may accept and administer grants or gifts from any source for the purpose of carrying out subsection (2) of this section.

(4) The department may exercise its powers under subsection (2) of this section directly or through contracts, except that it may not delegate its authority of eminent domain. The department may also enter into agreements with any public or municipal corporation with respect to operation and maintenance of the project authorized under subsection (2) of this section. [1985 c 27 § 1; 1982 c 76 § 1.]

Intent—1985 c 27; 1982 c 76: "It is the intent of this legislature in enacting RCW 43.21A.450 that total capital costs for the said project be shared equally by Washington state and British Columbia." [1985 c 27 § 2; 1982 c 76 § 2.]

43.21A.460 East Selah reregulating reservoir. (1) The legislature recognizes the need to improve the control and regulation of the waters of the Yakima river system to insure that both necessary diversionary and instream beneficial uses of those waters, which provide the foundation for the economic and environmental well-being of the Yakima valley, are achieved to the maximum extent reasonably attainable. It is further recognized that the most satisfactory means for satisfying this need is to improve the existing water project, known as the Yakima project, presently operated by the United States bureau of reclamation. Therefore, the legislature intends to aid the United States in improving the Yakima project by constructing physical works and providing financial assistance.

(2) For the purpose of implementing subsection (1) of this section, the department of ecology may acquire, design,

and construct a project, known as the East Selah reregulating reservoir, and may acquire, by gift, purchase, or condemnation, all real property interests necessary to complete the project. The department may then transfer the completed East Selah reregulating reservoir to the department of the interior of the United States subject to such conditions as the department of ecology requires to ensure that the objectives of this section are achieved.

(3) The department shall not:

(a) Exercise any powers of acquisition or construction provided in subsection (2) of this section, until the department has entered into a binding agreement with the United States department of the interior that the department of the interior will, upon completion by the department of the East Selah reregulating reservoir project, accept title to the project and thereafter operate and maintain the project (i) consistent with the agreement of transfer, and (ii) without any obligation upon the state for payment of costs for the operation or maintenance of the project; or

(b) Enter into any agreement under subsection (3)(a) of this section until (i) federal legislation is enacted recognizing the amount of the value of the completed East Selah reregulating reservoir as a credit to any matching funds requirement placed upon the state of Washington established in any authorization or appropriation bill enacted after August 23, 1983, relating to any project studied under Public Law 96-162, and (ii) the department is satisfied that the United States has the necessary water rights to operate the project. [1983 1st ex.s. c 18 § 1.]

43.21A.470 Yakima enhancement project—Duties—Request for congressional authorization for pipeline. (1) The director of the department of ecology shall:

(a) Continue to participate with the federal government in its studies of the Yakima enhancement project and of options for future development of the second half of the Columbia Basin project;

(b) Vigorously represent the state's interest in said studies, particularly as they relate to protection of existing water rights and resolution of conflicts in the adjudication of the Yakima river within the framework of state water rights law and propose means of resolving the conflict that minimize adverse effects on the various existing uses;

(c) As a cooperative federal and nonfederal effort, work with members of the congressional delegation to identify and advance, subject to the limitations in subsection (2) of this section, for federal authorization elements of the Yakima enhancement project which: Have general public support and acceptable cost-sharing arrangements, meet study objectives, and otherwise have potential for early implementation; and

(d) In developing acceptable cost-sharing arrangements, request federal recognition of state credit for expenditures of moneys from Washington state utility ratepayers.

(2) In the interest of promoting cooperation between all interested parties and to effectuate the efficient and satisfactory implementation of the Yakima enhancement project, the state requests that Congress authorize the construction of a pipeline between Keechelus Lake and Kachess Lake as one of the elements of early implementation of the Yakima enhancement project for the purpose of supplying the water

which is demanded for and caused by the operation of the fish passage facilities at the Easton Dam. The department, in concert with other state agencies, shall work diligently to assure that the pipeline element is included in the federal legislation. [1987 c 517 § 1; 1986 c 316 § 3.]

43.21A.500 Mt. St. Helens eruption—Exemption from water and flood control requirements authorized—Expiration of section. Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210, other than the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers, may be exempted by the applicable county legislative authority from the requirements related to water and flood control under the department of ecology, for operations within such county: PROVIDED, That the applicable legislative authority shall promptly notify the department of ecology within five days of the emergency action taken and the emergent nature of the problem. The notification shall be made to the water resources district supervisor of the southwest region of the department of ecology.

This section shall expire on June 30, 1995. [1989 c 213 § 1; 1985 c 307 § 3; 1983 1st ex.s. c 1 § 6; 1982 c 7 § 7.]

Severability—1983 1st ex.s. c 1: See note following RCW 43.01.200.

Severability—1982 c 7: See note following RCW 36.01.150.

43.21A.510 State environmental profile. In order to assist the *department of trade and economic development in providing information to businesses interested in locating in Washington state, the department shall develop an environmental profile of the state. This profile shall identify the state's natural resources and describe how these assets are valuable to industry. Examples of information to be included are water resources and quality, air quality, and recreational opportunities related to natural resources. [1985 c 466 § 51; 1984 c 94 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

Findings—1984 c 94: "The legislature finds (1) that a locality's natural environment is an important factor in determining where new businesses will locate, (2) that environmental regulations that preserve the quality of the environment can enhance economic development and the determination by new businesses where to locate and can lead to the creation of jobs and new industries, and (3) that some areas of the state have been and might be handicapped in their economic development efforts because of perceived environmental problems. Thus, the legislature declares that it is the policy of this state to recognize and emphasize the importance of the state's natural environment in its economic development efforts in attracting and maintaining businesses." [1984 c 94 § 1.]

43.21A.515 Assistance to businesses interested in locating in Washington required—Information on environmental laws and regulations to be provided. In order to emphasize the importance of the state's environmental laws and regulations and to facilitate compliance with them, the department of ecology shall provide assistance to businesses interested in locating in Washington state. When the *department of trade and economic development receives

a query from an interested business through its industrial marketing activities, it shall arrange for the department of ecology to provide information on the state's environmental laws and regulations and methods of compliance. This section shall facilitate compliance with state environmental laws and regulations and shall not weaken their application or effectiveness. [1985 c 466 § 52; 1984 c 94 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

Findings—1984 c 94: See note following RCW 43.21A.510.

43.21A.520 Environmental excellence awards program for products. (1) The department of ecology shall develop and implement an environmental excellence awards program that recognizes products that are produced, labeled, or packaged in a manner that helps ensure environmental protection. The award shall be in recognition of products that are made from recycled materials, easy to recycle, substitute for more hazardous products, or otherwise help protect the environment. Application for the award shall be voluntary. The awards may be made in a variety of product categories including, but not limited to:

- (a) Paint products;
- (b) Cleaning products;
- (c) Pest control products;
- (d) Automotive, marine, and related maintenance products;
- (e) Hobby and recreation products; and
- (f) Any other product available for retail or wholesale sale.

(2) The state solid waste advisory committee shall establish an environmental excellence product award subcommittee to develop and recommend criteria for awarding environmental excellence awards for products. The subcommittee shall also review award applications and make recommendations to the department. The subcommittee shall consist of equal representation of: (a) Product manufacturing or other business representatives; (b) environmental representatives; (c) labor or consumer representatives; and (d) independent technical experts. Members of the subcommittee need not necessarily be regular members of the state solid waste advisory committee.

(3) Products receiving an environmental excellence award pursuant to this section shall be entitled to display a logo or other symbol developed by the department to signify the award. Awards shall be given each year to as many products as qualify. The award logo may be displayed for a period to be determined by the department. [1989 c 431 § 47; 1987 c 67 § 1.]

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.21A.600 Powers and duties—Electric power resources. The department shall make studies and surveys, collect, compile and disseminate information and statistics to facilitate development of the electric power resources of the state by public utility districts, municipalities, electric cooperatives, joint operating agencies and public utility

companies. The director may cause studies to be made relating to the construction of steam generating plants using any available fuel and their integration with hydro-electric facilities. He may cause designs for any such plant to be prepared. He shall employ such engineers and other experts and assistants as may be necessary to carry out his power resources functions. [1988 c 127 § 8; 1965 c 8 § 43.21.220. Prior: 1957 c 284 § 2. Formerly RCW 43.21.220.]

Joint operating agencies: Chapter 43.52 RCW.

43.21A.605 Development of electric power resources—Cooperation with governmental units. The director may represent the state and aid and assist the public utilities therein to the end that its resources shall be properly developed in the public interest insofar as they affect electric power and to this end he shall cooperate and may negotiate with Canada, the United States, the states thereof and their agencies to develop and integrate the resources of the region. [1988 c 127 § 9; 1965 c 8 § 43.21.230. Prior: 1957 c 284 § 3. Formerly RCW 43.21.230.]

43.21A.610 Steam electric generating plant—Study—Construction. The director shall continue the study of the state power commission made in 1956 relating to the construction of a steam power electric generating plant, and if the construction of a steam electric generating plant is found to be feasible by the director, the director may construct such plant at a site determined by him to be feasible and operate it as a state owned facility. [1988 c 127 § 10; 1965 c 8 § 43.21.250. Prior: 1957 c 275 § 3. Formerly RCW 43.21.250]

43.21A.612 Steam electric generating plant—Statement of intention—Construction by public utility, operating agency, or the department, procedure—Powers of *director of trade and economic development. Before the director shall construct said steam generating facility within the state, or make application for any permit, license or other right necessary thereto, he shall give notice thereof by publishing once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is located a statement of intention setting forth the general nature, extent and location of the project. If any public utility in the state or any operating agency desires to construct such facility, such utility or operating agency shall notify the director thereof within ten days after the last date of publication of such notice. If the director determines that it is in the best public interest that the director proceed with such construction rather than the public utility or operating agency, he shall so notify the *director of trade and economic development, who shall set a date for hearing thereon. If after considering the evidence introduced the *director of trade and economic development finds that the public utility or operating agency making the request intends to immediately proceed with such construction and is financially capable of carrying out such construction and further finds that the plan of such utility or operating agency is equally well adapted to serve the public interest, he shall enter an order so finding and such order shall divest the director of authority to proceed further with such construction or acquisition until such time as the other public utility

or agency voluntarily causes an assignment of its right or interest in the project to the director or fails to procure any further required governmental permit, license or authority or having procured such, has the same revoked or withdrawn, in accordance with the laws and regulations of such governmental entity, in which event the director shall have the same authority to proceed as though the director had originally entered an order so authorizing the director to proceed. If, after considering the evidence introduced, the *director of trade and economic development finds that the public utility or agency making the request does not intend to immediately proceed with such construction or acquisition or is not financially capable of carrying out such construction or acquisition, or finds that the plan of such utility or operating agency is not equally well adapted to serve the public interest, he shall then enter an order so finding and authorizing the director to proceed with the construction or acquisition of the facility. [1988 c 127 § 11; 1985 c 466 § 49; 1965 c 8 § 43.21.260. Prior: 1957 c 275 § 4. Formerly RCW 43.21.260.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.21A.614 Steam electric generating plant—Powers of director in constructing, operating and maintaining. In order to construct, operate and maintain the single steam power electric generating plant provided for in RCW 43.21A.610 the director shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate such steam electric power plant, work and facilities for the generation and/or transmission of electric energy and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of such work, plant and facilities; providing that the director shall not be authorized to acquire by condemnation any plant, work and facility owned and operated by any city or district, or by a privately owned public utility.

(3) To apply to the appropriate agencies of the state of Washington, the United States or any state thereof, or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(4) To establish rates for electric energy sold or transmitted by the director. When any revenue bonds or warrants are outstanding the director shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy furnished or supplied by the director which shall be fair and nondiscriminatory and

adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the director is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the director and all necessary repairs, replacements and renewals thereof.

(5) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the director may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the director shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the director. [1988 c 127 § 12; 1965 c 8 § 43.21.270. Prior: 1957 c 275 § 5. Formerly RCW 43.21.270.]

43.21A.616 Steam electric generating plant—Eminent domain. For the purpose of carrying out any or all of the powers herein granted the director shall have the power of eminent domain for the acquisition of either real or personal property used or useful in connection with the construction of facilities authorized hereunder. Actions in eminent domain pursuant to RCW 43.21A.610 through 43.21A.642 shall be brought in the name of the state in any court of competent jurisdiction under the procedure set out in chapter 8.04 RCW. The director may institute condemnation proceedings in the superior court of any county in which any of the property sought to be condemned is located or in which the owner thereof does business, and the court in any such action shall have jurisdiction to condemn property wherever located within the state. It shall not be necessary to allege or prove any offer to purchase or inability to agree with the owners thereof for the purchase of any such property in said proceedings. Upon the filing of a petition for condemnation, as provided in this section, the court may issue an order restraining the removal from the jurisdiction of the state of any personal property sought to be acquired by the proceedings during the pendency thereof. The court shall further have the power to issue such orders or process as shall be necessary to place the director into possession of any property condemned. [1988 c 127 § 13; 1965 c 8 § 43.21.280. Prior: 1957 c 275 § 6. Formerly RCW 43.21.280.]

43.21A.618 Steam electric generating plant—State not financially obligated—Separation and expenditure of funds. The director shall have no right or power to impose any debt nor to suffer or create any financial obligation upon the state of Washington or its subdivisions in the execution of RCW 43.21A.610 through 43.21A.642.

No revenues received by the director for the sale of electricity or otherwise, shall be expended except for the payment of lawful obligations of the director and all such revenues and receipts shall be kept and maintained in a separate fund. [1988 c 127 § 14; 1965 c 8 § 43.21.290. Prior: 1957 c 275 § 7. Formerly RCW 43.21.290.]

43.21A.620 Steam electric generating plant—Revenue bonds and warrants. For the purposes provided for in RCW 43.21A.610 through 43.21A.642, the state

finance committee shall, upon being notified to do so by the director, issue revenue bonds or warrants payable from the revenues from the steam electric plant provided for in RCW 43.21A.610. When the director deems it advisable that he acquire or construct said steam electric plant or make additions or betterments thereto, he shall so notify the state finance committee and he shall also notify the state finance committee as to the plan proposed, together with the estimated cost thereof. The state finance committee, upon receiving such notice, shall provide for the construction thereof and the issuance of revenue bonds or warrants therefor by a resolution which shall specify and adopt the system or plan proposed, and declare the estimated cost thereof, as nearly as may be, including as part of the cost, funds necessary for working capital for the operation of such utility and the payment of the expenses incurred in the acquisition or construction thereof. Such resolution shall specify that utility revenue bonds are to be issued to defray the cost thereof and the amount of such bonds to be issued. Bonds issued under the provisions of RCW 43.21A.610 through 43.21A.642 shall distinctly state that they are not a general obligation of the state. [1988 c 127 § 15; 1965 c 8 § 43.21.300. Prior: 1957 c 275 § 8. Formerly RCW 43.21.300.]

43.21A.622 Steam electric generating plant—Special funds—Payment of bonds, interest. When the state finance committee issues revenue bonds as provided in RCW 43.21A.620, it shall, as a part of the plan and system, request the state treasurer to establish a special fund or funds to defray the cost of the steam electric utility, or additions or betterments thereto or extensions thereof. The state finance committee may obligate and bind the director to set aside and pay to the state treasurer for deposit into such fund or funds a fixed proportion of the gross revenue of the steam electric utility and all additions or betterments thereto or extensions thereof, or any fixed amount out of, and not exceeding the fixed proportion of such revenue, or a fixed amount without regard to any fixed proportion, or an amount of the revenue equal to a fixed percentage of the aggregate principal amount of revenue bonds at any time issued against the special fund or funds. It may issue and sell utility bonds payable as to both principal and interest only out of such fund or funds.

The revenue bonds shall be payable at such places and times, both as to principal and interest, and bear interest at such rates payable semiannually as the state finance committee shall determine. [1988 c 127 § 16; 1965 c 8 § 43.21.310. Prior: 1957 c 275 § 9. Formerly RCW 43.21.310.]

43.21A.624 Steam electric generating plant—Considerations in issuance of bonds, limitations. In the issuance of any bonds hereunder the state finance committee shall have due regard to the cost of operation and maintenance of the steam electric utility as acquired, constructed or added to, and to any proportion or amount of the revenue previously pledged as a fund for the payment of revenue bonds. It shall not require to be set aside into the fund a greater amount or proportion of the revenue than in its judgment and as agreed to by the director will be available

over and above the cost of maintenance and operation and any amount or proportion of the revenue so previously pledged. Revenue bonds and interest thereon issued against such fund shall be a valid claim of the holder thereof only as against the fund and the proportion or amount of the revenue pledged thereto, but shall constitute a prior charge over all other charges or claims whatsoever against the fund and the proportion or amount of the revenues pledged thereto. Each revenue bond shall state on its face that it is payable from a special fund, naming the fund and the resolution creating it. [1988 c 127 § 17; 1965 c 8 § 43.21.320. Prior: 1957 c 275 § 10. Formerly RCW 43.21.320.]

43.21A.626 Steam electric generating plant—Resolution authorizing issuance of bonds, contents, covenants. The resolution of the state finance committee authorizing the issuance of revenue bonds shall specify the title of the bonds as determined by the state finance committee, and may contain covenants by the committee to protect and safeguard the security and the rights of the holders thereof, including covenants as to, among other things:

(1) The purpose or purposes to which the proceeds of the sale of the revenue bonds may be applied and the use and disposition thereof;

(2) The use and disposition of the gross revenue of the steam electric utility and any additions or betterments thereto or extensions thereof, the cost of which is to be defrayed with such proceeds, including the creation and maintenance of funds for working capital to be used in the operation of the steam electric utility and for renewals and replacements thereof;

(3) The amount, if any, of additional revenue bonds payable from such fund which may be issued and the terms and conditions on which such additional revenue bonds or warrants may be issued;

(4) The establishment and maintenance of adequate rates and charges for electric power and energy and other services, facilities, and commodities, sold, furnished or supplied by the steam electric utility;

(5) The operation, maintenance, management, accounting and auditing of the electric utility;

(6) The terms upon which the revenue bonds, or any of them, may be redeemed at the election of the agency;

(7) Limitations upon the right to dispose of the steam electric utility or any part thereof without providing for the payment of the outstanding revenue bonds; and

(8) The appointment of trustees, depositaries, and paying agents to receive, hold, disburse, invest, and reinvest all or any part of the income, revenue, receipts and profits derived by the director from the operation, ownership, and management of its steam electric utility. [1988 c 127 § 18; 1965 c 8 § 43.21.330. Prior: 1957 c 275 § 11. Formerly RCW 43.21.330.]

43.21A.628 Steam electric generating plant—Sale of bonds. All bonds issued under or by authority of RCW 43.21A.610 through 43.21A.642 shall be sold to the highest and best bidder after such advertising for bids as the state finance committee may deem proper. The state finance committee may reject any and all bids so submitted and

thereafter sell such bonds so advertised under such terms and conditions as the state finance committee may deem most advantageous to its own interests. [1988 c 127 § 19; 1970 ex.s. c 56 § 61; 1969 ex.s. c 232 § 32; 1965 c 8 § 43.21.340. Prior: 1957 c 275 § 12. Formerly RCW 43.21.340.]

Purpose—1970 ex.s. c 56: See note following RCW 39.52.020.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.52.020.

43.21A.630 Steam electric generating plant—Examination, registration of bonds by state auditor—Defects, irregularities. Prior to the issuance and delivery of any revenue bonds, such bonds and a certified copy of the resolution authorizing them shall be delivered to the state auditor together with any additional information that he may require. When the bonds have been examined they shall be registered by the auditor in books to be kept by him for that purpose, and a certificate of registration shall be endorsed upon each bond and signed by the auditor or a deputy appointed by him for the purpose. The bonds shall then be prima facie valid and binding obligations of the state finance committee in accordance with their terms, notwithstanding any defects or irregularities in the authorization and issuance of the bonds, or in the sale, execution or delivery thereof. [1965 c 8 § 43.21.350. Prior: 1957 c 275 § 13. Formerly RCW 43.21.350.]

43.21A.632 Steam electric generating plant—Rates or charges. When revenue bonds are outstanding the director shall establish, maintain, and collect rates or charges for electric power and energy, and other services, facilities and commodities sold and supplied by the director which shall be fair and nondiscriminatory and adequate to provide revenue sufficient to pay the principal of and interest on revenue bonds outstanding, and all payments which the director is obligated to make to the state treasurer for deposit in any special fund or funds created for such purpose, and for the proper operation and maintenance of the utility and all necessary repairs, replacements and renewals thereof. [1988 c 127 § 20; 1965 c 8 § 43.21.360. Prior: 1957 c 275 § 14. Formerly RCW 43.21.360.]

43.21A.634 Steam electric generating plant—Refunding revenue bonds. When the state finance committee has outstanding revenue bonds, the state finance committee, with the concurrence of the director, may by resolution provide for the issuance of refunding revenue bonds with which to refund the outstanding revenue bonds, or any part thereof at maturity, or before maturity if they are by their terms or by other agreement, subject to call for prior redemption, with the right in the state finance committee to combine various series and issues of the outstanding revenue bonds by a single issue of refunding revenue bonds. The refunding bonds shall be payable only out of a special fund created out of the gross revenue of the steam electric utility, and shall only be a valid claim as against such special fund and the amount or proportion of the revenue of the utility pledged to said fund. The rate of interest on refunding revenue bonds shall not exceed the rate of interest on revenue bonds refunded thereby. The state finance commit-

tee may exchange the refunding revenue bonds for the revenue bonds which are being refunded, or it may sell them in such manner as it deems for its best interest. Except as specifically provided in this section, the refunding revenue bonds shall be issued in accordance with the provisions contained in RCW 43.21A.610 through 43.21A.642 with respect to revenue bonds. [1988 c 127 § 21; 1965 c 8 § 43.21.370. Prior: 1957 c 275 § 15. Formerly RCW 43.21.370.]

43.21A.636 Steam electric generating plant—Signatures on bonds. All revenue bonds, including refunding revenue bonds, shall be signed by the governor and the state auditor under the seal of the state, one of which signatures shall be made manually and the other signature may be in printed facsimile, and any coupons may have printed or lithographic facsimile of the signatures of such officers. [1965 c 8 § 43.21.380. Prior: 1957 c 275 § 16. Formerly RCW 43.21.380.]

43.21A.638 Steam electric generating plant—Provisions of law, resolution, a contract with bondholder—Enforcement. The provisions of RCW 43.21A.610 through 43.21A.642 and any resolution providing for the issuance of revenue bonds shall constitute a contract with the holder or holders from time to time of the revenue bonds of the state finance committee. Such provisions of RCW 43.21A.610 through 43.21A.642 and of any such resolution shall be enforceable by any such bondholders by appropriate action in any court of competent jurisdiction. [1988 c 127 § 22; 1965 c 8 § 43.21.390. Prior: 1957 c 275 § 17. Formerly RCW 43.21.390.]

43.21A.640 Steam electric generating plant—Bonds are legal security, investment, negotiable. All revenue bonds issued hereunder shall be legal securities, which may be used by a bank or trust company for deposit with the state treasurer, or by a county or city or town treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. They shall constitute legal investments for trustees and other fiduciaries other than corporations doing a trust business in this state, and for savings and loan associations, banks and insurance companies doing business in this state. All revenue bonds and all coupons appertaining thereto shall be negotiable instruments within the meaning and for all purposes of the negotiable instruments law. [1965 c 8 § 43.21.400. Prior: 1957 c 275 § 18. Formerly RCW 43.21.400.]

43.21A.642 Steam electric generating plant—Director not authorized to acquire other facilities or engage in retail distribution. Nothing in RCW 43.21A.610 through 43.21A.642 shall authorize or empower the director to purchase or acquire any transmission or distribution system or facilities or to engage in the retail distribution of electric energy, or to purchase or acquire any operating hydroelectric generating plant owned by any city or district, or by a privately owned public utility, or which hereafter may be acquired by any city or district by condemnation. [1988 c 127 § 23; 1965 c 8 § 43.21.410. Prior: 1957 c 275 § 19. Formerly RCW 43.21.410.]

43.21A.650 Freshwater aquatic weeds account. The freshwater aquatic weeds account is hereby created in the state treasury. Expenditures from this account may only be used as provided in RCW 43.21A.660. Moneys in the account may be spent only after appropriation. [1991 c 302 § 2.]

Findings—1991 c 302: "The legislature hereby finds that Eurasian water milfoil and other freshwater aquatic weeds can adversely affect fish populations, reduce habitat for desirable plant and wildlife species, and decrease public recreational opportunities. The legislature further finds that the spread of freshwater aquatic weeds is a state-wide problem and requires a coordinated response among state agencies, local governments, and the public. It is therefore the intent of the legislature to establish a funding source to reduce the propagation of Eurasian water milfoil and other freshwater aquatic weeds and to manage the problems created by such freshwater aquatic plants." [1991 c 302 § 1.]

Effective date—1991 c 302: See note following RCW 46.16.670.

43.21A.660 Freshwater aquatic weeds management program. Funds in the freshwater aquatic weeds account may be appropriated to the department of ecology to develop a freshwater aquatic weeds management program to:

(1) Issue grants to cities, counties, and state agencies to prevent, remove, reduce, or manage excessive freshwater aquatic weeds. Such grants shall only be issued for lakes, rivers, or streams with a public boat launching ramp. The department shall give preference to projects having matching funds or in-kind services;

(2) Develop public education programs relating to preventing the propagation and spread of freshwater aquatic weeds;

(3) Provide technical assistance to local governments and citizen groups; and

(4) Fund demonstration or pilot projects consistent with the purposes of this section. [1991 c 302 § 4.]

Findings—1991 c 302: See note following RCW 43.21A.650.

Effective date—1991 c 302: See note following RCW 46.16.670.

43.21A.670 Senior environmental corps—Department powers and duties. (1) The department of ecology shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 9.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.21A.680 Solid waste plan advisory committee abolished. The director of ecology shall abolish the solid waste plan advisory committee effective July 1, 1994. [1994 1st sp.s. c 9 § 804.]

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.21A.900 Chapter to be liberally construed. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the broad purposes set forth in RCW 43.21A.020. [1970 ex.s. c 62 § 27.]

43.21A.910 Savings—Permits, standards not affected—Severability—Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Chapter 43.21B

ENVIRONMENTAL HEARINGS OFFICE— POLLUTION CONTROL HEARINGS BOARD

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43.21B.001 Definitions. As used in this chapter, "department" means the department of ecology, and "director" means the director of ecology. [1987 c 109 § 4.]

Purpose—1987 c 109: "The purposes of this act are to:

(1) Simplify and clarify existing statutory and administrative procedures for appealing decisions of the department of ecology and air pollution control authorities in order to (a) expedite those appeals, (b) insure that those appeals are conducted with a minimum of expense to save state and private resources, and (c) allow the appellate authorities to decide cases on their merits rather than on procedural technicalities.

(2) Clarify existing statutes relating to the environment but which refer to numerous agencies no longer in existence.

(3) Eliminate provisions no longer effective or meaningful and abbreviate statutory provisions which are unnecessarily long and confusing." [1987 c 109 § 1.]

Short title—1987 c 109: "This act may be referred to as the "ecology procedures simplification act of 1987." [1987 c 109 § 2.]

Construction—1987 c 109: "Unless otherwise specifically intended, this act shall not be construed to change existing substantive or procedural law; it should only clarify and standardize existing procedures." [1987 c 109 § 3.]

Rules—1987 c 109: "The department of ecology shall amend its rules by June 30, 1988, to effect the purposes of this act." [1987 c 109 § 160.]

Severability—1987 c 109: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 109 § 161.]

Captions—1987 c 109: "As used in this act, bill headings and section captions constitute no part of the law." [1987 c 109 § 162.]

43.21B.005 Environmental hearings office created—Composition—Chief executive officer—Staff support. There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, the shorelines hearings board created in RCW 90.58.170, and the hydraulic appeals board created in RCW 75.20.130. The chairman of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

The chief executive officer of the environmental hearings office may appoint an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

The chief executive officer may also contract for required services. [1990 c 65 § 1; 1986 c 173 § 3; 1979 ex.s. c 47 § 2.]

Intent—1979 ex.s. c 47: "It is the intent of the legislature to consolidate administratively the pollution control hearings board, the forest practices appeals board, and the shorelines hearings board into one agency of state government with minimum disturbance to these boards. It is not the intent of the legislature in consolidating these boards to change the existing membership of these boards.

All full-time employees of the pollution control hearings board and the full-time employee of the forest practices appeals board shall be full-time employees of the environmental hearings office without loss of rights. Property and obligations of these boards and the shorelines hearings board shall be property and obligations of the environmental hearings office." [1979 ex.s. c 47 § 1.]

43.21B.010 Pollution control hearings board created—Purpose. There is hereby created within the environmental hearings office a pollution control hearings board of the state of Washington.

The purpose of the pollution control hearings board is to provide for a more expeditious and efficient disposition of appeals with respect to the decisions and orders of the department and director and with respect to all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW. [1979 ex.s. c 47 § 3; 1970 ex.s. c 62 § 31.]

Intent—1979 ex.s. c 47: See note following RCW 43.21B.005.

43.21B.020 Members—Qualifications—Appointment. The hearings board shall consist of three members qualified by experience or training in pertinent matters pertaining to the environment, and at least one member of the hearings board shall have been admitted to practice law in this state and engaged in the legal profession at the time of his appointment. The hearings board shall be appointed by the governor with the advice and consent of the senate, and no more than two of whom at the time of appointment or during their term shall be members of the same political party. [1970 ex.s. c 62 § 32.]

43.21B.030 Members—Terms—Filling vacancies, term. Members of the hearings board shall be appointed for a term of six years and until their successors are appointed and have qualified. In case of a vacancy, it shall be filled by appointment by the governor for the unexpired portion of the term in which said vacancy occurs: PROVIDED, That the terms of the first three members of the hearings board shall be staggered so that one member shall be appointed to serve until July 1, 1972, one member until July 1, 1974, and one member until July 1, 1976. [1970 ex.s. c 62 § 33.]

43.21B.040 Removal of member, procedure—As disqualification for reappointment. Any member of the hearings board may be removed for inefficiency, malfeasance and misfeasance in office, under specific written charges filed by the governor, who shall transmit such written charges to the member accused and to the chief justice of the supreme court. The chief justice shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of the hearing which shall be public, and the procedure for the hearing, and the decision of such

tribunal shall be final and not subject to review by the supreme court. Removal of any member of the hearings board by the tribunal shall disqualify such member for reappointment. [1970 ex.s. c 62 § 34.]

43.21B.050 Governor to determine basis for operation—Compensation if part time basis, limitation—Reimbursement of travel expenses. The hearings board shall operate on either a part time or a full time basis, as determined by the governor. If it is determined that the hearings board shall operate on a full time basis, each member of the hearings board shall receive an annual salary to be determined by the governor pursuant to RCW 43.03.040. If it is determined the hearings board shall operate on a part time basis, each member of the hearings board shall receive compensation on the basis of seventy-five dollars for each day spent in performance of his duties but such compensation shall not exceed ten thousand dollars in a fiscal year. Each hearings board member shall receive reimbursement for travel expenses incurred in the discharge of his duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 101; 1970 ex.s. c 62 § 35.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.21B.060 Restrictions upon conduct while member and upon termination of membership. Each member of the hearings board: (1) Shall not be a candidate for nor hold any other public office or trust, and shall not engage in any occupation or business interfering with or inconsistent with his duty as a member of the hearings board, nor shall he serve on or under any committee of any political party; and (2) shall not for a period of one year after the termination of his membership on the hearings board, act in a representative capacity before the hearings board on any matter. [1970 ex.s. c 62 § 36.]

43.21B.080 Chairman, biennial election of. The hearings board shall as soon as practicable after the initial appointment of the members thereof, meet and elect from among its members a chairman, and shall at least biennially thereafter meet and elect such a chairman. [1970 ex.s. c 62 § 38.]

43.21B.090 Principal office—Quorum—Hearings—Board powers and duties. The principal office of the hearings board shall be at the state capitol, but it may sit or hold hearings at any other place in the state. A majority of the hearings board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position of the hearings board be vacant. One or more members may hold hearings and take testimony to be reported for action by the hearings board when authorized by rule or order of the hearings board. The hearings board shall perform all the powers and duties specified in this chapter or as otherwise provided by law. [1990 c 65 § 2; 1974 ex.s. c 69 § 1; 1970 ex.s. c 62 § 39.]

43.21B.100 Board to make findings of fact and written decisions on each case considered—Effective upon signing and filing—Public information. The hearings board shall make findings of fact and prepare a written decision in each case decided by it, and such findings and decisions shall be effective upon being signed by two or more members of the hearings board and upon being filed at the hearings board's principal office, and shall be open for public inspection at all reasonable times. [1970 ex.s. c 62 § 40.]

43.21B.110 Pollution control hearings board jurisdiction. (1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, the administrator of the office of marine safety, and the air pollution control boards or authorities as established pursuant to chapter 70.94 RCW, or local health departments:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070, 90.14.130, and 90.48.120.

(c) The issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, or the modification of the conditions or the terms of a waste disposal permit.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70.95 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70.95J.080.

(f) Any other decision by the department, the administrator of the office of marine safety, or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70.94.332, 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

(c) Proceedings by the department relating to general adjudications of water rights pursuant to chapter 90.03 or 90.44 RCW.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the Administrative Procedure Act, chapter 34.05 RCW. [1993 c 387 § 22. Prior: 1992 c 174 § 13; 1992 c 73 § 1; 1989 c 175 § 102; 1987 c 109 § 10; 1970 ex.s. c 62 § 41.]

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Effective date—1989 c 175: See note following RCW 34.05.010.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Order for compliance with oil spill contingency or prevention plan not subject to review by pollution control hearings board: RCW 90.56.270.

43.21B.130 Administrative procedure act to apply to appeal of board rules and regulations—Scope of board action on decisions and orders of others. The administrative procedure act, chapter 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions were transferred by section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW shall be subject to review by the hearings board as provided in this chapter. [1990 c 65 § 3; 1970 ex.s. c 62 § 43.]

43.21B.140 Formal or informal hearing, election of party taking appeal—Exception. In all appeals over which the hearings board has jurisdiction, a party taking an appeal may elect either a formal or an informal hearing, such election to be made according to rules of practice and procedure to be promulgated by the hearings board: PROVIDED, That nothing herein shall be construed to modify the provisions of RCW 43.21B.190 and *43.21B.200. In the event that appeals are taken from the same decision, order, or determination, as the case may be, by different parties and only one of such parties elects a formal hearing, a formal hearing shall be granted. [1987 c 109 § 30; 1970 ex.s. c 62 § 44.]

*Reviser's note: RCW 43.21B.200 was repealed by 1987 c 109 § 159.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.150 Informal hearings—Generally. In all appeals involving an informal hearing, the hearings board shall have all powers relating to the administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies by chapter 34.05 RCW. In the case of appeals within the jurisdiction of the hearings board, the hearings board or any member thereof may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board or any member thereof may deem necessary or appropriate: PROVIDED, That any communication, oral or written, from the staff of the director to the hearings board shall be presented only in an open hearing. [1990 c 65 § 4; 1974 ex.s. c 69 § 2; 1970 ex.s. c 62 § 45.]

43.21B.160 Formal hearings—Generally. In all appeals involving a formal hearing, the hearings board shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to

agencies in chapter 34.05 RCW, the Administrative Procedure Act. The hearings board, and each member thereof, shall be subject to all duties imposed upon, and shall have all powers granted to, an agency by those provisions of chapter 34.05 RCW relating to adjudicative proceedings. In the case of appeals within the jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate. Any communication, oral or written, from the staff of the director to the hearings board shall be presented only in an open hearing. [1990 c 65 § 5; 1989 c 175 § 103; 1974 ex.s. c 69 § 3; 1970 ex.s. c 62 § 46.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.21B.170 Proceedings conducted in accordance with published board rules and regulations. All proceedings, including both formal and informal hearings, before the hearings board or any of its members shall be conducted in accordance with such rules of practice and procedure as the hearings board may prescribe. The hearings board shall publish such rules and arrange for the reasonable distribution thereof. [1970 ex.s. c 62 § 47.]

43.21B.180 Judicial review—Director's right of review of decisions pursuant to RCW 43.21B.110. Judicial review of a decision of the hearings board may be obtained only pursuant to RCW 34.05.510 through 34.05.598. The director shall have the same right of review from a decision made pursuant to RCW 43.21B.110 as does any person. [1994 c 253 § 6; 1989 c 175 § 104; 1970 ex.s. c 62 § 48.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.21B.190 Judicial review—Appeal from board's order—Procedure—Appellate review—When bonds required. Within thirty days after the final decision and order of the hearings board upon such an appeal has been communicated to the interested parties, such interested party aggrieved by the decision and order of the hearings board may appeal to the superior court. In all appeals involving a decision or an order of the hearings board after an informal hearing, the petition shall be filed in the superior court for the county of the petitioner's residence or principal place of business, or in the absence of a residence or principal place of business, for Thurston county. Such appeal may be perfected by filing with the clerk of the superior court a notice of appeal, and by serving a copy thereof by mail, or personally on the director, the air pollution control boards or authorities, established pursuant to chapter 70.94 RCW or on the board as the case may be. The hearings board shall serve upon the appealing party, the director, the air pollution control board or authorities established pursuant to chapter 70.94 RCW, or the board, as the case may be, and on any other party appearing at the hearings board's proceeding, and file with the clerk of the court before trial, a certified copy of the hearings board's decision and order. Appellate review of a decision of the superior court may be sought as in other civil cases. No bond shall be required on appeals to the superior court or on review by the supreme court unless

specifically required by the judge of the superior court. [1994 c 253 § 7; 1988 c 202 § 43; 1970 ex.s. c 62 § 49.]

Severability—1988 c 202: See note following RCW 2.24.050.

43.21B.230 Appeals of agency actions. Any person having received notice of a denial of a petition, a notice of determination, notice of or an order made by the department may appeal, within thirty days from the date of the notice of such denial, order, or determination to the hearings board. The appeal shall be perfected by serving a copy of the notice of appeal upon the department or air pollution authority established pursuant to chapter 70.94 RCW, as the case may be, within the time specified herein and by filing the original thereof with proof of service with the clerk of the hearings board. [1994 c 253 § 8; 1990 c 65 § 6; 1970 ex.s. c 62 § 53.]

43.21B.240 Department—Air authorities—Adjudicative proceedings, may not conduct. The department and air authorities shall not have authority to hold adjudicative proceedings pursuant to the Administrative Procedure Act, chapter 34.05 RCW. Such hearings shall be held by the pollution control hearings board. [1989 c 175 § 105; 1987 c 109 § 9; 1970 ex.s. c 62 § 54.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.250 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.120—Procedure—Finality. (1) All challenges in regard to the consistency of the rules adopted pursuant to RCW 43.21C.120 and with the rules and guidelines adopted pursuant to RCW 43.21C.110 shall be initiated by filing a petition for review with the pollution control hearings board in accordance with rules of practice and procedures promulgated by the hearings board.

(2) All challenges to the hearings board provided under this section shall be decided on the basis of conformance of rules, with the applicable rules and guidelines adopted pursuant to RCW 43.21C.110. The board may in its discretion require briefs, testimony, and oral arguments.

(3) The decisions of the hearings board authorized under this section shall be final. [1974 ex.s. c 179 § 9.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

Severability—1974 ex.s. c 179: See RCW 43.21C.910.

43.21B.260 Regulations and amendments of activated air pollution control authorities—Filing with hearings board authorized—Evidence. Activated air pollution control authorities, established under chapter 70.94 RCW, may file certified copies of their regulations and amendments thereto with the pollution control hearings board of the state of Washington, and the hearings board shall take judicial note of the copies so filed and the said regulations and amendments shall be received and admitted, by reference, in all hearings before the board, as prima facie evidence that such regulations and amendments on file are in full force and effect. [1974 ex.s. c 69 § 5.]

43.21B.300 Penalty procedures. (1) Any civil penalty provided in RCW 18.104.155, 70.94.431, 70.105.080, 70.107.050, 88.46.090, 90.03.600, 90.48.144, 90.56.310, and 90.56.330 shall be imposed by a notice in writing, either by certified mail with return receipt requested or by personal service, to the person incurring the penalty from the department, the administrator of the office of marine safety, or the local air authority, describing the violation with reasonable particularity. Within fifteen days after the notice is received, the person incurring the penalty may apply in writing to the department, the administrator, or the authority for the remission or mitigation of the penalty. Upon receipt of the application, the department, the administrator, or authority may remit or mitigate the penalty upon whatever terms the department, the administrator, or the authority in its discretion deems proper. The department or the authority may ascertain the facts regarding all such applications in such reasonable manner and under such rules as it may deem proper and shall remit or mitigate the penalty only upon a demonstration of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(2) Any penalty imposed under this section may be appealed to the pollution control hearings board in accordance with this chapter if the appeal is filed with the hearings board and served on the department, the administrator, or authority thirty days after receipt by the person penalized of the notice imposing the penalty or thirty days after receipt of the notice of disposition of the application for relief from penalty.

(3) A penalty shall become due and payable on the later of:

(a) Thirty days after receipt of the notice imposing the penalty;

(b) Thirty days after receipt of the notice of disposition on application for relief from penalty, if such an application is made; or

(c) Thirty days after receipt of the notice of decision of the hearings board if the penalty is appealed.

(4) If the amount of any penalty is not paid to the department or the administrator within thirty days after it becomes due and payable, the attorney general, upon request of the department or the administrator, shall bring an action in the name of the state of Washington in the superior court of Thurston county, or of any county in which the violator does business, to recover the penalty. If the amount of the penalty is not paid to the authority within thirty days after it becomes due and payable, the authority may bring an action to recover the penalty in the superior court of the county of the authority's main office or of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(5) All penalties recovered shall be paid into the state treasury and credited to the general fund except those penalties imposed pursuant to RCW 18.104.155, which shall be credited to the reclamation account as provided in RCW 18.104.155(7), RCW 70.94.431, the disposition of which shall be governed by that provision, RCW 70.105.080, which shall be credited to the hazardous waste control and elimination account, created by RCW 70.105.180, and RCW 90.56.330, which shall be credited to the coastal protection

fund created by RCW 90.48.390. [1993 c 387 § 23; 1992 c 73 § 2; 1987 c 109 § 5.]

Effective date—1993 c 387: See RCW 18.104.930.

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.305 Appeals involving penalties of five thousand dollars or less. In an appeal that involves a penalty of five thousand dollars or less, the appeal may be heard by one member of the board, whose decision shall be the final decision of the board. The board shall define by rule alternative procedures to expedite small appeals. These alternatives may include: Mediation, upon agreement of all parties; submission of testimony by affidavit; or other forms that may lead to less formal and faster resolution of appeals. [1994 c 253 § 5.]

43.21B.310 Appeal of orders, permits, and licenses.

(1) Any order issued by the department, the administrator of the office of marine safety, or authority pursuant to RCW 70.94.211, 70.94.332, 70.105.095, 43.27A.190, 86.16.020, 88.46.070, or 90.48.120(2) or any provision enacted after July 26, 1987, or any permit, certificate, or license issued by the department may be appealed to the pollution control hearings board if the appeal is filed with the board and served on the department or authority within thirty days after receipt of the order. Except as provided under chapter 70.105D RCW, this is the exclusive means of appeal of such an order.

(2) The department, the administrator, or the authority in its discretion may stay the effectiveness of an order during the pendency of such an appeal.

(3) At any time during the pendency of an appeal of such an order to the board, the appellant may apply pursuant to RCW 43.21B.320 to the hearings board for a stay of the order or for the removal thereof.

(4) Any appeal must contain the following in accordance with the rules of the hearings board:

(a) The appellant's name and address;

(b) The date and docket number of the order, permit, or license appealed;

(c) A description of the substance of the order, permit, or license that is the subject of the appeal;

(d) A clear, separate, and concise statement of every error alleged to have been committed;

(e) A clear and concise statement of facts upon which the requester relies to sustain his or her statements of error; and

(f) A statement setting forth the relief sought.

(5) Upon failure to comply with any final order of the department or the administrator, the attorney general, on request of the department or the administrator, may bring an action in the superior court of the county where the violation occurred or the potential violation is about to occur to obtain such relief as necessary, including injunctive relief, to insure compliance with the order. The air authorities may bring similar actions to enforce their orders.

(6) An appealable decision or order shall be identified as such and shall contain a conspicuous notice to the

recipient that it may be appealed only by filing an appeal with the hearings board and serving it on the department within thirty days of receipt. [1992 c 73 § 3; 1989 c 2 § 14 (Initiative Measure No. 97, approved November 8, 1988); (1987 3rd ex.s. c 2 § 49 repealed by 1989 c 2 § 24, effective March 1, 1989); 1987 c 109 § 6.]

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

Short title—Construction—Existing agreements—Effective date—Severability—1989 c 2: See RCW 70.105D.900 and 70.105D.910 through 70.105D.921, respectively.

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.320 Stays of orders. (1) A person appealing to the hearings board an order of the department or an authority, not stayed by the issuing agency, may obtain a stay of the effectiveness of that order only as set forth in this section.

(2) An appealing party may request a stay by including such a request in the appeal document, in a subsequent motion, or by such other means as the rules of the hearings board shall prescribe. The request must be accompanied by a statement of grounds for the stay and evidence setting forth the factual basis upon which request is based. The hearings board shall hear the request for a stay as soon as possible. The hearing on the request for stay may be consolidated with the hearing on the merits.

(3) The applicant may make a prima facie case for stay if the applicant demonstrates either a likelihood of success on the merits of the appeal or irreparable harm. Upon such a showing, the hearings board shall grant the stay unless the department or authority demonstrates either (a) a substantial probability of success on the merits or (b) likelihood of success on the merits and an overriding public interest which justifies denial of the stay.

(4) Unless otherwise stipulated by the parties, the hearings board, after granting or denying an application for a stay, shall expedite the hearing and decision on the merits.

(5) Any party or other person aggrieved by the grant or denial of a stay by the hearings board may petition the superior court for Thurston county for review of that decision pursuant to chapter 34.05 RCW pending the appeal on the merits before the board. The superior court shall expedite its review of the decision of the hearings board. [1987 c 109 § 7.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.330 Summary procedures. The hearings board shall develop procedures for summary procedures, consistent with the rules of civil procedure for superior court on summary judgment, to decide cases before it. Such procedures may include provisions for determinations without an oral hearing or hearing by telephonic means. [1987 c 109 § 8.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.21B.900 Savings—Other powers and duties not affected—Permits, standards not affected—Severability—

Effective date—1970 ex.s. c 62. See notes following RCW 43.21A.010.

Economic policy: Chapter 43.21H RCW.

Chapter 43.21C

STATE ENVIRONMENTAL POLICY

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43.21C.010 Purposes. The purposes of this chapter are: (1) To declare a state policy which will encourage productive and enjoyable harmony between man and his environment; (2) to promote efforts which will prevent or eliminate damage to the environment and biosphere; (3) and stimulate the health and welfare of man; and (4) to enrich the understanding of the ecological systems and natural resources important to the state and nation. [1971 ex.s. c 109 § 1.]

43.21C.020 Legislative recognitions—Declaration—Responsibility. (1) The legislature, recognizing that man depends on his biological and physical surroundings for food, shelter, and other needs, and for cultural enrichment as well; and recognizing further the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource utilization and exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the state of Washington, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to: (a) Foster and promote the general welfare; (b) to create and maintain conditions under which man and nature can exist in productive harmony; and (c) fulfill the social, economic, and other requirements of present and future generations of Washington citizens.

(2) In order to carry out the policy set forth in this chapter, it is the continuing responsibility of the state of Washington and all agencies of the state to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate plans, functions, programs, and resources to the end that the state and its citizens may:

(a) Fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(b) Assure for all people of Washington safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(c) Attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(d) Preserve important historic, cultural, and natural aspects of our national heritage;

(e) Maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(f) Achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(g) Enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(3) The legislature recognizes that each person has a fundamental and inalienable right to a healthful environment

and that each person has a responsibility to contribute to the preservation and enhancement of the environment. [1971 ex.s. c 109 § 2.]

43.21C.030 Guidelines for state agencies, local governments—Statements—Reports—Advice—Information. The legislature authorizes and directs that, to the fullest extent possible: (1) The policies, regulations, and laws of the state of Washington shall be interpreted and administered in accordance with the policies set forth in this chapter, and (2) all branches of government of this state, including state agencies, municipal and public corporations, and counties shall:

(a) Utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decision making which may have an impact on man's environment;

(b) Identify and develop methods and procedures, in consultation with the department of ecology and the ecological commission, which will insure that presently unquantified environmental amenities and values will be given appropriate consideration in decision making along with economic and technical considerations;

(c) Include in every recommendation or report on proposals for legislation and other major actions significantly affecting the quality of the environment, a detailed statement by the responsible official on:

(i) the environmental impact of the proposed action;

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;

(iii) alternatives to the proposed action;

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity; and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented;

(d) Prior to making any detailed statement, the responsible official shall consult with and obtain the comments of any public agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate federal, province, state, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the governor, the department of ecology, the ecological commission, and the public, and shall accompany the proposal through the existing agency review processes;

(e) Study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(f) Recognize the world-wide and long-range character of environmental problems and, where consistent with state policy, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(g) Make available to the federal government, other states, provinces of Canada, municipalities, institutions, and

individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(h) Initiate and utilize ecological information in the planning and development of natural resource-oriented projects. [1971 ex.s. c 109 § 3.]

43.21C.031 Significant impacts. An environmental impact statement (the detailed statement required by RCW 43.21C.030(2)(c)) shall be prepared on proposals for legislation and other major actions having a probable significant, adverse environmental impact. Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement under this chapter.

An environmental impact statement is required to analyze only those probable adverse environmental impacts which are significant. Beneficial environmental impacts may be discussed. The responsible official shall consult with agencies and the public to identify such impacts and limit the scope of an environmental impact statement. The subjects listed in RCW 43.21C.030(2)(c) need not be treated as separate sections of an environmental impact statement. Discussions of significant short-term and long-term environmental impacts, significant irrevocable commitments of natural resources, significant alternatives including mitigation measures, and significant environmental impacts which cannot be mitigated should be consolidated or included, as applicable, in those sections of an environmental impact statement where the responsible official decides they logically belong. [1983 c 117 § 1.]

43.21C.033 Threshold determination to be made within ninety days after application is complete. (1) Except as provided in subsection (2) of this section, the responsible official shall make a threshold determination on a completed application within ninety days after the application and supporting documentation are complete. The applicant may request an additional thirty days for the threshold determination. The governmental entity responsible for making the threshold determination shall by rule, resolution, or ordinance adopt standards, consistent with rules adopted by the department to implement this chapter, for determining when an application and supporting documentation are complete.

(2) This section shall not apply to a city, town, or county that by ordinance adopted prior to April 1, 1992, has adopted procedures to integrate permit and land use decisions with the requirements of this chapter. [1992 c 208 § 1.]

Effective date—1992 c 208: "Section 1 of this act shall take effect September 1, 1992." [1992 c 208 § 2.]

43.21C.034 Use of existing documents. Lead agencies are authorized to use in whole or in part existing environmental documents for new project or nonproject actions, if the documents adequately address environmental considerations set forth in RCW 43.21C.030. The prior proposal or action and the new proposal or action need not be identical, but must have similar elements that provide a basis for comparing their environmental consequences such as timing, types of impacts, alternatives, or geography. The

lead agency shall independently review the content of the existing documents and determine that the information and analysis to be used is relevant and adequate. If necessary, the lead agency may require additional documentation to ensure that all environmental impacts have been adequately addressed. [1993 c 23 § 1.]

43.21C.035 Certain irrigation projects decisions exempt from RCW 43.21C.030(2)(c). Decisions pertaining to applications for appropriation of fifty cubic feet of water per second or less for irrigation projects promulgated by any person, private firm, private corporation or private association without resort to subsidy by either state or federal government pursuant to RCW 90.03.250 through 90.03.340, as now or hereafter amended, to be used for agricultural irrigation shall not be subject to the requirements of RCW 43.21C.030(2)(c), as now or hereafter amended. [1974 ex.s. c 150 § 1.]

43.21C.036 Hazardous substance remedial actions—Procedural requirements and documents to be integrated. In conducting a remedial action at a facility pursuant to a consent decree, order, or agreed order issued pursuant to chapter 70.105D RCW, or if conducted by the department of ecology, the department of ecology to the maximum extent practicable shall integrate the procedural requirements and documents of this chapter with the procedures and documents under chapter 70.105D RCW. Such integration shall at a minimum include the public participation procedures of chapter 70.105D RCW and the public notice and review requirements of this chapter. [1994 c 257 § 21.]

Severability—1994 c 257: See note following RCW 36.70A.270.

43.21C.037 Application of RCW 43.21C.030(2)(c) to forest practices. (1) Decisions pertaining to applications for Class I, II, and III forest practices, as defined by rule of the forest practices board under RCW 76.09.050, are not subject to the requirements of RCW 43.21C.030(2)(c) as now or hereafter amended.

(2) When the applicable county, city, or town requires a license in connection with any proposal involving forest practices (a) on lands platted after January 1, 1960, (b) on lands being converted to another use, or (c) on lands which, pursuant to RCW 76.09.070 as now or hereafter amended, are not to be reforested because of the likelihood of future conversion to urban development, then the local government, rather than the department of natural resources, is responsible for any detailed statement required under RCW 43.21C.030(2)(c).

(3) Those forest practices determined by rule of the forest practices board to have a potential for a substantial impact on the environment, and thus to be Class IV practices, require an evaluation by the department of natural resources as to whether or not a detailed statement must be prepared pursuant to this chapter. The evaluation shall be made within ten days from the date the department receives the application. A Class IV forest practice application must be approved or disapproved by the department within thirty calendar days from the date the department receives the application, unless the department determines that a detailed statement must be made, in which case the application must

be approved or disapproved by the department within sixty days from the date the department receives the application, unless the commissioner of public lands, through the promulgation of a formal order, determines that the process cannot be completed within such period. This section shall not be construed to prevent any local or regional governmental entity from determining that a detailed statement must be prepared for an action regarding a Class IV forest practice taken by that governmental entity concerning the land on which forest practices will be conducted. [1983 c 117 § 2; 1981 c 290 § 1.]

43.21C.038 Application of RCW 43.21C.030(2)(c) to school closures. Nothing in RCW 43.21C.030(2)(c) shall be construed to require the preparation of an environmental impact statement or the making of a threshold determination for any decision or any action commenced subsequent to September 1, 1982, pertaining to a plan, program, or decision for the closure of a school or schools or for the school closure portion of any broader policy, plan or program by a school district board of directors. [1983 c 109 § 1.]

43.21C.039 Metals mining and milling operations—Environmental impact statements required. Notwithstanding any provision in RCW 43.21C.030 and 43.21C.031 to the contrary, an environmental impact statement shall be prepared for any proposed metals mining and milling operation as required by RCW 78.56.050. [1994 c 232 § 25.]

Severability—1994 c 232: See RCW 78.56.900.

Effective date—1994 c 232 §§ 1-5, 9-17, and 23-31: See RCW 78.56.901.

Disclosures required with SEPA checklist, metals mining and milling operations: RCW 78.56.040.

43.21C.040 Examination of laws, regulations, policies by state agencies and local authorities—Report of deficiencies and corrective measures. All branches of government of this state, including state agencies, municipal and public corporations, and counties shall review their present statutory authority, administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this chapter and shall propose to the governor not later than January 1, 1972, such measures as may be necessary to bring their authority and policies in conformity with the intent, purposes, and procedures set forth in this chapter. [1971 ex.s. c 109 § 4.]

43.21C.050 Specific statutory obligations not affected. Nothing in RCW 43.21C.030 or 43.21C.040 shall in any way affect the specific statutory obligations of any agency (1) to comply with criteria or standards of environmental quality, (2) to coordinate or consult with any other public agency, or (3) to act, or refrain from acting contingent upon the recommendations or certification of any other public agency. [1971 ex.s. c 109 § 5.]

43.21C.060 Chapter supplementary—Conditioning or denial of governmental action. The policies and goals set forth in this chapter are supplementary to those set forth in existing authorizations of all branches of government of this state, including state agencies, municipal and public corporations, and counties. Any governmental action may be conditioned or denied pursuant to this chapter: PROVIDED, That such conditions or denials shall be based upon policies identified by the appropriate governmental authority and incorporated into regulations, plans, or codes which are formally designated by the agency (or appropriate legislative body, in the case of local government) as possible bases for the exercise of authority pursuant to this chapter. Such designation shall occur at the time specified by RCW 43.21C.120. Such action may be conditioned only to mitigate specific adverse environmental impacts which are identified in the environmental documents prepared under this chapter. These conditions shall be stated in writing by the decisionmaker. Mitigation measures shall be reasonable and capable of being accomplished. In order to deny a proposal under this chapter, an agency must find that: (1) The proposal would result in significant adverse impacts identified in a final or supplemental environmental impact statement prepared under this chapter; and (2) reasonable mitigation measures are insufficient to mitigate the identified impact. Except for permits and variances issued pursuant to chapter 90.58 RCW, when such a governmental action, not requiring a legislative decision, is conditioned or denied by a nonelected official of a local governmental agency, the decision shall be appealable to the legislative authority of the acting local governmental agency unless that legislative authority formally eliminates such appeals. Such appeals shall be in accordance with procedures established for such appeals by the legislative authority of the acting local governmental agency. [1983 c 117 § 3; 1977 ex.s. c 278 § 2; 1971 ex.s. c 109 § 6.]

43.21C.065 Impact fees and fees for system improvements. A person required to pay an impact fee for system improvements pursuant to RCW 82.02.050 through 82.02.090 shall not be required to pay a fee pursuant to RCW 43.21C.060 for those same system improvements. [1992 c 219 § 1.]

43.21C.075 Appeals. (1) Because a major purpose of this chapter is to combine environmental considerations with public decisions, any appeal brought under this chapter shall be linked to a specific governmental action. The State Environmental Policy Act provides a basis for challenging whether governmental action is in compliance with the substantive and procedural provisions of this chapter. The State Environmental Policy Act is not intended to create a cause of action unrelated to a specific governmental action.

(2) Unless otherwise provided by this section:

(a) Appeals under this chapter shall be of the governmental action together with its accompanying environmental determinations.

(b) Appeals of environmental determinations made (or lacking) under this chapter shall be commenced within the time required to appeal the governmental action which is subject to environmental review.

(3) If an agency has a procedure for appeals of agency environmental determinations made under this chapter, such procedure:

(a) Shall not allow more than one agency appeal proceeding on a procedural determination (the adequacy of a determination of significance/nonsignificance or of a final environmental impact statement), consistent with any state statutory requirements for appeals to local legislative bodies. The appeal proceeding on a determination of significance/nonsignificance may occur before the agency's final decision on a proposed action. Such an appeal shall also be allowed for a determination of significance/nonsignificance which may be issued by the agency after supplemental review;

(b) Shall consolidate appeal of procedural issues and of substantive determinations made under this chapter (such as a decision to require particular mitigation measures or to deny a proposal) by providing for simultaneous appeal of an agency decision on a proposal and any environmental determinations made under this chapter, with the exception of the threshold determination appeal as provided in (a) of this subsection or an appeal to the local legislative authority under RCW 43.21C.060 or other applicable state statutes;

(c) Shall provide for the preparation of a record for use in any subsequent appeal proceedings, and shall provide for any subsequent appeal proceedings to be conducted on the record, consistent with other applicable law. An adequate record consists of findings and conclusions, testimony under oath, and taped or written transcript. An electronically recorded transcript will suffice for purposes of review under this subsection; and

(d) Shall provide that procedural determinations made by the responsible official shall be entitled to substantial weight.

(4) If a person aggrieved by an agency action has the right to judicial appeal and if an agency has an appeal procedure, such person shall, prior to seeking any judicial review, use such procedure if any such procedure is available, unless expressly provided otherwise by state statute.

(5) RCW 43.21C.080 establishes an optional "notice of action" procedure which, if used, imposes a time period for appealing decisions under this chapter. Some statutes and ordinances contain time periods for challenging governmental actions which are subject to review under this chapter, such as various local land use approvals (the "underlying governmental action"). This section does not modify any such time periods. This section governs when a judicial appeal must be brought under this chapter where a "notice of action" is used, and/or where there is another time period which is required by statute or ordinance for challenging the underlying governmental action. In this subsection, the term "appeal" refers to a judicial appeal only.

(a) If there is a time period for appealing the underlying governmental action, appeals under this chapter shall be commenced within thirty days. The agency shall give official notice stating the date and place for commencing an appeal. If there is an agency proceeding under subsection (3) of this section, the appellant shall, prior to commencing a judicial appeal, submit to the responsible official a notice of intent to commence a judicial appeal. This notice of intent shall be given within the time period for commencing a judicial appeal on the underlying governmental action.

(b) A notice of action under RCW 43.21C.080 may be used. If a notice of action is used, judicial appeals shall be commenced within the time period specified by RCW 43.21C.080, unless there is a time period for appealing the underlying governmental action in which case (a) of this subsection shall apply.

(c) Notwithstanding RCW 43.21C.080(1), if there is a time period for appealing the underlying governmental action, a notice of action may be published within such time period.

(6)(a) Judicial review of an appeal decision made by an agency under RCW 43.21C.075(5) shall be on the record, consistent with other applicable law.

(b) A taped or written transcript may be used. If a taped transcript is to be reviewed, a record shall identify the location on the taped transcript of testimony and evidence to be reviewed. Parties are encouraged to designate only those portions of the testimony necessary to present the issues raised on review, but if a party alleges that a finding of fact is not supported by evidence, the party should include in the record all evidence relevant to the disputed finding. Any other party may designate additional portions of the taped transcript relating to issues raised on review. A party may provide a written transcript of portions of the testimony at the party's own expense or apply to that court for an order requiring the party seeking review to pay for additional portions of the written transcript.

(c) Judicial review under this chapter shall without exception be of the governmental action together with its accompanying environmental determinations.

(7) Jurisdiction over the review of determinations under this chapter in an appeal before an agency or superior court shall upon consent of the parties be transferred in whole or part to the shorelines hearings board. The shorelines hearings board shall hear the matter and sign the final order expeditiously. The superior court shall certify the final order of the shorelines hearings board and said certified final order may only be appealed to an appellate court. In the case of an appeal under this chapter regarding a project or other matter that is also the subject of an appeal to the shorelines hearings board under chapter 90.58 RCW, the shorelines hearings board shall have sole jurisdiction over both the appeal under this section and the appeal under chapter 90.58 RCW, shall consider them together, and shall issue a final order.

(8) For purposes of this section and RCW 43.21C.080, the words "action", "decision", and "determination" mean substantive agency action including any accompanying procedural determinations under this chapter (except where the word "action" means "appeal" in RCW 43.21C.080(2) and (3)). The word "action" in this section and RCW 43.21C.080 does not mean a procedural determination by itself made under this chapter. The word "determination" includes any environmental document required by this chapter and state or local implementing rules. The word "agency" refers to any state or local unit of government. The word "appeal" refers to administrative, legislative, or judicial appeals.

(9) The court in its discretion may award reasonable attorney's fees of up to one thousand dollars in the aggregate to the prevailing party, including a governmental agency, on issues arising out of this chapter if the court makes specific

findings that the legal position of a party is frivolous and without reasonable basis. [1994 c 253 § 4; 1983 c 117 § 4.]

43.21C.080 Notice of action by governmental agency—How publicized—Form—Time limitation for commencing challenge to action. (1) Notice of any action taken by a governmental agency may be publicized by the acting governmental agency, the applicant for, or the proponent of such action, in substantially the form as set forth in subsection (3) of this section and in the following manner:

(a) By publishing notice on the same day of each week for two consecutive weeks in a legal newspaper of general circulation in the area where the property which is the subject of the action is located;

(b) By filing notice of such action with the department of ecology at its main office in Olympia prior to the date of the last newspaper publication; and

(c) Except for those actions which are of a nonproject nature, by one of the following methods which shall be accomplished prior to the date of last newspaper publication;

(i) Mailing to the latest recorded real property owners, as shown by the records of the county treasurer, who share a common boundary line with the property upon which the project is proposed through United States mail, first class, postage prepaid.

(ii) Posting of the notice in a conspicuous manner on the property upon which the project is to be constructed.

(2)(a) Any action to set aside, enjoin, review, or otherwise challenge any such governmental action for which notice is given as provided in subsection (1) of this section on grounds of noncompliance with the provisions of this chapter shall be commenced within thirty days from the date of last newspaper publication of the notice pursuant to subsection (1) of this section, or be barred: PROVIDED, HOWEVER, That the time period within which an action shall be commenced shall be ninety days (i) for projects to be performed by a governmental agency or to be performed under government contract, or (ii) for thermal power plant projects: PROVIDED FURTHER, That any subsequent governmental action on the proposal for which notice has been given as provided in subsection (1) of this section shall not be set aside, enjoined, reviewed, or otherwise challenged on grounds of noncompliance with the provisions of RCW 43.21C.030(2)(a) through (h) unless there has been a substantial change in the proposal between the time of the first governmental action and the subsequent governmental action, or unless the action now being considered was identified in an earlier detailed statement or declaration of nonsignificance as being one which would require further environmental evaluation. (b) Any action to challenge a subsequent governmental action based upon any provisions of this chapter shall be commenced within thirty days from the date of last newspaper publication of the subsequent governmental action except (i) for projects to be performed by a governmental agency or to be performed under governmental contract, or (ii) for thermal power plant projects which shall be challenged within ninety days from the date of last newspaper publication of the subsequent governmental action, or be barred.

(3) The form for such notice of action shall be issued by the department of ecology and shall be made available by the governmental agency taking an action subject to being publicized pursuant to this section, by the county auditor, and/or the city clerk to the project applicant or proposer. The form of such notice shall be substantially as follows:

NOTICE OF ACTION BY

(Government agency or entity)

Pursuant to the provisions of chapter 43.21C RCW, notice is hereby given that:

The (Government agency or entity) did on (date), take the action described below.

Any action to set aside, enjoin, review; or otherwise challenge such action on the grounds of noncompliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) shall be commenced within days or be barred.

The action taken by (Government agency or entity), notice of which is hereby given, was as follows:

(1) (Here insert description of action taken such as: Adoption Ordinance No. ; Issued Building Permit; Approved preliminary (or final) plat, etc.)

(2) (Here insert brief description of the complete project or proposal.)

(3) Said action pertained to property commonly known as:

.
.
.
.
(Sufficient description to locate property, but complete legal description not required)

(4) Pertinent documents may be examined during regular business hours at the office of: located at:
.
(Location, including room number)

(Name of government agency, proponent, or applicant giving notice)

Filed by
(Signature of individual and capacity in which such individual is signing)

[1977 ex.s. c 278 § 1; 1974 ex.s. c 179 § 2; 1973 1st ex.s. c 179 § 2.]

Purpose—1974 ex.s. c 179: "The purpose of this 1974 amendatory act is to establish methods and means of providing for full implementation of chapter 43.21C RCW (the state environmental policy act of 1971) in a manner which reduces duplicative and wasteful practices, establishes effective and uniform procedures, encourages public involvement, and promotes certainty with respect to the requirements of the act." [1974 ex.s. c 179 § 1.]

Effective date—1973 1st ex.s. c 179: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions and shall take effect on July 1, 1973: PROVIDED, HOWEVER, That prior thereto, the department of ecology may take such actions, including the issuing of notices and the conduct of public hearing, as are necessary to insure the implementation of section 1 of this act." [1973 1st ex.s. c 179 § 4.]

43.21C.087 List of filings required by RCW 43.21C.080. The department of ecology shall prepare a list

of all filings required by RCW 43.21C.080 each week and shall make such list available to any interested party. The list of filings shall include a brief description of the governmental action and the project involved in such action, along with the location of where information on the project or action may be obtained. Failure of the department to include any project or action shall not affect the running of the statute of limitations provided in RCW 43.21C.080. [1974 ex.s. c 179 § 14.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.090 Decision of governmental agency to be accorded substantial weight. In any action involving an attack on a determination by a governmental agency relative to the requirement or the absence of the requirement, or the adequacy of a "detailed statement", the decision of the governmental agency shall be accorded substantial weight. [1973 1st ex.s. c 179 § 3.]

Effective date—1973 1st ex.s. c 179: See note following RCW 43.21C.080.

43.21C.095 State environmental policy act rules to be accorded substantial deference. The rules promulgated under RCW 43.21C.110 shall be accorded substantial deference in the interpretation of this chapter. [1983 c 117 § 5.]

43.21C.110 Content of state environmental policy act rules. It shall be the duty and function of the department of ecology, which may utilize proposed rules developed by the environmental policy commission:

(1) To adopt and amend thereafter rules of interpretation and implementation of this chapter (the state environmental policy act of 1971), subject to the requirements of chapter 34.05 RCW, for the purpose of providing uniform rules and guidelines to all branches of government including state agencies, political subdivisions, public and municipal corporations, and counties. The proposed rules shall be subject to full public hearings requirements associated with rule promulgation. Suggestions for modifications of the proposed rules shall be considered on their merits, and the department shall have the authority and responsibility for full and appropriate independent promulgation and adoption of rules, assuring consistency with this chapter as amended and with the preservation of protections afforded by this chapter. The rule making powers authorized in this section shall include, but shall not be limited to, the following phases of interpretation and implementation of this chapter (the state environmental policy act of 1971):

(a) Categories of governmental actions which are not to be considered as potential major actions significantly affecting the quality of the environment, including categories pertaining to applications for water right permits pursuant to chapters 90.03 and 90.44 RCW. The types of actions included as categorical exemptions in the rules shall be limited to those types which are not major actions significantly affecting the quality of the environment. The rules shall provide for certain circumstances where actions which potentially are categorically exempt require environmental review.

(b) Rules for criteria and procedures applicable to the determination of when an act of a branch of government is a major action significantly affecting the quality of the environment for which a detailed statement is required to be prepared pursuant to RCW 43.21C.030.

(c) Rules and procedures applicable to the preparation of detailed statements and other environmental documents, including but not limited to rules for timing of environmental review, obtaining comments, data and other information, and providing for and determining areas of public participation which shall include the scope and review of draft environmental impact statements.

(d) Scope of coverage and contents of detailed statements assuring that such statements are simple, uniform, and as short as practicable; statements are required to analyze only reasonable alternatives and probable adverse environmental impacts which are significant, and may analyze beneficial impacts.

(e) Rules and procedures for public notification of actions taken and documents prepared.

(f) Definition of terms relevant to the implementation of this chapter including the establishment of a list of elements of the environment. Analysis of environmental considerations under RCW 43.21C.030(2) may be required only for those subjects listed as elements of the environment (or portions thereof). The list of elements of the environment shall consist of the "natural" and "built" environment. The elements of the built environment shall consist of public services and utilities (such as water, sewer, schools, fire and police protection), transportation, environmental health (such as explosive materials and toxic waste), and land and shoreline use (including housing, and a description of the relationships with land use and shoreline plans and designations, including population).

(g) Rules for determining the obligations and powers under this chapter of two or more branches of government involved in the same project significantly affecting the quality of the environment.

(h) Methods to assure adequate public awareness of the preparation and issuance of detailed statements required by RCW 43.21C.030(2)(c).

(i) To prepare rules for projects setting forth the time limits within which the governmental entity responsible for the action shall comply with the provisions of this chapter.

(j) Rules for utilization of a detailed statement for more than one action and rules improving environmental analysis of nonproject proposals and encouraging better interagency coordination and integration between this chapter and other environmental laws.

(k) Rules relating to actions which shall be exempt from the provisions of this chapter in situations of emergency.

(1) Rules relating to the use of environmental documents in planning and decisionmaking and the implementation of the substantive policies and requirements of this chapter, including procedures for appeals under this chapter.

(2) In exercising its powers, functions, and duties under this section, the department may:

(a) Consult with the state agencies and with representatives of science, industry, agriculture, labor, conservation organizations, state and local governments and other groups, as it deems advisable; and

(b) Utilize, to the fullest extent possible, the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals, in order to avoid duplication of effort and expense, overlap, or conflict with similar activities authorized by law and performed by established agencies.

(3) Rules adopted pursuant to this section shall be subject to the review procedures of RCW *34.05.538 and 34.05.240. [1983 c 117 § 7; 1974 ex.s. c 179 § 6.]

*Reviser's note: RCW 34.05.538 was repealed by 1989 c 175 § 185, effective July 1, 1989.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.120 Rules, ordinances, resolutions and regulations—Adoption—Effective dates. (1) All agencies of government of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies [policies] under RCW 43.21C.060 and adoption of rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of an agency, whichever shall occur later.

(2) Rules adopted by state agencies under subsection (1) of this section shall be adopted in accordance with the provisions of chapter 34.05 RCW and shall be subject to the review procedures of RCW *34.05.538 and 34.05.240.

(3) All public and municipal corporations, political subdivisions, and counties of this state are directed, consistent with rules and guidelines adopted under RCW 43.21C.110, including any revisions, to adopt rules, ordinances, or resolutions pertaining to the integration of the policies and procedures of this chapter (the state environmental policy act of 1971), into the various programs under their jurisdiction for implementation. Designation of policies under RCW 43.21C.060 and adoption of the rules required under this section shall take place not later than one hundred eighty days after the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110, or after the establishment of the governmental entity, whichever shall occur later.

(4) Ordinances or regulations adopted prior to the effective date of rules and guidelines adopted pursuant to RCW 43.21C.110 shall continue to be effective until the adoptions of any new or revised ordinances or regulations which may be required: PROVIDED, That revisions required by this section as a result of rule changes under RCW 43.21C.110 are made within the time limits specified by this section. [1983 c 117 § 8; 1974 ex.s. c 179 § 8.]

*Reviser's note: RCW 34.05.538 was repealed by 1989 c 175 § 185, effective July 1, 1989.

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.130 Model ordinances. The department of ecology, in consultation with concerned state agencies, shall with the assistance of the associations of county prosecutors and city attorneys, the association of county elected officials, the Washington state association of counties, and the association of cities, draft model ordinances for use by counties,

cities and towns in drafting their ordinances under this chapter. [1974 ex.s. c 179 § 10.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.135 Authority of local governmental units to adopt rules, guidelines and model ordinances by reference. (1) All public and municipal corporations, political subdivisions, and counties of the state are authorized to adopt rules, ordinances, and resolutions which incorporate any of the following by reference to the appropriate sections of the Washington Administrative Code:

(a) Rules and guidelines adopted under RCW 43.21C.110(1) in accordance with the administrative procedure act, chapter 34.05 RCW;

(b) Model ordinances adopted by the department of ecology under RCW 43.21C.130 in accordance with the administrative procedure act, chapter 34.05 RCW.

(2) If any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, any publication of such rule, ordinance, or resolution shall be accompanied by a summary of the contents of the sections of the Washington Administrative Code referred to. Such summaries shall be provided to the adopting units of local government by the department of ecology: PROVIDED, That any proposal for a rule, ordinance or resolution which would adopt by reference rules and guidelines or model ordinances pursuant to this section shall be accompanied by the full text of the material to be adopted which need not be published but shall be maintained on file for public use and examination.

(3) Whenever any rule, ordinance, or resolution is adopted by reference pursuant to subsection (1) of this section, the corporation, political subdivision, or county of the state adopting the rule, ordinance, or resolution shall maintain on file for public use and examination not less than three copies of the sections of the Washington Administrative Code referred to. [1975-'76 2nd ex.s. c 99 § 1.]

43.21C.150 RCW 43.21C.030(2)(c) inapplicable when statement previously prepared pursuant to national environmental policy act. The requirements of RCW 43.21C.030(2)(c) pertaining to the preparation of a detailed statement by branches of government shall not apply when an adequate detailed statement has been previously prepared pursuant to the national environmental policy act of 1969, in which event said prepared statement may be utilized in lieu of a separately prepared statement under RCW 43.21C.030(2)(c). [1975 1st ex.s. c 206 § 1; 1974 ex.s. c 179 § 12.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.160 Utilization of statement prepared under RCW 43.21C.030 to implement chapter 90.62 RCW—Utilization of chapter 90.62 RCW procedures to satisfy RCW 43.21C.030(2)(c). In the implementation of chapter 90.62 RCW (the Environmental Coordination Procedures Act of 1973), the department of ecology, consistent with guidelines adopted by the council shall adopt rules which insure that one detailed statement prepared under RCW 43.21C.030 may be utilized by all branches of government participating in the processing of a master application. Whenever the

procedures established pursuant to chapter 90.62 RCW are used, those procedures shall be utilized wherever possible to satisfy the procedural requirements of RCW 43.21C.030(2)(c). The time limits for challenges provided for in RCW 43.21C.080(2) shall be applicable when such procedures are so utilized. [1974 ex.s. c 179 § 13.]

Purpose—1974 ex.s. c 179: See note following RCW 43.21C.080.

43.21C.165 Challenges to consistency of rules adopted pursuant to RCW 43.21C.110 and 43.21C.160—Procedure—Finality. See RCW 43.21B.250.

43.21C.170 Council on environmental policy. The legislature may establish a council on environmental policy to review and assist in the implementation of this chapter. [1983 c 117 § 6; 1974 ex.s. c 179 § 4. Formerly RCW 43.21C.100.]

43.21C.175 Council on environmental policy—Personnel. The council may employ such personnel as are necessary for the performances of its duties. [1974 ex.s. c 179 § 5. Formerly RCW 43.21C.105.]

43.21C.210 Certain actions during state of emergency exempt from chapter. This chapter does not apply to actions authorized by RCW 43.37.215 and 43.37.220 which are undertaken during a state of emergency declared by the governor under RCW 43.06.210. [1981 c 278 § 4.]

43.21C.220 Incorporation of city or town exempt from chapter. The incorporation of a city or town is exempted from compliance with this chapter. [1982 c 220 § 6.]

Severability—1982 c 220: See note following RCW 36.93.100.

Incorporation proceedings exempt from chapter: RCW 36.93.170.

43.21C.222 Annexation by city or town exempt from chapter. Annexation of territory by a city or town is exempted from compliance with this chapter. [1994 c 216 § 19.]

Effective date—1994 c 216: See note following RCW 35.02.015.

43.21C.225 Consolidation and annexation of cities and towns exempt from chapter. Consolidations of cities or towns, and the annexations of all of a city or town by another city or town, are exempted from compliance with this chapter. [1985 c 281 § 29.]

Severability—1985 c 281: See RCW 35.10.905.

43.21C.230 Development and adoption of plan under chapter 43.180 RCW exempt from chapter. This chapter does not apply to the development or adoption of the plan required to be developed and adopted under chapter 43.180 RCW. [1983 c 161 § 29.]

Severability—Effective dates—1983 c 161: See RCW 43.180.903 and 43.180.904.

43.21C.300 Workshops—Handbook. The department of ecology shall conduct annual state-wide workshops and publish an annual state environmental policy act hand-

book or supplement to assist persons in complying with the provisions of this chapter and the implementing rules. The workshops and handbook shall include, but not be limited to, measures to assist in preparation, processing, and review of environmental documents, relevant court decisions affecting this chapter or rules adopted under this chapter, legislative changes to this chapter, administrative changes to the rules, and any other information which will assist in orderly implementation of this chapter and rules.

The department shall develop the handbook and conduct the workshops in cooperation with, but not limited to, state agencies, the association of Washington cities, the Washington association of counties, educational institutions, and other groups or associations interested in the state environmental policy act. [1983 c 117 § 9.]

43.21C.500 Mt. St. Helens eruption—Exemption from chapter—Expiration of section. Emergency recovery operations from the Mt. St. Helens eruption authorized by RCW 36.01.150, 43.01.200, and 43.01.210, other than the sediment retention structure to be built on the North Fork Toutle river by the United States army corps of engineers, may be exempted by the applicable county legislative authority from the requirements of the State Environmental Policy Act of 1971, chapter 43.21C RCW, for operations within such county: PROVIDED, That the applicable legislative authority shall promptly notify the department of ecology within five days of the emergency action taken and the emergent nature of the problem. The notification shall be made to the water resources district supervisor of the southwest region of the department of ecology. The county shall comply with all substantive objectives of this chapter and shall consult with the department of ecology in the planning process.

This section shall expire on June 30, 1995. [1989 c 213 § 2; 1985 c 307 § 4; 1983 1st ex.s. c 1 § 4; 1982 c 7 § 5.]

Severability—1983 1st ex.s. c 1: See note following RCW 43.01.200.

Severability—1982 c 7: See note following RCW 36.01.150.

43.21C.900 Short title. This chapter shall be known and may be cited as the "State Environmental Policy Act of 1971". [1971 ex.s. c 109 § 7.]

43.21C.910 Severability—1974 ex.s. c 179. If any provision of this 1974 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 179 § 16.]

43.21C.911 Section headings not part of law—1983 c 117. Section headings as used in this act do not constitute any part of the law. [1983 c 117 § 14.]

43.21C.912 Applicability—1983 c 117. *Sections 3 and 4 of this act apply to agency decisions and to appeal proceedings prospectively only and not retrospectively. **Sections 1, 5, 6, 7, and 8 of this act may be applied by agencies retrospectively. [1983 c 117 § 15.]

Reviser's note: *(1) "Sections 3 and 4 of this act" consist of the 1983 c 117 amendment to RCW 43.21C.060 and the enactment of RCW 43.21C.075, respectively.

** (2) "Sections 1, 5, 6, 7, and 8 of this act" consist of the enactment of RCW 43.21C.031 and 43.21C.095 and the 1983 c 117 amendments to RCW 43.21C.100, 43.21C.110, and 43.21C.120, respectively.

43.21C.913 Severability—1983 c 117. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 117 § 16.]

43.21C.914 Effective dates—1983 c 117. *(1) Sections 1, 2, and 4 through 16 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

** (2) Section 3 of this act shall take effect one hundred eighty days after the remainder of this act goes into effect under subsection (1) of this section. [1983 c 117 § 17.]

Reviser's note: *(1) "Sections 1, 2, and 4 through 16 of this act" consist of the enactment of RCW 43.21C.031, 43.21C.075, 43.21C.095, 43.21C.300, 43.21C.911, 43.21C.912, and 43.21C.913; the 1983 c 117 amendments to RCW 43.21C.037, 43.21C.100, 43.21C.110, and 43.21C.120; the repeal of RCW 43.21C.032, 43.21C.085, and 43.21C.140; the decodification of RCW 43.21C.070, 43.21C.200, 43.21C.202, and 43.21C.204; and the recodification of RCW 43.21C.100 and 43.21C.105 as RCW 43.21C.170 and 43.21C.175, respectively. The effective date of these sections is April 23, 1983.

** (2) "Section 3 of this act" consists of the 1983 c 117 amendment to RCW 43.21C.060. The effective date of this section is October 20, 1983.

Chapter 43.21E

GRASS BURNING RESEARCH ADVISORY COMMITTEE

Sections

43.21E.010 Committee created—Members.

43.21E.020 Duties of committee.

43.21E.030 Travel expenses.

43.21E.900 Termination and dissolution of committee.

43.21E.905 Reactivation of committee—Application of chapter.

43.21E.910 Severability—1975 1st ex.s. c 44.

Grass burning permits, etc.: RCW 70.94.650 through 70.94.656.

43.21E.010 Committee created—Members. Within thirty days of May 15, 1975 the director of the Washington state department of ecology shall appoint a grass burning research advisory committee consisting of five voting members.

Two members shall be grass growers selected from the area of the state east of the Cascade mountain range, one representing irrigated and one representing dryland growing areas. One member shall be a grass grower selected from the area of the state west of the Cascade mountain range. One member shall be a representative of the Washington state department of agriculture, and one member shall represent the public, and may be selected at large. The committee shall select its own chairman. The state department of ecology shall provide an ex officio, nonvoting member to the committee to act as secretary. [1975 1st ex.s. c 44 § 1.]

43.21E.020 Duties of committee. The grass burning research advisory committee as provided for in RCW 43.21E.010 shall solicit and review research proposals for reducing or to develop alternates to open burning of grass fields. The committee shall advise and make recommendations to the director of the Washington state department of ecology regarding research priorities and the expenditure of mandatory research permit fees and such other grass burning research funds that may be provided by the legislature or from any other sources. [1975 1st ex.s. c 44 § 2.]

43.21E.030 Travel expenses. Travel expenses shall be paid to the grass burning research advisory committee members not otherwise employed by the state for meetings called by the director of the department of ecology in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended upon vouchers approved by said director and paid from funds budgeted for operation purposes of the state department of ecology. [1975-'76 2nd ex.s. c 34 § 102; 1975 1st ex.s. c 44 § 3.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.21E.900 Termination and dissolution of committee. It is the intent and purpose of this chapter that as soon as an alternative means of grass burning is developed for the state, or by January 1, 1980, whichever is sooner the grass burning research advisory committee shall be dissolved and its actions terminated, and the director of the state department of ecology shall see that such purpose is so carried out. [1975 1st ex.s. c 44 § 4.]

43.21E.905 Reactivation of committee—Application of chapter. Notwithstanding RCW 43.21E.900, within thirty days or after June 30, 1982, the director shall reactivate the grass burning research advisory committee by appointing new members to the committee. The provisions of this chapter, other than RCW 43.21E.900, shall apply to the reactivated committee. [1982 c 163 § 15.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.21E.910 Severability—1975 1st ex.s. c 44. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 44 § 6.]

Chapter 43.21F

STATE ENERGY OFFICE

Sections

- 43.21F.010 Legislative finding and declaration.
- 43.21F.015 State policy.
- 43.21F.025 Definitions.
- 43.21F.035 State energy office—Creation—Director—Administrative support for energy facility site evaluation council.
- 43.21F.045 Duties of energy office.
- 43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity.

43.21F.060 Additional duties and authority of energy office—Obtaining information—Confidentiality, penalty—Receiving and expending funds.

43.21F.065 Duties of director.

43.21F.090 State energy strategy—Review and report to legislature.

43.21F.400 Western interstate nuclear compact—Entered into—Terms.

43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative.

43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate.

43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state.

43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state.

Clean fuel report to legislature: RCW 70.120.220.

43.21F.010 Legislative finding and declaration. The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality. [1975-'76 2nd ex.s. c 108 § 1.]

Severability—1975-'76 2nd ex.s. c 108: "If any provision of this 1976 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975-'76 2nd ex.s. c 108 § 45.]

Effective date—1975-'76 2nd ex.s. c 108: "This 1976 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect March 15, 1976." [1975-'76 2nd ex.s. c 108 § 46.]

43.21F.015 State policy. It is the policy of the state of Washington that:

(1) The development and use of a diverse array of energy resources with emphasis on renewable energy resources shall be encouraged;

(2) The supply of energy shall be sufficient to insure the health and economic welfare of its citizens;

(3) The development and use of energy resources shall be consistent with the statutory environmental policies of the state;

(4) Energy conservation and elimination of wasteful and uneconomic uses of energy and materials shall be encouraged, and this conservation should include, but is not limited to, resource recovery and materials recycling;

(5) In energy emergency shortage situations, energy requirements to maintain the public health, safety, and welfare shall be given priority in the allocation of energy resources, and citizens and industry shall be assisted in adjusting to the limited availability of energy in order to minimize adverse impacts on their physical, social, and economic well being;

(6) State government shall provide a source of impartial and objective information in order that this energy policy may be enhanced; and

(7) The state energy strategy shall provide primary guidance for implementation of the state's energy policy. [1994 c 207 § 3; 1981 c 295 § 1.]

Finding—1994 c 207: See note following RCW 43.21F.025.

43.21F.025 Definitions. (1) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

(2) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency, or any other entity, public or private, however organized;

(3) "Director" means the director of the state energy office;

(4) "Office" means the Washington state energy office;

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state; and

(6) "State energy strategy" means the document and energy policy direction developed under section 1, chapter 201, Laws of 1991 including any related appendices. [1994 c 207 § 2; 1987 c 330 § 501; 1981 c 295 § 2.]

Finding—1994 c 207: "The legislature finds that the state energy strategy presented to the legislature in 1993 was developed by a dedicated and talented committee of hard-working representatives of the industries and people of this state and that the strategy document should serve to guide energy-related policy decisions by the legislature and other entities within this region." [1994 c 207 § 1.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

43.21F.035 State energy office—Creation—Director—Administrative support for energy facility site evaluation council. The Washington state energy office is hereby created as an agency of state government, responsible to the governor and the legislature for carrying out the purposes of this chapter. The director shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The salary of the director shall be determined pursuant to RCW 43.03.040. The director shall employ such personnel as are necessary to implement this chapter and chapter 80.50 RCW. The employment of personnel shall be in accordance with chapter 41.06 RCW. [1990 c 12 § 1; 1981 c 295 § 3.]

Effective date—1990 c 12: See note following RCW 80.50.030.

43.21F.045 Duties of energy office. The energy office shall have the following duties:

(1) The office shall prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government

in order to reduce hardship and maintain the general welfare during these emergencies. The office shall coordinate the activities undertaken pursuant to this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The office shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(2) The office shall establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(a) Supply, demand, costs, utilization technology, projections, and forecasts;

(b) Comparative costs of alternative energy sources, uses, and applications; and

(c) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(3) The office shall coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(4) The office shall develop energy policy recommendations for consideration by the governor and the legislature.

(5) The office shall provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the office shall request that Washington's council members request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(6) The office shall cooperate with state agencies, other governmental units, and private interests in the prioritization and implementation of the state energy strategy elements and on other energy matters.

(7) The office shall represent the interests of the state in the siting, construction, and operation of nuclear waste storage and disposal facilities.

(8) The office shall serve as the official state agency responsible for coordinating implementation of the state energy strategy.

(9) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, the office shall prepare and transmit to the governor and the appropriate committees of the legislature a report on the implementation of the state energy strategy and other important energy issues, as appropriate.

(10) The office shall provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(11) The office shall provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(12) The office shall adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(13) The office shall provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030. [1994 c 207 § 4; 1990 c 12 § 2; 1987 c 505 § 29; 1981 c 295 § 4.]

Finding—1994 c 207: See note following RCW 43.21F.025.

Effective date—1990 c 12: See note following RCW 80.50.030.

43.21F.055 Intervention in certain regulatory proceedings prohibited—Application to energy facility site evaluation council—Avoidance of duplication of activity. The office shall not intervene in any regulatory proceeding before the Washington utilities and transportation commission or proceedings of utilities not regulated by the commission. Nothing in this chapter abrogates or diminishes the functions, powers, or duties of the energy facility site evaluation council pursuant to chapter 80.50 RCW, the utilities and transportation commission pursuant to Title 80 RCW, or other state or local agencies established by law.

The office shall avoid duplication of activity with other state agencies and officers and other persons. [1981 c 295 § 5.]

43.21F.060 Additional duties and authority of energy office—Obtaining information—Confidentiality, penalty—Receiving and expending funds. In addition to the duties prescribed in RCW 43.21F.045, the energy office shall have the authority to:

(1) Obtain all necessary and existing information from energy producers, suppliers, and consumers, doing business within the state of Washington, from political subdivisions in this state, or any person as may be necessary to carry out the provisions of this chapter: **PROVIDED**, That if the information is available in reports made to another state agency, the office shall obtain it from that agency: **PROVIDED FURTHER**, That, to the maximum extent practicable, informational requests to energy companies regulated by the utilities and transportation commission shall be channeled through the commission and shall be accepted in the format normally used by the companies. Such information may include but not be limited to:

- (a) Sales volume;
- (b) Forecasts of energy requirements; and
- (c) Energy costs.

Notwithstanding any other provision of law to the contrary, information furnished under this subsection shall be confidential and maintained as such, if so requested by the person providing the information, if the information is proprietary.

It shall be unlawful to disclose such information except as hereinafter provided. A violation shall be punishable, upon conviction, by a fine of not more than one thousand dollars for each offense. In addition, any person who wilfully or with criminal negligence, as defined in RCW 9A.08.010, discloses confidential information in violation of this subsection may be subject to removal from office or immediate dismissal from public employment notwithstanding any other provision of law to the contrary.

Nothing in this subsection prohibits the use of confidential information to prepare statistics or other general data for publication when it is so presented as to prevent identifica-

tion of particular persons or sources of confidential information.

(2) Receive and expend funds obtained from the federal government or other sources by means of contracts, grants, awards, payments for services, and other devices in support of the duties enumerated in this chapter. [1981 c 295 § 6; 1975-'76 2nd ex.s. c 108 § 6.]

43.21F.065 Duties of director. In addition to the duties and functions assigned by RCW 43.21F.045 and 43.21F.060, the director shall:

(1) Manage, plan, direct, and administer the activities and staff of the office;

(2) Assign, reassign, and coordinate personnel of the office and prescribe their duties subject to chapter 41.06 RCW; and

(3) Establish advisory committees as may be necessary to carry out the purposes of this chapter. Members shall be reimbursed for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1987 c 330 § 502; 1981 c 295 § 8.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

43.21F.090 State energy strategy—Review and report to legislature. The office shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the office to the governor and the appropriate legislative committees. Any advisory committee established under this section shall be dissolved within three months after their written report is conveyed. [1994 c 207 § 5.]

Finding—1994 c 207: See note following RCW 43.21F.025.

43.21F.400 Western interstate nuclear compact—Entered into—Terms. The western interstate nuclear compact is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and any other states joining therein in accordance with the terms of the compact, which compact is substantially as follows:

ARTICLE I. POLICY AND PURPOSE

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the region, can assist substantially in the industrial progress of the West and the further development of the economy of the region. They also recognize that optimum benefit from nuclear and related scientific or technological resources, facilities and skills requires systematic encouragement, guidance, assistance, and promotion

from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the West and contribute to the individual and community well-being of the region's people.

ARTICLE II. THE BOARD

(a) There is hereby created an agency of the party states to be known as the "Western Interstate Nuclear Board" (hereinafter called the Board). The Board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the Board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) The Board members of the party states shall each be entitled to one vote on the Board. No action of the Board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the Board are cast in favor thereof.

(c) The Board shall have a seal.

(d) The Board shall elect annually, from among its members, a chairman, a vice chairman, and a treasurer. The Board shall appoint and fix the compensation of an Executive Director who shall serve at its pleasure and who shall also act as Secretary, and who, together with the Treasurer, and such other personnel as the Board may direct, shall be bonded in such amounts as the Board may require.

(e) The Executive Director, with the approval of the Board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the Board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The Board may establish and maintain, independently or in conjunction with any one or more of the party states, or its institutions or subdivisions, a suitable retirement system for its full-time employees. Employees of the Board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the Board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The Board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The Board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The Board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may

receive, utilize, and dispose of the same. The nature, amount and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (g) of this Article, together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the Board.

(i) The Board may establish and maintain such facilities as may be necessary for the transacting of its business. The Board may acquire, hold, and convey real and personal property and any interest therein.

(j) The Board shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations. The Board shall publish its bylaws, rules, and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The Board annually shall make to the governor of each party state, a report covering the activities of the Board for the preceding year, and embodying such recommendations as may have been adopted by the Board, which report shall be transmitted to the legislature of said state. The Board may issue such additional reports as it may deem desirable.

ARTICLE III. FINANCES

(a) The Board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the Board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the Board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the Board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the Board.

(c) The Board may meet any of its obligations in whole or in part with funds available to it under Article II(h) of this compact, provided that the Board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the Board makes use of funds available to it under Article II(h) hereof, the Board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) Any expenses and any other costs for each member of the Board in attending Board meetings shall be met by the Board.

(e) The Board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Board shall be audited yearly by a certified or licensed public

accountant and the report of the audit shall be included in and become a part of the annual report of the Board.

(f) The accounts of the Board shall be open at any reasonable time for inspection to persons authorized by the Board, and duly designated representatives of governments contributing to the Board's support.

ARTICLE IV. ADVISORY COMMITTEES

The Board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, State and Federal Government, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

ARTICLE V. POWERS

The Board shall have power to—

(a) Encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields.

(b) Ascertain and analyze on a continuing basis the position of the West with respect to the employment in industry of nuclear and related scientific findings and technologies.

(c) Encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, by-products, and all other appropriate adaptations of scientific and technological advances and discoveries.

(d) Collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology.

(e) Encourage the development and use of nuclear energy, facilities, installations, and products as part of a balanced economy.

(f) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspects of:

1. Nuclear industry, medicine, or education, or the promotion or regulation thereof.

2. Applying nuclear scientific advances or discoveries, and any industrial commercial or other processes resulting therefrom.

3. The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of nuclear energy, materials, products, by-products, installations, or wastes, or to safety in the production, use and disposal of any other substances peculiarly related thereto.

(g) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological or industrial fields to which this compact relates.

(h) Undertake such nonregulatory functions with respect to non-nuclear sources of radiation as may promote the economic development and general welfare of the West.

(i) Study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields.

(j) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or local laws or ordinances of the party states or their subdivisions in nuclear and related fields, as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency, with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(k) Consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis.

(l) Consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields.

(m) Advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields.

(n) Cooperate with the Atomic Energy Commission, the National Aeronautics and Space Administration, the Office of Science and Technology, or any agencies successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest.

(o) Act as licensee, contractor or sub-contractor of the United States Government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the Board by this compact.

(p) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other materials as it deems appropriate.

(q) Ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents.

The Board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Any nuclear incident plan in force pursuant to this paragraph shall designate the official or agency in each party state covered by the plan who shall coordinate requests for

aid pursuant to Article VI of this compact and the furnishing of aid in response thereto.

Unless the party states concerned expressly otherwise agree, the Board shall not administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party states.

However, the plan or plans of the Board in force pursuant to this paragraph shall provide for reports to the Board concerning the occurrence of nuclear incidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances.

From time to time, the Board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(r) Prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the Board by this compact.

(s) Undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

ARTICLE VI. MUTUAL AID

(a) Whenever a party state, or any state or local governmental authorities therein, request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(b) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the authorities of the state to which they are rendering aid, have the same powers, duties, rights, privileges and immunities as comparable officers and employees of the state to which they are rendering aid.

(c) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

(d) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(e) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of officers, employees and equipment incurred in connection with such requests: PROVIDED, That nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating

such services to the receiving party state without charge or cost.

(f) Each party state shall provide for the payment of compensation and death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

ARTICLE VII. SUPPLEMENTARY AGREEMENTS

(a) To the extent that the Board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate.

No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the Board. The Board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the Board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the Board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(d) The provisions of this Article shall apply to supplementary agreements and activities thereunder, but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

ARTICLE VIII. OTHER LAWS AND RELATIONS

Nothing in this compact shall be construed to—

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish, or otherwise impair jurisdiction exercised by the Atomic Energy Commission, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress; nor limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the Board to own or operate any facility, reactor, or installation for industrial or commercial purposes.

ARTICLE IX. ELIGIBLE PARTIES, ENTRY INTO FORCE AND WITHDRAWAL

(a) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law: PROVIDED, That it shall not become initially effective until enacted into law by five states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the Governor of the withdrawing state has given notice in writing of the withdrawal to the Governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(d) Guam and American Samoa, or either of them may participate in the compact to such extent as may be mutually agreed by the Board and the duly constituted authorities of Guam or American Samoa, as the case may be. However, such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that Article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the Board, unless it has become a full party to the compact.

ARTICLE X. SEVERABILITY AND CONSTRUCTION

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the Constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the Constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof. [1969 c 9 § 1. Formerly RCW 43.31.400.]

Severability—1969 c 9: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 c 9 § 6.]

43.21F.405 Western interstate nuclear compact—State board member—Appointment, term—May designate representative. The board member from Washington shall be appointed by and shall serve at the pleasure of the governor. The board member may designate another person as his representative to attend meetings of the board. [1969 c 9 § 2. Formerly RCW 43.31.405.]

Severability—1969 c 9: See note following RCW 43.21F.400.

43.21F.410 Western interstate nuclear compact—State and local agencies and officers to cooperate. All departments, agencies and officers of this state and its subdivisions are directed to cooperate with the board in the furtherance of any of its activities pursuant to the compact. [1969 c 9 § 3. Formerly RCW 43.31.410.]

Severability—1969 c 9: See note following RCW 43.21F.400.

43.21F.415 Western interstate nuclear compact—Bylaws, amendments to, filed with secretary of state. Pursuant to Article II(j) of the compact, the western interstate nuclear board shall file copies of its bylaws and any amendments thereto with the secretary of state of the state of Washington. [1969 c 9 § 4. Formerly RCW 43.31.415.]

Severability—1969 c 9: See note following RCW 43.21F.400.

43.21F.420 Western interstate nuclear compact—Application of state laws, benefits, when persons dispatched to another state. The laws of the state of Washington and any benefits payable thereunder shall apply and be payable to any persons dispatched to another state pursuant to Article VI of the compact. If the aiding personnel are officers or employees of the state of Washington or any subdivisions thereof, they shall be entitled to the same workers' compensation or other benefits in case of injury or death to which they would have been entitled if injured or killed while engaged in coping with a nuclear incident in their jurisdictions of regular employment. [1987 c 185 § 15; 1969 c 9 § 5. Formerly RCW 43.31.420.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1969 c 9: See note following RCW 43.21F.400.

Chapter 43.21G

ENERGY SUPPLY EMERGENCIES, ALERTS

Sections

43.21G.010 Legislative finding—Intent.

43.21G.020 Definitions.

43.21G.030 Intent in developing energy production, allocation, and consumption programs.

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter.

43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions.

43.21G.060 Consideration of actions, orders, etc., of federal authorities.

43.21G.070 Compliance by affected persons.

43.21G.080 Compliance by distributors—Fair and just reimbursement.

43.21G.090 Petition for exception or modification—Appeals.

43.21G.100 Penalty.

43.21G.900 Severability—Effective date—1975-'76 2nd ex. s. c 108.

Governor's powers to declare energy emergency, etc.: RCW 43.06.200, 43.06.210.

43.21G.010 Legislative finding—Intent. The legislature finds that energy in various forms is increasingly subject to possible shortages and supply disruptions, to the point that there may be foreseen an emergency situation, and that without the ability to institute appropriate emergency measures to regulate the production, distribution, and use of energy, a severe impact on the public health, safety, and general welfare of our state's citizens may occur. The prevention or mitigation of such energy shortages or disruptions and their effects is necessary for preservation of the public health, safety, and general welfare of the citizens of this state.

It is the intent of this chapter to:

(1) Establish necessary emergency powers for the governor and define the situations under which such powers are to be exercised;

(2) Provide penalties for violations of this chapter.

It is further the intent of the legislature that in developing proposed orders under the powers granted in RCW 43.21G.040 as now or hereafter amended the governor may utilize, on a temporary or ad hoc basis, the knowledge and expertise of persons experienced in the technical aspects of energy supply, distribution, or use. Such utilization shall be in addition to support received by the governor from the state energy office under RCW 43.21F.045 and 43.21F.065 and from other state agencies. [1981 c 295 § 11; 1977 ex.s. c 328 § 1; 1975-'76 2nd ex.s. c 108 § 15.]

Severability—1977 ex.s. c 328: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 328 § 20.]

43.21G.020 Definitions. As used in this chapter:

(1) "Energy supply facility" means a facility which produces, extracts, converts, transports, or stores energy.

(2) "Energy" means any of the following, individually or in combination: Petroleum fuels; other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material, or electricity.

(3) "Person" means an individual, partnership, joint venture, private or public corporation, association, firm, public service company, political subdivision, municipal corporation, government agency, public utility district, joint operating agency or any other entity, public or private, however organized.

(4) "Committee" means the joint committee on energy and utilities created by RCW 44.39.010 as now or hereafter amended.

(5) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, joint operating agencies, municipal utility, public utility district, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(6) "Regulated distributor" means a public service company as defined in chapter 80.04 RCW which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state.

(7) "Energy supply alert" means a situation which threatens to disrupt or diminish the supply of energy to the extent that the public health, safety, and general welfare may be jeopardized.

(8) "Energy emergency" means a situation in which the unavailability or disruption of the supply of energy poses a clear and foreseeable danger to the public health, safety, and general welfare.

(9) "State or local governmental agency" means any county, city, town, municipal corporation, political subdivision of the state, or state agency. [1977 ex.s. c 328 § 2; 1975-'76 2nd ex.s. c 108 § 16.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.030 Intent in developing energy production, allocation, and consumption programs. It is the intent of the legislature that the governor shall, in developing plans for the production, allocation, and consumption of energy, give high priority to supplying vital public services including, but not limited to, essential governmental operations, public health and safety functions, emergency services, public mass transportation systems, fish production, food production and processing facilities, including the provision of water to irrigated agriculture, and energy supply facilities, during a condition of energy supply alert or energy emergency. In developing any such plans, provisions should be made for the equitable distribution of energy among the geographic areas of the state.

It is further the intent of the legislature that the governor shall, to the extent possible, encourage and rely upon voluntary programs and local and regional programs for the production, allocation, and consumption of energy and that involvement of energy users and producers be secured in implementing such programs. [1977 ex.s. c 328 § 3; 1975-'76 2nd ex.s. c 108 § 17.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.040 Governor's energy emergency powers—Energy supply alert—Construction of chapter. (1) The governor may subject to the definitions and limitations provided in this chapter:

(a) Upon finding that an energy supply alert exists within this state or any part thereof, declare a condition of energy supply alert; or

(b) Upon finding that an energy emergency exists within this state or any part thereof, declare a condition of energy emergency. A condition of energy emergency shall terminate thirty consecutive days after the declaration of such condition if the legislature is not in session at the time of such declaration and if the governor fails to convene the legislature pursuant to Article III, section 7 of the Constitution of the state of Washington within thirty consecutive days of such declaration. If the legislature is in session or convened, in accordance with this subsection, the duration of the condition of energy emergency shall be limited in accordance with subsection (3) of this section.

Upon the declaration of a condition of energy supply alert or energy emergency, the governor shall present to the committee any proposed plans for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy emergency, any proposed plans for the suspension or modification of existing rules of the Washing-

ton Administrative Code, and any other relevant matters the governor deems desirable. The governor shall review any recommendations of the committee concerning such plans and matters.

Upon the declaration of a condition of energy supply alert or energy emergency, the emergency powers as set forth in this chapter shall become effective only within the area described in the declaration.

(2) A condition of energy supply alert shall terminate ninety consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy supply alert continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy supply alert.

In the event any such initial extension is implemented, the condition shall terminate one hundred and fifty consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate sixty consecutive days after the implementation of such extension.

(3) A condition of energy emergency shall terminate forty-five consecutive days after the declaration of such condition unless:

(a) Extended by the governor upon issuing a finding that the energy emergency continues to exist, and with prior approval of such an extension by the committee; or

(b) Extended by the governor based on a declaration by the president of the United States of a national state of emergency in regard to energy supply; or

(c) Upon the request of the governor, extended by declaration of the legislature by concurrent resolution of a continuing energy emergency.

In the event any such initial extension is implemented, the condition shall terminate ninety consecutive days after the declaration of such condition. One or more subsequent extensions may be implemented through the extension procedures set forth in this subsection. In the event any such subsequent extension is implemented, the condition shall terminate forty-five consecutive days after the implementation of such extension.

(4) A condition of energy supply alert or energy emergency shall cease to exist upon a declaration to that effect by either of the following: (a) The governor; or (b) the legislature, by concurrent resolution, if in regular or special session: PROVIDED, That the governor shall terminate a condition of energy supply alert or energy emergency when the energy supply situation upon which the declaration of a condition of energy supply alert or energy emergency was based no longer exists.

(5) In a condition of energy supply alert, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such energy supply alert,

issue orders to: (a) Suspend or modify existing rules of the Washington Administrative Code of any state agency relating to the consumption of energy by such agency or to the production of energy, and (b) direct any state or local governmental agency to implement programs relating to the consumption of energy by the agency which have been developed by the governor or the agency and reviewed by the committee.

(6) In addition to the powers in subsection (5) of this section, in a condition of energy emergency, the governor may, as deemed necessary to preserve and protect the public health, safety, and general welfare, and to minimize, to the fullest extent possible, the injurious economic, social, and environmental consequences of such an emergency, issue orders to: (a) Implement programs, controls, standards, and priorities for the production, allocation, and consumption of energy; (b) suspend and modify existing pollution control standards and requirements or any other standards or requirements affecting or affected by the use of energy, including those relating to air or water quality control; and (c) establish and implement regional programs and agreements for the purposes of coordinating the energy programs and actions of the state with those of the federal government and of other states and localities.

The governor shall immediately transmit the declaration of a condition of energy supply alert or energy emergency and the findings upon which the declaration is based and any orders issued under the powers granted in this chapter to the committee.

Nothing in this chapter shall be construed to mean that any program, control, standard, priority or other policy created under the authority of the emergency powers authorized by this chapter shall have any continuing legal effect after the cessation of the condition of energy supply alert or energy emergency.

If any provision of this chapter is in conflict with any other provision, limitation, or restriction which is now in effect under any other law of this state, including, but not limited to, chapter 34.05 RCW, this chapter shall govern and control, and such other law or rule or regulation promulgated thereunder shall be deemed superseded for the purposes of this chapter.

Because of the emergency nature of this chapter, all actions authorized or required hereunder, or taken pursuant to any order issued by the governor, shall be exempted from any and all requirements and provisions of the state environmental policy act of 1971, chapter 43.21C RCW, including, but not limited to, the requirement for environmental impact statements.

Except as provided in this section nothing in this chapter shall exempt a person from compliance with the provisions of any other law, rule, or directive unless specifically ordered by the governor. [1987 c 505 § 83; 1985 c 308 § 1; 1981 c 281 § 1; 1980 c 87 § 23; 1979 ex.s. c 158 § 1; 1977 ex.s. c 328 § 4; 1975-'76 2nd ex.s. c 108 § 18.]

Effective date—1985 c 308: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 29, 1985." [1985 c 308 § 2.]

Severability—1981 c 281: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 281 § 3.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.050 Duty of executive authority of state and local governmental agencies to carry out supply alert or emergency measures—Liability for actions. To protect the public welfare during a condition of energy supply alert or energy emergency, the executive authority of each state or local governmental agency is hereby authorized and directed to take action to carry out the orders issued by the governor pursuant to this chapter as now or hereafter amended. A local governmental agency shall not be liable for any lawful actions consistent with RCW 43.21G.030 as now or hereafter amended taken in good faith in accordance with such orders issued by the governor. [1981 c 281 § 2; 1977 ex.s. c 328 § 5; 1975-'76 2nd ex.s. c 108 § 19.]

Severability—1981 c 281: See note following RCW 43.21G.040.

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.060 Consideration of actions, orders, etc., of federal authorities. In order to attain uniformity, as far as is practicable throughout the United States, in measures taken to aid in energy crisis management, all action taken under this chapter as now or hereafter amended, and all orders and rules made pursuant hereto, shall be taken or made with due consideration for and consistent when practicable with the orders, rules, regulations, actions, recommendations, and requests of federal authorities. [1977 ex.s. c 328 § 6; 1975-'76 2nd ex.s. c 108 § 20.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.070 Compliance by affected persons. Notwithstanding any provision of law or contract to the contrary, all persons who are affected by an order issued or action taken pursuant to this chapter as now or hereafter amended shall comply therewith immediately. [1977 ex.s. c 328 § 7; 1975-'76 2nd ex.s. c 108 § 21.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.080 Compliance by distributors—Fair and just reimbursement. The governor may order any distributor to take such action on his behalf as may be required to implement orders issued pursuant to this chapter as now or hereafter amended: PROVIDED, That orders to regulated distributors shall be issued by the Washington utilities and transportation commission in conformance with orders of the governor. No distributor shall be liable for actions taken in accordance with such orders issued by the governor or the Washington utilities and transportation commission.

All allocations of energy from one distributor to another distributor pursuant to orders issued or as a result of actions taken under this chapter as now or hereafter amended are subject to fair and just reimbursement. Such reimbursement for any allocation of energy between regulated distributors shall be subject to the approval of the Washington utilities and transportation commission. A distributor is authorized to enter into agreements with another distributor for the purpose of determining financial or commodity reimburse-

ment. [1977 ex.s. c 328 § 8; 1975-'76 2nd ex.s. c 108 § 22.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.090 Petition for exception or modification—Appeals. (1) Any person aggrieved by an order issued or action taken pursuant to this chapter as now or hereafter amended may petition the governor and request an exception from or modification of such order or action. The governor may grant, modify, or deny such petition as the public interest may require.

(2) An appeal from any order issued or action taken pursuant to this chapter as now or hereafter amended may be taken to the state supreme court. Such an appeal shall take the form of a petition for a writ of mandamus or prohibition under Article IV, section 4 of the state Constitution, and the supreme court shall have exclusive jurisdiction to hear and act upon such an appeal. Notwithstanding the provisions of chapter 7.16 RCW, or any other applicable statute, the superior courts of this state shall have no jurisdiction to entertain an action or suit relating to any order issued or action taken pursuant to this chapter as now or hereafter amended, nor to hear and determine any appeal from any such order. The provisions of Rule 16.2, Rules of Appellate Procedure, shall apply to any proceedings in the supreme court brought pursuant to this chapter as now or hereafter amended. [1977 ex.s. c 328 § 9; 1975-'76 2nd ex.s. c 108 § 23.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

43.21G.100 Penalty. Any person wilfully violating any provision of an order issued by the governor pursuant to this chapter shall be guilty of a gross misdemeanor. [1975-'76 2nd ex.s. c 108 § 24.]

43.21G.900 Severability—Effective date—1975-'76 2nd ex.s. c 108. See notes following RCW 43.21F.010.

Chapter 43.21H

STATE ECONOMIC POLICY

Sections

43.21H.010 Purpose.

43.21H.020 State and local authorities to insure that economic values be given appropriate consideration in rule-making process.

43.21H.030 Statutory obligations of agencies not affected.

43.21H.900 Severability—1975-'76 2nd ex.s. c 117.

43.21H.010 Purpose. The purpose of this chapter is to assert that it is the intent of the legislature that economic values are given appropriate consideration along with environmental, social, health, and safety considerations in the promulgation of rules by state and local government. [1975-'76 2nd ex.s. c 117 § 1.]

43.21H.020 State and local authorities to insure that economic values be given appropriate consideration in rule-making process. All state agencies and local government entities with rule-making authority under state law or local ordinance shall adopt methods and procedures which

will insure that economic values will be given appropriate consideration in the rule-making process along with environmental, social, health, and safety considerations. [1975-'76 2nd ex.s. c 117 § 2.]

43.21H.030 Statutory obligations of agencies not affected. Nothing in this chapter shall in any way affect the specific statutory obligations of any agency:

- (1) To comply with environmental, social, health, safety, or other standards prescribed by law;
- (2) To coordinate or consult with any other public agency; or
- (3) To act, or refrain from acting, where required by law, upon the recommendations or certification of another public agency. [1975-'76 2nd ex.s. c 117 § 3.]

43.21H.900 Severability—1975-'76 2nd ex.s. c 117. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 117 § 4.]

Chapter 43.21I OFFICE OF MARINE SAFETY

Sections

- 43.21I.005 Findings.
- 43.21I.010 Office of marine safety.
- 43.21I.020 Administrator of marine safety.
- 43.21I.030 Administrator's powers.
- 43.21I.040 Authority to administer oaths and issue subpoenas.
- 43.21I.900 Effective dates—Severability—1991 c 200.

Abolishment of office: RCW 88.46.921.

43.21I.005 Findings. The legislature declares that Washington's waters have irreplaceable value for the citizens of the state. These waters are vital habitat for numerous and diverse marine life and wildlife and the source of recreation, aesthetic pleasure, and pride for Washington's citizens. These waters are also vital for much of Washington's economic vitality.

The legislature finds that the transportation of oil on these waters creates a great potential hazard to these important natural resources. The legislature also finds that there is no state agency responsible for maritime safety to ensure this state's interest in preserving these resources.

The legislature therefore finds that in order to protect these waters it is necessary to establish an office of marine safety which will have the responsibility to promote the safety of marine transportation in Washington. [1991 c 200 § 401.]

43.21I.010 Office of marine safety. (1) There is hereby created an agency of state government to be known as the office of marine safety. The office shall be vested with all powers and duties transferred to it and such other powers and duties as may be authorized by law. The main administrative office of the office shall be located in the city of Olympia. The administrator may establish administrative facilities in other locations, if deemed necessary for the effi-

cient operation of the office, and if consistent with the principles set forth in subsection (2) of this section.

(2) The office of marine safety shall be organized consistent with the goals of providing state government with a focus in marine transportation and serving the people of this state. The legislature recognizes that the administrator needs sufficient organizational flexibility to carry out the office's various duties. To the extent practical, the administrator shall consider the following organizational principles:

- (a) Clear lines of authority which avoid functional duplication within and between subelements of the office;
- (b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public; and
- (c) Maximum span of control without jeopardizing adequate supervision.

(3) The office shall provide leadership and coordination in identifying and resolving threats to the safety of marine transportation and the impact of marine transportation on the environment:

- (a) Working with other state agencies and local governments to strengthen the state and local governmental partnership in providing public protection;
- (b) Providing expert advice to the executive and legislative branches of state government;
- (c) Providing active and fair enforcement of rules;
- (d) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing marine safety measures;
- (e) Providing information to the public; and
- (f) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the office shall ensure an opportunity for consultation, review, and comment before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the administrator may create such administrative divisions, offices, bureaus, and programs within the office as the administrator deems necessary. The administrator shall have complete charge of and supervisory powers over the office, except where the administrator's authority is specifically limited by law.

(6) The administrator shall appoint such personnel as are necessary to carry out the duties of the office. In addition to exemptions set forth in *RCW 41.06.070(28), the administrator, the administrator's confidential secretary, and up to four professional staff members shall be exempt from the provisions of chapter 41.06 RCW. All other employees of the office shall be subject to the provisions of chapter 41.06 RCW. [1992 c 73 § 4; 1991 c 200 § 402.]

***Reviser's note:** RCW 41.06.070 was amended by 1993 c 281 § 21, changing subsection (28) to subsection (3).

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

43.21I.020 Administrator of marine safety. The executive head and appointing authority of the office shall be the administrator of marine safety. The administrator shall be appointed by, and serve at the pleasure of, the governor. The administrator shall be paid a salary to be fixed by the

governor in accordance with RCW 43.03.040. [1992 c 73 § 5; 1991 c 200 § 403.]

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

43.21I.030 Administrator's powers. In addition to any other powers granted the administrator, the administrator may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of this chapter and chapter 88.46 RCW. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The administrator shall review each advisory committee within the jurisdiction of the office and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(4) Delegate powers, duties, and functions of the office to employees of the office as the administrator deems necessary to carry out the provisions of this chapter and chapter 88.46 RCW;

(5) Enter into contracts on behalf of the office to carry out the purposes of this chapter and chapter 88.46 RCW;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program for the purposes of this chapter and chapter 88.46 RCW; or

(7) Accept gifts, grants, or other funds. [1992 c 73 § 11; 1991 c 200 § 405.]

Effective dates—Severability—1992 c 73: See RCW 82.23B.902 and 90.56.905.

43.21I.040 Authority to administer oaths and issue subpoenas. (1) The administrator shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the administrator together with all books, memoranda, papers, and other documents, articles or instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by chapter 34.05 RCW.

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by chapter 34.05 RCW. [1991 c 200 § 407.]

43.21I.900 Effective dates—Severability—1991 c 200. See RCW 90.56.901 and 90.56.904.

Chapter 43.21J

ENVIRONMENTAL AND FOREST RESTORATION PROJECTS

Sections

- 43.21J.005 Legislative findings.
- 43.21J.010 Intent—Purpose—Definitions.
- 43.21J.020 Environmental and forest restoration account.
- 43.21J.030 Environmental enhancement and job creation task force.
- 43.21J.040 Environmental enhancement and restoration project proposals—Evaluation—Award of funds.
- 43.21J.050 Training or employment.
- 43.21J.060 Unemployment compensation benefits—Training.
- 43.21J.070 Unemployment compensation benefits—Special base year and benefit year.
- 43.21J.800 Legislative budget committee report.
- 43.21J.900 Short title—1993 c 516.
- 43.21J.901 Section captions and part headings—1993 c 516.
- 43.21J.902 Severability—1993 c 516.
- 43.21J.903 Conflict with federal requirements—1993 c 516.
- 43.21J.904 Effective date—1993 c 516.

43.21J.005 Legislative findings. (1) The legislature finds that the long-term health of the economy of Washington state depends on the sustainable management of its natural resources. Washington's forests, estuaries, waterways, and watersheds provide a livelihood for thousands of citizens of Washington state and millions of dollars of income and tax revenues every year from forests, fisheries, shellfisheries, recreation, tourism, and other water-dependent industries.

(2) The legislature further finds that the livelihoods and revenues produced by Washington's forests, estuaries, waterways, and watersheds would be enhanced by immediate investments in clean water infrastructure and habitat restoration.

(3) The legislature further finds that an insufficiency in financial resources, especially in timber-dependent communities, has resulted in investments in clean water and habitat restoration too low to ensure the long-term economic and environmental health of Washington's forests, estuaries, waterways, and watersheds.

(4) The legislature further finds that unemployed workers and Washington's economically distressed communities, especially timber-dependent areas, can benefit from opportunities for employment in environmental restoration projects.

(5) The legislature therefore declares that immediate investments in a variety of environmental restoration projects, based on sound principles of watershed management and environmental and forest restoration, are necessary to rehabilitate damaged watersheds and to assist dislocated workers and the unemployed gain job skills necessary for long-term employment. [1993 c 516 § 1.]

43.21J.010 Intent—Purpose—Definitions. (1) It is the intent of this chapter to provide financial resources to make substantial progress toward: (a) Implementing the Puget Sound water quality management plan and other watershed-based management strategies and plans; (b) ameliorating degradation to watersheds; and (c) keeping and creating stable, environmentally sound, good wage employment in Washington state. The legislature intends that employment under this chapter is not to result in the dis-

placement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services.

(2) It is the purpose of this chapter to:

(a) Implement clean water, forest, and habitat restoration projects that will produce measurable improvements in water and habitat quality, that rate highly when existing environmental ranking systems are applied, and that provide economic stability.

(b) Facilitate the coordination and consistency of federal, state, tribal, local, and private water and habitat protection and enhancement programs in the state's watersheds.

(c) Fund necessary projects for which a public planning process has been completed.

(d) Provide immediate funding to create jobs and training for environmental restoration and enhancement jobs for unemployed workers and displaced workers in impact areas, especially timber-dependent communities.

(3) For purposes of this chapter "impact areas" means:

(a) Distressed counties as defined in RCW 43.165.010(3)(a); (b) subcounty areas in those counties not covered under (a) of this subsection that are timber impact areas as defined in RCW 43.31.601; (c) urban subcounty areas as defined in RCW 43.165.010(3)(c); and (d) areas that the task force determines are likely to experience dislocations in the near future from downturns in natural resource-based industries.

(4) For purposes of this chapter, "high-risk youth" means youth eligible for Washington conservation corps programs under chapter 43.220 RCW or Washington service corps programs under chapter 50.65 RCW.

(5) For purposes of this chapter, "dislocated forest products worker" has the meaning set forth in RCW 50.70.010.

(6) For purposes of this chapter, "task force" means the environmental enhancement and job creation task force created under RCW 43.21J.030. [1993 c 516 § 2.]

43.21J.020 Environmental and forest restoration account. (1) The environmental and forest restoration account is established in the state treasury. Money in the account may be spent only after appropriation by the legislature and in a manner consistent with this chapter. Private nonprofit organizations and state, local, and tribal entities are eligible for funds under this chapter. Money in the account may be used to make grants, loans, or interagency contracts as needed to implement environmental and forest restoration projects.

(2) For fiscal years 1994 through 1998, at least fifty percent of the funds in the environmental and forest restoration account shall be used for environmental restoration and enhancement projects in rural communities impacted by the decline in timber harvest levels as defined in chapter 50.70 RCW and that employ displaced timber workers. These projects may include watershed restoration such as removing or upgrading roads to reduce erosion and sedimentation, and improvements in forest habitat such as thinning and pruning. Beginning July 1, 1998, at least fifty percent of the funds in the environmental and forest restoration account shall be

used for environmental restoration and enhancement projects in counties with unemployment rates above the state average.

(3) The environmental and forest restoration account shall consist of funds appropriated by law, principal and interest from the repayment of loans granted under this chapter, and federal and other money received by the state for deposit in the account.

(4) At least ten percent of the funds distributed from the environmental and forest restoration account annually shall be allocated to the Washington conservation corps established under chapter 43.220 RCW to employ high-risk youth on projects consistent with this chapter and to fund administrative support services required by the senior environmental corps established under chapter 43.63A RCW.

(5) At least five percent of the funds distributed from the environmental and forest restoration account annually shall be used for contracts with nonprofit corporations to fund or finance projects, including those that increase private sector investments in pollution prevention activities and equipment and that are consistent with the provisions of this section and RCW 43.21J.040.

(6) No more than five percent of the annual revenues to the environmental and forest restoration account may be expended for administrative purposes by any state agency or project administration; however, funds expended by the Washington conservation corps shall be subject solely to the limitations set forth in RCW 43.220.230.

(7) Except for essential administrative and supervisory purposes, funds in the environmental and forest restoration account may not be used for hiring permanent state employees. [1993 c 516 § 3.]

43.21J.030 Environmental enhancement and job creation task force. (1) There is created the environmental enhancement and job creation task force within the office of the governor. The purpose of the task force is to provide a coordinated and comprehensive approach to implementation of chapter 516, Laws of 1993. The task force shall consist of the commissioner of public lands, the director of the department of fish and wildlife, the director of the department of ecology, the director of the parks and recreation commission, the timber team coordinator, the executive director of the work force training and education coordinating board, and the executive director of the Puget Sound water quality authority, or their designees. The task force may seek the advice of the following agencies and organizations: The department of community, trade, and economic development, the conservation commission, the employment security department, the interagency committee for outdoor recreation, appropriate federal agencies, appropriate special districts, the Washington state association of counties, the association of Washington cities, labor organizations, business organizations, timber-dependent communities, environmental organizations, and Indian tribes. The governor shall appoint the task force chair. Members of the task force shall serve without additional pay. Participation in the work of the committee by agency members shall be considered in performance of their employment. The governor shall designate staff and administrative support to the task force and shall solicit the participation of agency personnel to assist the task force.

(2) The task force shall have the following responsibilities:

(a) Soliciting and evaluating, in accordance with the criteria set forth in RCW 43.21J.040, requests for funds from the environmental and forest restoration account and making distributions from the account. The task force shall award funds for projects and training programs it approves and may allocate the funds to state agencies for disbursement and contract administration;

(b) Coordinating a process to assist state agencies and local governments to implement effective environmental and forest restoration projects funded under this chapter;

(c) Considering unemployment profile data provided by the employment security department;

(d) No later than December 31, 1993, providing recommendations to the appropriate standing committees of the legislature for improving the administration of grants for projects or training programs funded under this chapter that prevent habitat and environmental degradation or provide for its restoration;

(e) Submitting to the appropriate standing committees of the legislature a biennial report summarizing the jobs and the environmental benefits created by the projects funded under this chapter.

(3) Beginning July 1, 1994, the task force shall have the following responsibilities:

(a) To solicit and evaluate proposals from state and local agencies, private nonprofit organizations, and tribes for environmental and forest restoration projects;

(b) To rank the proposals based on criteria developed by the task force in accordance with RCW 43.21J.040; and

(c) To determine funding allocations for projects to be funded from the account created in RCW 43.21J.020 and for projects or programs as designated in the omnibus operating and capital appropriations acts. [1994 c 264 § 17; 1993 c 516 § 5.]

43.21J.040 Environmental enhancement and restoration project proposals—Evaluation—Award of funds. (1) Subject to the limitations of RCW 43.21J.020, the task force shall award funds from the environmental and forest restoration account on a competitive basis. The task force shall evaluate and rate environmental enhancement and restoration project proposals using the following criteria:

(a) The ability of the project to produce measurable improvements in water and habitat quality;

(b) The cost-effectiveness of the project based on: (i) Projected costs and benefits of the project; (ii) past costs and environmental benefits of similar projects; and (iii) the ability of the project to achieve cost efficiencies through its design to meet multiple policy objectives;

(c) The inclusion of the project as a high priority in a federal, state, tribal, or local government plan relating to environmental or forest restoration, including but not limited to a local watershed action plan, storm water management plan, capital facility plan, growth management plan, or a flood control plan; or the ranking of the project by conservation districts as a high priority for water quality and habitat improvements;

(d) The number of jobs to be created by the project for dislocated forest products workers, high-risk youth, and residents of impact areas;

(e) Participation in the project by environmental businesses to provide training, cosponsor projects, and employ or jointly employ project participants;

(f) The ease with which the project can be administered from the community the project serves;

(g) The extent to which the project will either augment existing efforts by organizations and governmental entities involved in environmental and forest restoration in the community or receive matching funds, resources, or in-kind contributions; and

(h) The capacity of the project to produce jobs and job-related training that will pay market rate wages and impart marketable skills to workers hired under this chapter.

(2) The following types of projects and programs shall be given top priority in the first fiscal year after July 1, 1993:

(a) Projects that are highly ranked in and implement adopted or approved watershed action plans, such as those developed pursuant to Puget Sound water quality authority rules adopted for local planning and management of nonpoint source pollution;

(b) Conservation district projects that provide water quality and habitat improvements;

(c) Indian tribe projects that provide water quality and habitat improvements; or

(d) Projects that implement actions approved by a shellfish protection district under chapter 100, Laws of 1992.

(3) Funds shall not be awarded for the following activities:

(a) Administrative rule making;

(b) Planning; or

(c) Public education. [1993 c 516 § 4.]

43.21J.050 Training or employment. (1) Eligibility for training or employment in projects funded through the environmental and forest restoration account shall, to the extent practicable, be for workers who are currently unemployed.

(2) To the greatest extent practicable, the following groups of individuals shall be given preference for training or employment in projects funded through the environmental and forest restoration account:

(a) Dislocated workers who are receiving unemployment benefits or have exhausted unemployment benefits; and

(b) High-risk youth.

(3) Projects funded for forest restoration shall be for workers whose employment was terminated in the Washington forest products industry within the previous four years.

(4) The task force shall submit a list to private industry councils and the employment security department of projects receiving funds under the provisions of this chapter. The list shall include the number, location, and types of jobs expected to be provided by each project. The employment security department shall recruit workers for these jobs by:

(a) Notifying dislocated forest workers who meet the definitions in chapter 50.70 RCW, who are receiving unemployment benefits or who have exhausted unemployment benefits, of their eligibility for the programs;

- (b) Notifying other unemployed workers;
- (c) Developing a pool of unemployed workers including high-risk youth eligible to enroll in the program; and
- (d) Establishing procedures for workers to apply to the programs.

(5) The employment security department shall refer eligible workers to employers hiring under the environmental and forest restoration account programs. Recipients of funds shall consider the list of eligible workers developed by the employment security department before conducting interviews or making hiring decisions. Recipients of funds shall ensure that workers are aware of whatever opportunities for vocational training, job placement, and remedial education are available from the employment security department.

(6) An individual is eligible for applicable employment security benefits while participating in training related to this chapter. Eligibility shall be confirmed by the commissioner of employment security by submitting a commissioner-approved training waiver.

(7) Persons receiving funds from the environmental and forest restoration account shall not be considered state employees for the purposes of existing provisions of law with respect to hours of work, sick leave, vacation, and civil service but shall receive health benefits. Persons receiving funds from this account who are hired by a state agency, except for Washington conservation and service corps enrollees, shall receive medical and dental benefits as provided under chapter 41.05 RCW and industrial insurance coverage under Title 51 RCW, but are exempt from the provisions of chapter 41.06 RCW.

(8) Compensation for employees, except for Washington conservation and service corps enrollees, hired under the program established by this chapter shall be based on market rates in accordance with the required skill and complexity of the jobs created. Remuneration paid to employees under this chapter shall be considered covered employment for purposes of chapter 50.04 RCW.

(9) Employment under this program shall not result in the displacement or partial displacement, whether by the reduction of hours of nonovertime work, wages, or other employment benefits, of currently employed workers, including but not limited to state civil service employees, or of currently or normally contracted services. [1993 c 516 § 8.]

43.21J.060 Unemployment compensation benefits—Training. An individual shall be considered to be in training with the approval of the commissioner as defined in RCW 50.20.043, and be eligible for applicable unemployment insurance benefits while participating in and making satisfactory progress in training related to this chapter. [1993 c 516 § 9.]

43.21J.070 Unemployment compensation benefits—Special base year and benefit year. For the purpose of providing the protection of the unemployment compensation system to individuals at the conclusion of training or employment obtained as a result of this chapter, a special base year and benefit year are established.

(1) Only individuals who have entered training or employment provided by the environmental and forest restoration account, and whose employment or training under

such account was not considered covered under chapter 50.04 RCW, shall be allowed the special benefit provisions of this chapter.

(2) An application for initial determination made under this chapter must be filed in writing with the employment security department within twenty-six weeks following the week in which the individual commenced employment or training obtained as a result of this chapter. Notice from the individual, from the employing entity, or notice of hire from employment security department administrative records shall satisfy this requirement.

(3) For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters, or if a benefit year is not established using the first four of the last five completed calendar quarters as the base year, the last four completed calendar quarters immediately prior to the first day of the calendar week in which the individual began employment or training provided by the environmental and forest restoration account.

(4) A special individual benefit year is established consisting of the entire period of training or employment provided by the environmental and forest restoration account and a fifty-two consecutive week period commencing with the first day of the calendar week in which the individual last participated in such employment or training. No special benefit year shall have a duration in excess of three hundred twelve calendar weeks. Such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year may elect to establish a special benefit year under this chapter, notwithstanding the provisions in RCW 50.04.030 relating to establishment of a subsequent benefit year, and RCW 50.40.010 relating to waiver of rights. Such unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish a special benefit year under this chapter.

(5) The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provisions contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and rules relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

(6) The fact that wages, hours, or weeks worked during the special base year may have been used in computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made under the provisions of this chapter. However, wages, hours, and weeks worked used in computing entitlement on a claim filed under this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

(7) Benefits paid to an individual filing under the provisions of this section shall not be charged to the experience rating account of any contribution paying employer. [1993 c 516 § 10.]

43.21J.800 Legislative budget committee report. On or before June 30, 1998, the legislative budget committee shall prepare a report to the legislature evaluating the implementation of the environmental restoration jobs act of 1993, chapter 516, Laws of 1993. [1993 c 516 § 11.]

43.21J.900 Short title—1993 c 516. This act shall be known as the environmental restoration jobs act of 1993. [1993 c 516 § 15.]

43.21J.901 Section captions and part headings—1993 c 516. Section captions and part headings as used in this act constitute no part of the law. [1993 c 516 § 16.]

43.21J.902 Severability—1993 c 516. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 516 § 17.]

43.21J.903 Conflict with federal requirements—1993 c 516. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1993 c 516 § 19.]

43.21J.904 Effective date—1993 c 516. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 516 § 20.]

Chapter 43.22

DEPARTMENT OF LABOR AND INDUSTRIES

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Apprenticeship council: RCW 49.04.010, 49.04.030.

Boiler inspections: Chapter 70.79 RCW.

Department created: RCW 43.17.010.

Director

appointment: RCW 43.17.020.

board of pilotage commissioners, ex officio chairman: RCW 88.16.010.

chief assistants: RCW 43.17.040.

oath: RCW 43.17.030.

powers and duties: RCW 43.17.030.

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Electrical apparatus use and construction rules, change of, enforcement: RCW 19.29.040.

Electrical installations

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Explosives, duties: Chapter 70.74 RCW.

Farm labor contractors, duties: Chapter 19.30 RCW.

Industrial deaths, autopsies and post-mortems: RCW 68.50.103 through 68.50.105.

Industrial safety and health standards: Chapter 49.17 RCW.

Labor disputes, arbitration: Chapter 49.08 RCW.

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Prevailing wages on public works—Director of labor and industries to arbitrate disputes: RCW 39.12.060.

Public employees collective bargaining, powers and duties: Chapter 41.56 RCW.

Rules and regulations: RCW 43.17.060.

Seasonal laborers: Chapter 49.40 RCW.

State building code: Chapter 19.27 RCW.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

Underground work: Chapter 49.24 RCW.

Victims of crimes, compensation, duties of department: Chapter 7.68 RCW.

Wage collection: Chapter 49.48 RCW.

Wages, minimum: Chapter 49.46 RCW.

43.22.005 Deputy directors. The director of labor and industries may appoint and deputize two assistant directors to be known as deputy directors. The director shall designate one deputy director who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and qualified, or the governor appoints an acting director. [1985 c 325 § 1; 1969 ex.s. c 32 § 2.]

43.22.010 Divisions of department—Personnel. The department of labor and industries shall be organized into divisions that promote efficient and effective performance of the duties the agency is charged by statute to administer.

The director may appoint such clerical and other assistants as may be necessary for the general administration of the department. [1994 c 164 § 2; 1974 ex.s. c 27 § 1. Prior: 1973 1st ex.s. c 153 § 8; 1973 1st ex.s. c 52 § 2; 1971 c 66 § 2; 1969 ex.s. c 32 § 1; 1965 c 8 § 43.22.010; prior: (i) 1927 c 306 § 1, part; 1917 c 36 § 2, part; RRS § 8637, part. (ii) 1921 c 7 § 74; RRS § 10832.]

Effective date—1973 1st ex.s. c 52: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 52 § 12.]

43.22.020 Supervisor of industrial insurance—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial insurance, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such adjusters, medical and other examiners, auditors, inspectors, clerks, and other assistants as may be necessary to the administration of workers' compensation and medical aid in this state. [1994 c 164 § 3; 1965 c 8 § 43.22.020. Prior: 1921 c 7 § 75; RRS § 10833.]

Industrial insurance: Title 51 RCW.

43.22.030 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of workers' compensation and medical aid in this state;

(2) Have the custody of all property acquired by the state at execution sales upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs; sell and dispose of the same at private sales for the sale purchase price, and pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state. [1994 c 164 § 4; 1987 c 185 § 16; 1965 c 8 § 43.22.030. Prior: 1921 c 7 § 78, part; RRS § 10836, part.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Workers' compensation: Title 51 RCW.

43.22.040 Supervisor of industrial safety and health—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial safety and health, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on the industrial safety and health work of the department. [1994 c 164 § 5; 1973 1st ex.s. c 52 § 3; 1965 c 8 § 43.22.040. Prior: 1921 c 7 § 76; RRS § 10834.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

Administrative expenses: RCW 51.16.105.

43.22.050 Powers and duties. The director of labor and industries shall:

(1) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of factories, mills, workshops, storehouses, warerooms, stores and buildings, and the machinery and apparatus therein contained, and steam vessels, and other vessels operated by machinery, and in relation to the administration and enforcement of all laws and safety standards providing for the protection of employees in mills, factories, workshops, and in employments subject to the provisions of Title 51 RCW, and in relation to the enforcement, inspection, certification,

and promulgation of safe places and safety device standards in all industries: PROVIDED, HOWEVER, This section shall not apply to railroads;

(2) Exercise all the powers and perform all the duties prescribed by law in relation to the inspection of tracks, bridges, structures, machinery, equipment, and apparatus of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities, with respect to the safety of employees, and the administration and enforcement of all laws providing for the protection of employees of street railways, gas plants, electrical plants, water systems, telephone lines, telegraph lines, and other public utilities;

(3) Exercise all the powers and perform all the duties prescribed by law in relation to the enforcement, amendment, alteration, change, and making additions to, rules and regulations concerning the operation, placing, erection, maintenance, and use of electrical apparatus, and the construction thereof. [1994 c 164 § 6; 1973 1st ex.s. c 52 § 4; 1971 ex.s. c 239 § 9; 1965 c 8 § 43.22.050. Prior: 1955 c 173 § 1; 1921 c 7 § 80; RRS § 10838.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

Severability—1971 ex.s. c 239: See RCW 70.62.900.

Boilers and steam vessels: Chapter 70.79 RCW.

Electrical apparatus: Chapters 19.28, 19.29 RCW.

Elevators, escalators and dumbwaiters: Chapter 70.87 RCW.

Industrial safety and health: Chapter 49.17 RCW.

43.22.053 Supervisor of building and construction safety inspection services—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of building and construction safety inspection services, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint and employ such inspectors, clerks, and other assistants as may be necessary to carry on building and construction safety inspection services subject to the provisions of chapter 41.06 RCW. [1994 c 164 § 7; 1969 ex.s. c 32 § 3.]

43.22.200 Right of entry to inspect. The supervisor of industrial safety and health or the supervisor's deputy shall enter, inspect, and examine any coal mine, and the workings and the machinery belonging thereto, at all reasonable times, either day or night, but not so as to impede the working of the mine. They shall make inquiry into the condition of the mine, workings, machinery, ventilation, drainage, method of lighting or using lights, and into all methods and things relating to the health and safety of persons employed in or about the mine, and especially make inquiry whether or not the provisions of the coal mining code have been complied with. The management of each mine shall furnish the means necessary for such entry, inspection, examination, and exit. [1994 c 164 § 8; 1973 1st ex.s. c 52 § 5; 1965 c 8 § 43.22.200. Prior: 1917 c 36 § 8; RRS § 8643.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

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

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

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

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

(5) The supervisor or the supervisor's deputy shall make a record of the circumstances attending each accident investigated, which record shall be preserved in the files of

the department. To enable the supervisor or the supervisor's deputy to make such investigation and record, they shall have power to compel the attendance of witnesses and to administer oaths or affirmations to them. The costs of such investigations shall be paid by the state. [1994 c 164 § 9; 1989 c 12 § 14; 1973 1st ex.s. c 52 § 6; 1965 c 8 § 43.22.210. Prior: 1917 c 36 § 9; RRS § 8644. Formerly RCW 43.22.190, part, 43.22.210 through 43.22.240.]

Effective date—1973 1st ex.s. c 52: See note following RCW 43.22.010.

43.22.260 Supervisor of industrial relations—Appointment—Authority—Personnel. The director of labor and industries shall appoint and deputize an assistant, to be known as the supervisor of industrial relations, who shall have authority to perform those duties delegated by the director and by statute.

The director may appoint an assistant to be known as the industrial statistician, and an assistant to be known as the supervisor of employment standards and may appoint and employ experts, clerks, and other assistants as may be necessary to carry on the industrial relations work of the department. [1994 c 164 § 10; 1975 1st ex.s. c 296 § 31; 1973 2nd ex.s. c 16 § 11; 1973 1st ex.s. c 154 § 82; 1965 c 8 § 43.22.260. Prior: 1921 c 7 § 77; RRS § 10835.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

43.22.270 Powers and duties. The director of labor and industries shall have the power, and it shall be the director's duty:

(1) To study and keep in touch with problems of industrial relations and, from time to time, make public reports and recommendations to the legislature;

(2) To, with the assistance of the industrial statistician, exercise all the powers and perform all the duties in relation to collecting, assorting, and systematizing statistical details relating to labor within the state and systematizing such statistical information to, as far as possible, conform to the plans and reports of the United States department of labor;

(3) To, with the assistance of the industrial statistician, make such special investigations and collect such special statistical information as may be needed for use by the department or division of the state government having need of industrial statistics;

(4) To, with the assistance of the supervisor of employment standards, supervise the administration and enforcement of all laws respecting the employment and relating to the health, sanitary conditions, surroundings, hours of labor, and wages of employees employed in business and industry in accordance with the provisions of chapter 49.12 RCW;

(5) To exercise all the powers and perform all the duties, not specifically assigned to the department of labor and industries, now vested in, and required to be performed by, the commissioner of labor;

(6) To exercise such other powers and perform such other duties as may be provided by law. [1994 c 164 § 11; 1977 c 75 § 48; 1975 1st ex.s. c 296 § 32; 1973 2nd ex.s. c

16 § 12; 1973 1st ex.s. c 154 § 83; 1965 c 8 § 43.22.270. Prior: 1921 c 7 § 81; RRS 10839.]

Effective date—1975 1st ex.s. c 296: See RCW 41.58.901.

Severability—1973 2nd ex.s. c 16: See RCW 49.12.900.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Apprenticeships: Chapter 49.04 RCW.

Arbitration of disputes: Chapter 49.08 RCW.

Public employees' collective bargaining, arbitration of disputes: RCW 41.56.100.

Public employment labor relations: Chapter 41.58 RCW.

Wage collection for aggrieved employees: RCW 49.48.040.

43.22.282 Industrial welfare committee abolished—Transfer of powers, duties, and functions. The industrial welfare committee established by this chapter is abolished. All powers, duties, and functions of the committee are transferred to the director of labor and industries. [1982 c 163 § 16.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.22.290 Reports by employers. Every owner, operator, or manager of a factory, workshop, mill, mine, or other establishment where labor is employed, shall make to the department, upon blanks furnished by it, such reports and returns as the department may require, for the purpose of compiling such labor statistics as are authorized by this chapter, and the owner or business manager shall make such reports and returns within the time prescribed therefor by the director, and shall certify to the correctness thereof.

In the reports of the department no use shall be made of the names of individuals, firms, or corporations supplying the information called for by this section, such information being deemed confidential, and not for the purpose of disclosing personal affairs, and any officer, agent, or employee of the department violating this provision shall be fined a sum not exceeding five hundred dollars, or be imprisoned for not more than one year. [1965 c 8 § 43.22.290. Prior: 1901 c 74 § 3; RRS § 7588.]

43.22.300 Compelling attendance of witnesses and testimony—Penalty. The director may issue subpoenas, administer oaths and take testimony in all matters relating to the duties herein required, such testimony to be taken in some suitable place in the vicinity to which testimony is applicable.

Witnesses subpoenaed and testifying before any officer of the department shall be paid the same fees as witnesses before a superior court, such payment to be made from the funds of the department.

Any person duly subpoenaed under the provisions of this section who wilfully neglects or refuses to attend or testify at the time and place named in the subpoena, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not exceeding thirty days. [1965 c 8 § 43.22.300. Prior: 1901 c 74 § 4; RRS § 7589.]

43.22.310 Access to plants—Penalty for refusal.

The director or any employee of the department of labor and industries may enter any factory, mill, office, workshop, or public or private works at any time for the purpose of gathering facts and statistics as provided by this chapter, and examine into the methods of protection from danger to employees, and the sanitary conditions in and around such buildings and places and make a record thereof, and any owner or occupant of such factory, mill, office or workshop, or public or private works, or his agent who refuses to allow an inspector or employee of the department to enter, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or be imprisoned in the county jail not to exceed ninety days. [1965 c 8 § 43.22.310. Prior: 1901 c 74 § 5; RRS § 7590.]

43.22.330 Annual report. The director of labor and industries shall submit to the governor each year a report of business transacted by the department during the preceding fiscal year together with such statistics and information as the governor deems of public interest and such recommendations as the director believes merit consideration in the interest of improved administration. [1977 c 75 § 49; 1965 c 8 § 43.22.330. Prior: (i) 1901 c 74 § 2; RRS § 7587. (ii) 1901 c 74 § 7; RRS § 7592.]

43.22.340 Mobile homes, commercial coaches and recreational vehicles—Rules and regulations governing safety of body and frame design and plumbing, heating and electrical equipment—Compliance required. The director of labor and industries shall prescribe and enforce rules and regulations governing safety of body and frame design, and the installation of plumbing, heating, and electrical equipment in mobile homes, commercial coaches and/or recreational vehicles: PROVIDED, That the director shall not prescribe or enforce rules and regulations governing the body and frame design of recreational vehicles until after the American National Standards Institute shall have published standards and specifications upon this subject. Such rules and regulations shall be reasonably consistent with recognized and accepted principles of safety for body and frame design and plumbing, heating, and electrical installations, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe body and frame design, construction, plumbing, heating, electrical, and other equipment and shall correlate with and, so far as practicable, conform to the then current standards and specifications of the American National Standards Institute standards A119.1 for mobile homes and commercial coaches and A119.2 for recreational vehicles. It shall be unlawful for any person to lease, sell or offer for sale, within this state, any mobile homes, commercial coaches and/or recreational vehicles manufactured after January 1, 1968, containing plumbing, heating, electrical, or other equipment, and after July 1, 1970 body and frame design or construction unless such equipment meets the requirements of the rules and regulations provided for herein. [1970 ex.s. c 27 § 1; 1969 ex.s. c 229 § 1; 1967 c 157 § 1.]

43.22.345 Mobile homes, commercial coaches and recreational vehicles—Penalty for violation. Any person violating the provisions of RCW 43.22.340 as amended by section 1, chapter 229, Laws of 1969 ex.s. shall be guilty of a misdemeanor. Each day upon which a violation occurs shall constitute a separate violation. [1969 ex.s. c 229 § 4.]

43.22.350 Mobile homes, commercial coaches and recreational vehicles—Compliance insignia—Fee schedule—Out-of-state sales. (1) In compliance with any applicable provisions of this chapter, the director of the department of labor and industries shall establish a schedule of fees, whether on the basis of plan approval or inspection, for the issuance of an insignia which indicates that the mobile home, commercial coach and/or recreational vehicle complies with the provisions of RCW 43.22.340 through 43.22.410 or for any other purpose specifically authorized by any applicable provision of this chapter.

(2) Insignia are not required on mobile homes, commercial coaches and/or recreational vehicles manufactured within this state for sale outside this state which are sold to persons outside this state. [1977 ex.s. c 21 § 6; 1970 ex.s. c 27 § 2; 1967 c 157 § 2.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.360 Mobile homes, commercial coaches and recreational vehicles—Plans and specifications—Submission—Approval—Change or alterations approval. Plans and specifications of each model or production prototype of a mobile home, commercial coach and/or recreational vehicle showing body and frame design, construction, plumbing, heating and electrical specifications and data shall be submitted to the department of labor and industries for approval and recommendations with respect to compliance with the regulations and standards of each of such agencies. When plans have been submitted and approved as aforesaid, no changes or alterations shall be made to body and frame design, construction, plumbing, heating or electrical installations or specifications shown thereon in any mobile home, commercial coach or recreational vehicle without prior written approval of the department of labor and industries. [1970 ex.s. c 27 § 3; 1967 c 157 § 3.]

43.22.370 Mobile homes, commercial coaches and recreational vehicles—Leased, sold or manufactured in state prior to July 1, 1968—Compliance not required—Exception. Any mobile home, commercial coach and/or recreational vehicle leased or sold in Washington and manufactured prior to July 1, 1968, which has not been inspected prior to its sale and which does not meet the requirements prescribed will not be required to comply with said requirements except for alterations or installations referred to in RCW 43.22.360. [1970 ex.s. c 27 § 4; 1969 ex.s. c 229 § 2; 1967 c 157 § 4.]

43.22.380 Mobile homes, commercial coaches and recreational vehicles—Manufactured for use outside state—Compliance not required—Exception. Used mobile homes, commercial coaches and/or recreational vehicles manufactured for use outside this state which do not meet the requirements prescribed and have been used for six

months or more will not be required to comply with said requirements except for alterations or installations referred to in RCW 43.22.360. [1970 ex.s. c 27 § 5; 1967 c 157 § 5.]

43.22.390 Mobile homes, commercial coaches and recreational vehicles—Insigne of approval, when required. Mobile homes, commercial coaches and/or recreational vehicles subject to the provisions of RCW 43.22.340 through 43.22.410, and mobile homes, commercial coaches and/or recreational vehicles upon which alterations of body and frame design, construction or installations of plumbing, heating or electrical equipment referred to in RCW 43.22.360 are made after July 1, 1968, shall have affixed thereto such insigne of approval. [1970 ex.s. c 27 § 6; 1967 c 157 § 6.]

43.22.400 Mobile homes, commercial coaches and recreational vehicles—Meeting standards of other states at least equal to this state. If the director of the department of labor and industries determines that the standards for body and frame design, construction and the plumbing, heating and electrical equipment installed in mobile homes, commercial coaches and/or recreational vehicles by the statutes or rules and regulations of other states are at least equal to the standards prescribed by this state, he may so provide by regulation. Any mobile home, commercial coach and/or recreational vehicle which a state listed in such regulations has approved as meeting its standards for body and frame design, construction and plumbing, heating and electrical equipment shall be deemed to meet the standards of the director of the department of labor and industries, if he determines that the standards of such state are actually being enforced. [1970 ex.s. c 27 § 7; 1967 c 157 § 7.]

43.22.410 Mobile homes, commercial coaches and recreational vehicles—Meeting requirements of chapter deemed compliance with county or city ordinances. Any mobile home, commercial coach and/or recreational vehicle that meets the requirements prescribed under RCW 43.22.340 shall not be required to comply with any ordinances of a city or county prescribing requirements for body and frame design, construction or plumbing, heating and electrical equipment installed in mobile homes, commercial coaches and/or recreational vehicles. [1970 ex.s. c 27 § 8; 1967 c 157 § 8.]

43.22.420 Factory assembled structures advisory board. There is hereby created a factory assembled structures advisory board consisting of nine members to be appointed by the director of labor and industries. It shall be the purpose and function of the board to advise the director on all matters pertaining to the enforcement of this chapter including but not limited to standards of body and frame design, construction and plumbing, heating and electrical installations, minimum inspection procedures, the adoption of rules and regulations pertaining to the manufacture of factory assembled structures, mobile homes, commercial coaches and recreational vehicles. The advisory board shall periodically review the rules promulgated under RCW 43.22.450 through 43.22.490 and shall recommend changes

of such rules to the department if it deems changes advisable.

The members of the advisory board shall be representative of consumers, the regulated industries, and allied professionals. The term of each member shall be four years. However, the director may appoint the initial members of the advisory board to staggered terms not exceeding four years.

The chief inspector or any person acting as chief inspector for the factory assembled structures, mobile home, commercial coach and recreational vehicle section shall serve as secretary of the board during his tenure as chief. Meetings of the board shall be called at the discretion of the director of labor and industries, but at least quarterly. Each member of the board shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended which shall be paid out of the appropriation to the department of labor and industries, upon vouchers approved by the director of labor and industries or his or her designee. [1987 c 330 § 601; 1975-'76 2nd ex.s. c 34 § 103; 1971 ex.s. c 82 § 1; 1970 ex.s. c 27 § 9; 1969 ex.s. c 229 § 3.]

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.22.430 RCW 43.22.340 and 43.22.350 through 43.22.420 not to apply to common carrier equipment. RCW 43.22.340 and 43.22.350 through 43.22.420 shall not apply to common carrier equipment. [1970 ex.s. c 27 § 10.]

43.22.431 Mobile home safety and construction standards—Enforcement by director of labor and industries authorized. The director of the department of labor and industries may enforce mobile home safety and construction standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may make agreements with the United States government and private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1977 ex.s. c 21 § 1.]

Construction—1977 ex.s. c 21: "This 1977 amendatory act is not intended to repeal, alter, or diminish existing state law respecting mobile homes, commercial coaches, and recreational vehicles in those areas unregulated under federal law." [1977 ex.s. c 21 § 4.]

43.22.432 Mobile home construction and safety standards and regulations—Federal—Adoption by state—Procedure. The department may adopt all standards and regulations adopted by the secretary under the National Mobile Home Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for mobile home construction and safety standards. If any deletions or amendments to the federal standards or regulations are thereafter made and notice thereof is given to the department, the standards or regulations shall be considered automatically adopted by the state under this chapter after the expiration of thirty days from publication in the federal

register of a final order describing the deletions or amendments unless within that thirty day period the department objects to the deletion or amendment. In case of objection, the department shall proceed under the rule making procedure of chapter 34.05 RCW. [1977 ex.s. c 21 § 2.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.433 Violations—Penalties. Any person who violates any of the provisions of RCW 43.22.431 through 43.22.434 and 43.22.350 or any rules or regulations adopted pursuant to RCW 43.22.431 through 43.22.434 and 43.22.350 is guilty of a gross misdemeanor, punishable by a fine not exceeding one thousand dollars or by imprisonment not exceeding one year, or by both such fine and imprisonment. [1977 ex.s. c 21 § 3.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.434 Inspections and investigations necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, factory built housing, and factory built structure rules—Director's duties. (1) The director or the director's authorized representative may conduct such inspections and investigations as may be necessary to promulgate or enforce mobile home, commercial coach, recreational vehicle, factory built housing, and factory built commercial structure rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge may:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which mobile homes, commercial coaches, recreational vehicles, factory built housing, and factory built commercial structures are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Mobile Home Construction and Safety Standards Act of 1974. Each inspection shall be commenced and completed with reasonable promptness.

(3) In carrying out the inspections authorized by this section the director may establish, by rule, and impose on mobile home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections. [1977 ex.s. c 21 § 5.]

Construction—1977 ex.s. c 21: See note following RCW 43.22.431.

43.22.440 Mobile home installation service and warranty service standards—Enforcement. (1) The legislature finds that inspections of mobile home installation are not done on a consistent basis. Mobile homes provide housing for many people in the state, and improperly installed mobile homes are a serious health and safety risk. Where possible and practical, mobile homes should be treated the same as any housing inhabited or to be inhabited by persons in this state, including housing built according to the state building code.

[Title 43 RCW—page 154]

(2) In consultation with the factory assembled structures advisory board for mobile homes, the director of labor and industries shall by rule establish uniform standards for the performance and workmanship of installation service and warranty service by persons or entities engaged in performing the services within this state for all mobile homes, as defined in RCW 46.04.302. The standards shall conform, where applicable, with statutes, rules, and recommendations established under the federal national mobile home construction and safety standards act of 1974 (42 U.S.C. Sec. 5401 et seq.). These rules regarding the installation of mobile homes shall be enforced and fees charged by the counties and cities in the same manner the state building code is enforced under RCW 19.27.050.

(3) In addition to and in conjunction with the remedies provided in this chapter, failure to remedy any breach of the standards and rules so established, upon adequate notice and within a reasonable time, is a violation of the consumer protection act, chapter 19.86 RCW and subject to the remedies provided in that chapter. [1988 c 239 § 5; 1980 c 153 § 1.]

43.22.442 Requirement of timely compensation by mobile home manufacturer to representative for warranty service performed. A manufacturer of mobile homes who designates a representative within this state to provide consumers with warranty service for mobile homes on behalf of the manufacturer shall make reasonable and timely compensation to the representative for performance of the warranty service. [1980 c 153 § 2.]

43.22.445 Mobile homes—Warranties and inspections—Advertising of dimensions. See RCW 46.70.135.

43.22.450 Factory built housing and commercial structures, regulating installation of—Definitions. Whenever used in RCW 43.22.450 through 43.22.490:

(1) "Department" means the Washington state department of labor and industries;

(2) "Approved" means approved by the department;

(3) "Factory built housing" means any structure designed primarily for human occupancy other than a mobile home the structure or any room of which is either entirely or substantially prefabricated or assembled at a place other than a building site;

(4) "Install" means the assembly of factory built housing or factory built commercial structures at a building site;

(5) "Building site" means any tract, parcel or subdivision of land upon which factory built housing or a factory built commercial structure is installed or is to be installed;

(6) "Local enforcement agency" means any agency of the governing body of any city or county which enforces laws or ordinances governing the construction of buildings;

(7) "Commercial structure" means a structure designed or used for human habitation, or human occupancy for industrial, educational, assembly, professional or commercial purposes. [1973 1st ex.s. c 22 § 1; 1970 ex.s. c 44 § 1.]

43.22.455 Factory built housing and commercial structures, regulating installation of—Housing must be approved, have department insignia—Significance of

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insignia—Modification of housing during installation must be approved. No factory built housing or factory built commercial structure shall be installed on a building site in this state after the effective date of the regulations adopted pursuant to RCW 43.22.480 unless it is approved and bears the insignia of approval of the department.

(1) Any factory built housing or factory built commercial structure bearing an insignia of approval of the department shall be deemed to comply with any laws, ordinances or regulations enacted by any city or county or any local enforcement agency which govern the manufacture and construction of factory built housing or factory built commercial structures or on-site housing.

(2) No factory built housing or factory built commercial structure which has been approved by the department shall be in any way modified prior to, or during installation by a manufacturer or installer unless approval of such modification is first made by the department. [1973 1st ex.s. c 22 § 2; 1970 ex.s. c 44 § 2.]

43.22.460 Factory built housing and commercial structures, regulating installation of—Certain requirements reserved to local jurisdictions. Local land use requirements, building setbacks, side and rear yard requirements, site development and property line requirements, and review and regulation of zoning requirements are specifically reserved to local jurisdictions notwithstanding anything contained in RCW 43.22.450 through 43.22.490. [1970 ex.s. c 44 § 3.]

43.22.465 Factory built housing and commercial structures, regulating installation of—Injunctive process, procedure. The department may obtain from a superior court having jurisdiction, a temporary injunction enjoining the installation of factory built housing or factory built commercial structures on any building site upon affidavit of the department that such factory built housing or factory built commercial structures do not conform to the requirements of RCW 43.22.450 through 43.22.490 or to the rules adopted pursuant to RCW 43.22.450 through 43.22.490. The affidavit must set forth such violations in detail. The injunction may be made permanent, in the discretion of the court. [1973 1st ex.s. c 22 § 3; 1970 ex.s. c 44 § 4.]

43.22.470 Factory built housing and commercial structures, regulating installation of—Delegation of inspection duty to local agency. The department shall have the authority to delegate all or part of its duties of inspection to a local enforcement agency. [1970 ex.s. c 44 § 5.]

43.22.480 Factory built housing and commercial structures, regulating installation of—Rules—Enforcement—Standards—Fees. The department shall adopt and enforce rules that protect the health, safety, and property of the people of this state by assuring that all factory built housing or factory built commercial structures are structurally sound and that the plumbing, heating, electrical, and other components thereof are reasonably safe. The rules shall be reasonably consistent with recognized and accepted principles of safety and structural soundness, and in adopting the rules the department shall consider, so far as

practicable, the standards and specifications contained in the uniform building, plumbing, and mechanical codes, including the barrier free code and the Washington energy code as adopted by the state building code council pursuant to chapter 19.27A RCW, and the national electrical code, including the state rules as adopted pursuant to chapter 19.28 RCW and published by the national fire protection association.

The department shall set a schedule of fees which will cover the costs incurred by the department in the administration and enforcement of RCW 43.22.450 through 43.22.490. [1989 c 134 § 1; 1979 ex.s. c 76 § 2; 1973 1st ex.s. c 22 § 5; 1970 ex.s. c 44 § 7.]

43.22.485 Factory built housing and commercial structures, regulating installation of—Recognizing out-of-state standards, enforcement, as department approved. If the director of the department determines that the standards for factory built housing or factory built commercial structures prescribed by statute, rule or regulation of another state are at least equal to the regulations prescribed under RCW 43.22.450 through 43.22.490, and that such standards are actually enforced by such other state, he may provide by regulation that factory built housing or factory built commercial structures approved by such other state shall be deemed to have been approved by the department. [1973 1st ex.s. c 22 § 6; 1970 ex.s. c 44 § 8.]

43.22.490 Factory built housing and commercial structures, regulating installation of—Violation as misdemeanor—Penalty. Any person who violates any of the provisions of RCW 43.22.450 through 43.22.490 or any rules or regulations adopted pursuant to RCW 43.22.450 through 43.22.490 is guilty of a misdemeanor, punishable by a fine not exceeding five hundred dollars or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. [1970 ex.s. c 44 § 9.]

43.22.495 Manufactured housing—*Department of community development duties. Beginning on July 1, 1991, the *department of community development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The *department of community development may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The department of labor and industries shall transfer all records, files, books, and documents necessary for the *department of community development to assume these new functions.

The *directors of the department of community development and the department of labor and industries shall

immediately take such steps as are necessary to ensure that **this act is implemented on June 7, 1990. [1990 c 176 § 1.]

Reviser's note: *(1) Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

** (2) "This act" consisted of the enactment of RCW 43.22.495, 43.63A.460, 46.12.295, and a vetoed section.

Department of community, trade, and economic development duties: RCW 43.63A.460.

43.22.500 Printing and distribution of publications—Fees. The department of labor and industries, to defray the costs of printing, reprinting, or distributing printed matter issued by the department of labor and industries including, but not limited to, the matters listed in RCW 43.22.505, may charge a fee for such publications in an amount which will reimburse the department for the costs of printing, reprinting, and distributing such publications: PROVIDED, That every person subject to regulation by the department may upon request receive without charge one copy per year of any publication printed pursuant to RCW 43.22.505 whenever such person is affected by any statute, rule or regulation printed therein. All fees collected shall be deposited in the state treasury to the credit of the appropriate fund or account. [1979 ex.s. c 67 § 2; 1975 1st ex.s. c 123 § 1.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

43.22.505 Printing and distribution of publications—Authorized subject matters. The department of labor and industries is specifically authorized to print, reprint, and distribute subject matter including but not limited to the following:

- (1) The provisions of Title 51 RCW;
- (2) The provisions of Title 49 RCW;
- (3) The provisions of chapter 7.68 RCW;
- (4) The provisions of chapter 88.16 RCW;
- (5) The provisions of chapter 19.28 RCW;
- (6) The provisions of chapter 43.22 RCW;
- (7) The provisions of chapter 41.56 RCW;
- (8) The provisions of chapter 49.66 RCW;
- (9) The provisions of chapter 70.79 RCW;
- (10) The provisions of chapter 70.74 RCW;
- (11) The provisions of chapter 70.87 RCW;
- (12) The provisions of all other statutes administered by the department or such statutes as have a relationship to the functions and obligations of the department; and

(13) The rules and regulations of the department of labor and industries, the state apprenticeship council, the state board of pilotage commissioners and the board of boiler rules promulgated pursuant to the statutory provisions cited above. [1975 1st ex.s. c 123 § 2.]

Chapter 43.23

DEPARTMENT OF AGRICULTURE

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Farm labor

contractors: Chapter 19.30 RCW.

director may aid in obtaining and employment of: RCW 15.64.010.

unemployment compensation: RCW 50.04.150.

Farm marketing act, powers and duties under, generally: Chapter 15.64 RCW.

Filled dairy products, director's duties relating to: Chapter 15.38 RCW.

Food, drug and cosmetic act, duties under: Chapter 69.04 RCW.

Grades and packs, generally, standards of, duties relating to: Chapters 15.04, 15.17 RCW.

Honey, enforcement powers and duties: Chapter 69.28 RCW.

Horticultural plants and facilities, inspection and licensing of, duties relating to: RCW 15.04.030, chapter 15.13 RCW.

Inspection, duties relating to generally: Chapter 15.04 RCW.

Inspectors to enforce and carry out Title 15 RCW, appointment by: RCW 15.04.020, 15.04.040, 15.04.060, 15.04.070.

International marketing program for agricultural commodities and trade center: RCW 28B.30.535 through 28B.30.543.

Livestock

identification: Chapter 16.57 RCW.

markets: Chapter 16.65 RCW.

Marketing, director's duties relating to: Chapters 15.64, 15.65, 15.66 RCW.

Meat inspection: Chapter 16.49A RCW.

Milk, fluid milk act, director's duties relating to: Chapter 15.36 RCW.

Milk and milk products for animal food act, duties relating to: Chapter 15.37 RCW.

Minimum flows and levels—Departmental authority exclusive—Other recommendations considered: RCW 90.03.247.

Nurserymen and nursery dealers, duties relating to: RCW 15.04.030.

Oath: RCW 43.17.030.

Office maintained at state capital: RCW 43.17.050.

Oleomargarine, consumer protection, director to enforce: RCW 15.40.040.

Pesticide application act: Chapter 17.21 RCW.

Pesticide control act, director's duties under: Chapter 15.58 RCW.

Planting stock act, powers and duties relating to: Chapter 15.14 RCW.

Poisons, enforcement of

caustic or corrosive poison act: RCW 69.36.040.

chapter relating to: RCW 69.40.025.

Powers and duties generally: RCW 15.04.020 through 15.04.030, 43.17.030, chapter 43.23 RCW.

Predatory birds, controlled by: RCW 15.04.110, 15.04.120.

Rule-making power: RCW 43.17.060.

Rural rehabilitation program, director's duties relating to: Chapter 15.70 RCW.

Seeds, director's duties relating to: Chapter 15.49 RCW.

Soil conservation: Chapter 89.08 RCW.

State fairs commission: Chapter 15.76 RCW.

State international trade fairs, duties relating to: RCW 43.31.800 through 43.31.850.

State trade fair fund, horse racing moneys, disposition: RCW 67.16.100.

Vacancy: RCW 43.17.020, 43.17.040.

Weighing commodities in highway transport—Weighmasters, director's duties relating to: Chapter 15.80 RCW.

Wheat commission act, director's duties relating to: Chapter 15.63 RCW.

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43.23.002 Director—Appointment—Powers and duties—Salary. The executive and administrative head of the department of agriculture shall be the director. The director shall be appointed by the governor with the consent of the senate and shall have complete charge of and supervisory power over the department. The director shall be paid a salary fixed by the governor in accordance with RCW 43.03.040. [1983 c 248 § 1.]

43.23.005 Deputy director—Appointment—Powers and duties. The director of agriculture may appoint a deputy director who shall assist the director in the administration of the affairs of the department and who shall have charge and general supervision of the department in the absence or disability of the director, and who, in case a vacancy occurs in the office of director, shall continue in charge of the department until a director is appointed and

qualified, or the governor appoints an acting director. [1983 c 248 § 2; 1967 c 240 § 14.]

43.23.010 Divisions of department—Assistant directors—State veterinarian—Salaries—Assignment of duties. In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in *RCW 41.06.070(7), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state.

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions. [1990 c 37 § 1; 1983 c 248 § 3; 1967 c 240 § 1; 1965 c 8 § 43.23.010. Prior: 1951 c 170 § 1; 1921 c 7 § 83; RRS § 10841.]

***Reviser's note:** RCW 41.06.070 was amended by 1993 c 281 § 21, changing subsection (7) to subsection (1)(g).

Severability—1967 c 240: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 c 240 § 52.] For codification of 1967 c 240, see Codification Tables, Volume 0.

Apiary advisory committee: RCW 15.60.010.

43.23.015 Divisions of department—Reassignment of division functions. Except for the functions specified in RCW 43.23.070, the director may, at his discretion, reassign any of the functions delegated to the various divisions of the department under the provisions of this chapter or any other law to any other division of the department. [1983 c 248 § 4; 1967 c 240 § 15.]

43.23.030 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties relating to the development of markets, for agricultural products, state and federal cooperative marketing programs, land utilization for agricultural purposes, water resources, transportation, and farm labor as such matters relate to the production, distribution and sale of agricultural commodities including private sector cultured aquatic products as defined in RCW 15.85.020. [1985 c 457 § 15; 1983 c 248 § 5; 1967 c 240 § 3; 1965 c 8 § 43.23.030. Prior: (i) 1921 c 7 § 90; RRS § 10848. (ii) 1937 c 90 § 10; RRS § 10847-1.]

Fair commission: Chapter 15.76 RCW.

Farm marketing: Chapters 15.64, 15.65, 15.66 RCW.

43.23.035 Powers and duties—State agricultural market development programs and activities. The department of agriculture is hereby designated as the agency of state government for the administration and implementation of state agricultural market development programs and activities, both domestic and foreign, and shall, in addition to the powers and duties otherwise imposed by law, have the following powers and duties:

(1) To study the potential marketability of various agricultural commodities of this state in foreign and domestic trade;

(2) To collect, prepare, and analyze foreign and domestic market data;

(3) To establish a program to promote and assist in the marketing of Washington-bred horses: PROVIDED, That the department shall present a proposal to the legislature no later than December 1, 1986, that provides for the elimination of all state funding for the program after June 30, 1989;

(4) To encourage and promote the sale of Washington's agricultural commodities and products at the site of their production through the development and dissemination of referral maps and other means;

(5) To encourage and promote those agricultural industries, such as the wine industry, which attract visitors to rural areas in which other agricultural commodities and products are produced and are, or could be, made available for sale;

(6) To encourage and promote the establishment and use of public markets in this state for the sale of Washington's agricultural products;

(7) To maintain close contact with foreign firms and governmental agencies and to act as an effective intermediary between foreign nations and Washington traders;

(8) To publish and disseminate to interested citizens and others information which will aid in carrying out the purposes of chapters 43.23, 15.64, 15.65, and 15.66 RCW;

(9) To encourage and promote the movement of foreign and domestic agricultural goods through the ports of Washington;

(10) To conduct an active program by sending representatives to, or engaging representatives in, foreign countries to promote the state's agricultural commodities and products;

(11) To assist and to make Washington agricultural concerns more aware of the potentials of foreign trade and to encourage production of those commodities that will have high export potential and appeal;

(12) To coordinate the trade promotional activities of appropriate federal, state, and local public agencies, as well as civic organizations; and

(13) To develop a coordinated marketing program with the *department of trade and economic development, utilizing existing trade offices and participating in mutual trade missions and activities.

As used in this section, "agricultural commodities" includes products of both terrestrial and aquatic farming. [1986 c 202 § 1; 1985 c 159 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability—1986 c 202: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1986 c 202 § 7.]

Legislative declaration and intent—1985 c 159: "The legislature declares that:

(1) Marketing is a dynamic and changing part of Washington agriculture and a vital element in expanding the state economy.

(2) The export of agricultural products produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, provides an important stabilizing effect on prices received by agricultural producers, and contributes to the United States balance of trade.

(3) State government should play a significant role in the development and expansion of markets for Washington grown and processed agricultural and food products.

(4) In order for state government to serve the best interests of agriculture in the area of market development, the role of state government in this area must be clearly defined.

(5) The department of agriculture, the department of commerce and economic development, and the IMPACT center at Washington State University, each possesses its own unique body of knowledge, expertise, and relationships that, when combined and applied in a logical and cooperative manner, will benefit the agricultural industry and the overall state economy and will provide a powerful force to seek aggressively new domestic and international markets for Washington's agricultural products.

It is the intent of the legislature to establish an organized agricultural market development function within state government with clearly defined areas of responsibility which will be responsive to the state's agricultural and food products industries' needs, without duplicating established private sector marketing efforts." [1985 c 159 § 1.]

43.23.050 Powers and duties. The director of agriculture shall:

(1) Exercise all the powers and perform all the duties prescribed by law relating to horticulture, and horticultural plants and products;

(2) Enforce and supervise the administration of all laws relating to horticulture, horticultural products, and horticultural interests. [1983 c 248 § 6; 1967 c 240 § 5; 1965 c 8 § 43.23.050. Prior: 1921 c 7 § 91; RRS § 10849.]

Horticultural

pests and diseases: Chapter 15.08 RCW.

plants and facilities: Chapter 15.13 RCW.

43.23.070 Powers and duties of state veterinarian. The state veterinarian shall exercise all the powers and perform all duties prescribed by law relating to diseases among domestic animals and the quarantine and destruction of diseased animals.

He shall enforce and supervise the administration of all laws relating to meat inspection, the prevention, detection, control and eradication of diseases of domestic animals, and all other matters relative to the diseases of livestock and their effect upon the public health. [1983 c 248 § 7; 1967 c 240 § 7; 1965 c 8 § 43.23.070. Prior: 1943 c 56 § 1; 1921 c 7 § 92; Rem. Supp. 1943 § 10850.]

Animal health: Chapter 16.36 RCW.

Dairies and dairy products: Chapter 15.36 RCW.

Diseased animals: Chapters 16.36, 16.44 RCW.

43.23.090 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to the inspection of foods, food products, drinks, milk and milk products, and dairies and dairy products and the components thereof.

He shall enforce and supervise the administration of all laws relating to foods, food products, drinks, milk and milk

products, dairies and dairy products, and their inspection, manufacture, and sale. [1983 c 248 § 8; 1967 c 240 § 9; 1965 c 8 § 43.23.090. Prior: 1921 c 7 § 93; RRS § 10851.]

Commercial feed law: Chapter 15.53 RCW.

Eggs and egg products: Chapter 69.25 RCW.

Food, drugs and cosmetics: Chapter 69.04 RCW.

Honey: Chapter 69.28 RCW.

Weighing commodities in highway transport: Chapter 15.80 RCW.

Weights and measures: Chapters 19.92, 19.94 RCW.

43.23.110 Powers and duties. The director of agriculture shall exercise all powers and perform all duties prescribed by law with respect to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides.

He shall enforce and supervise the administration of all laws relating to grains, grain and hay products, grain and terminal warehouses, commercial feeds, commercial fertilizers, and chemical pesticides. [1983 c 248 § 9; 1967 c 240 § 11; 1965 c 8 § 43.23.110. Prior: 1921 c 7 § 94; RRS § 10852.]

Commercial fertilizers: Chapter 15.54 RCW.

Grain and terminal warehouses: Chapter 22.09 RCW.

Quarantine: Chapter 17.24 RCW.

Seeds: Chapter 15.49 RCW.

Weeds: Chapters 17.04, 17.06, 17.08 RCW.

43.23.120 Bulletins and reports. The director of agriculture may publish and distribute bulletins and reports embodying information upon the subjects of agriculture, horticulture, livestock, dairying, foods and drugs, and other matters pertaining to his department. [1977 c 75 § 50; 1965 c 8 § 43.23.120. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.130 Annual report. The director of agriculture shall make an annual report to the governor containing an account of all matters pertaining to his department and its administration. [1977 c 75 § 51; 1965 c 8 § 43.23.130. Prior: (i) 1919 c 126 § 1, part; 1913 c 60 § 6, part; RRS § 2724, part. (ii) 1921 c 7 § 89, part; RRS § 10847, part.]

43.23.160 Powers and duties. The director of agriculture shall exercise all the powers and perform all the duties prescribed by law relating to commission merchants, livestock identification, livestock brand registration and inspection. All officers appointed to enforce these laws who have successfully completed a course of training prescribed by the Washington state criminal justice training commission shall have the authority generally vested in a peace officer solely for the purpose of enforcing these laws.

He shall enforce and supervise the administration of all laws relating to commission merchants, livestock identification and shall have the power to enforce all laws relating to any division under the supervision of the director of agriculture. [1983 c 248 § 10; 1967 c 240 § 13. Prior: 1965 c 8 § 43.23.160; prior: 1951 c 170 § 3.]

43.23.200 Official chemists of department—Designated—Duties. The chief chemist of the department of agriculture dairy and food laboratory and the chief chemist of the department of agriculture chemical and hop laboratory shall be the official chemists of the department of agriculture. Official chemists of the department shall provide laboratory services and analyze all substances that the director of agriculture may send to them and report to the director without unnecessary delay the results of any analysis so made. When called upon by the director, they or any of the additional chemists provided for pursuant to RCW 43.23.205 shall assist in any prosecution for the violation of any law enforced by the department. [1987 c 393 § 14; 1981 c 297 § 27.]

Severability—1981 c 297: See note following RCW 15.36.201.

43.23.205 Additional chemists—Appointment—Duties—Compensation. The director of agriculture may appoint one or more competent graduate chemists to serve as additional chemist of the department of agriculture, who may perform any of the duties required of and under the supervision of the official chemists, and whose compensation shall be fixed by the director. [1981 c 297 § 28.]

Severability—1981 c 297: See note following RCW 15.36.201.

43.23.220 Disposition of impounded livestock on Hanford reservation—Agreements to act as federal government's agent. The director of agriculture may enter written agreements with one or more agencies of the United States to act as the federal government's agent for determining the disposition of livestock impounded on the federal Hanford reservation. The director's authority under such an agreement may include, but is not limited to, selling or donating, on behalf of the federal government, unclaimed livestock to a qualified person, organization, or governmental agency that the director determines to be capable of humanely transporting and caring for the livestock. The director may sell or donate such livestock only if the livestock remains unclaimed after the completion of a reasonable attempt to ascertain ownership and, if ownership is not otherwise determined, by the publication of notice that the livestock has been impounded on the reservation. [1983 c 248 § 12.]

43.23.230 Agricultural local fund. The agricultural local fund is hereby established in the custody of the state treasurer. The fund shall consist of such money as is directed by law for deposit in the fund, and such other money not subject to appropriation that the department authorizes to be deposited in the fund. Any money deposited in the fund, the use of which has been restricted by law, may only be expended in accordance with those restrictions. The department may make disbursements from the fund. The fund is not subject to legislative appropriation. [1988 c 254 § 1.]

43.23.240 Senior environmental corps—Department powers and duties. (1) The department of agriculture shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

Appoint a representative to the coordinating council;
 Develop project proposals;
 Administer project activities within the agency;
 Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;
 Apply for and accept grants or contributions for corps approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 8.]

Severability—1992 c 63: See note following RCW 43.63A.240.

Chapter 43.24

DEPARTMENT OF LICENSING

Sections

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Corporation doing business without license, penalty: RCW 9.24.040.

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Drivers' training schools, director's powers and duties relating to: Chapter 46.82 RCW.

Emergency management workers, licensing requirements waived during emergency: RCW 38.52.180.

For-hire vehicles, certificates and operators' permits, director's powers and duties relating to: Chapter 46.72 RCW.

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Health, department of, functions transferred to: RCW 43.70.901.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

Marine recreation land act, duties: Chapter 43.99 RCW.

Massachusetts trusts, rules and regulations by director: RCW 23.90.040.

Mobile home, travel trailer, and camper excise tax, duties of director: Chapter 82.50 RCW.

Motor vehicles

accident reports, tabulation and analysis of to be available to: RCW 46.52.060.

administration by director of licensing: RCW 46.01.030, 46.01.040.

agents of: RCW 46.01.130, 46.01.140.

amateur radio operators with special license plates, director to furnish lists of: RCW 46.16.340.

annual reports to governor: RCW 46.01.290.

certified copies of departmental records relating to, department to furnish: RCW 46.01.250.

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motor vehicle fuel tax, duties concerning: Chapter 82.36 RCW.

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motor vehicle transporters' licenses, director's powers and duties relating to: Chapter 46.76 RCW.

motor vehicle wreckers' licensing, director's powers and duties relating to: Chapter 46.80 RCW.

safety responsibility act, director's powers and duties relating to: Chapter 46.29 RCW.

vehicle and operator licensing, rules and regulations for: RCW 46.01.110.

Oath of director: RCW 43.17.030.

Offices of department maintained at state capital: RCW 43.17.050.

Powers and duties of director: RCW 43.17.030, 43.24.020, chapter 46.01 RCW.

Rules of department: RCW 43.17.060, 46.01.110.

Seal: RCW 46.01.170.

Securities act, licensing requirements: Chapter 21.20 RCW.

Vacancies in department: RCW 43.17.020, 43.17.040.

Veterans, motor vehicle license issued free to disabled: RCW 73.04.110.

Veterans' preferences, qualifications for: RCW 73.04.090.

43.24.001 Department of licensing—Creation—Director—Powers, duties, and functions—Personnel. See chapter 46.01 RCW.

43.24.010 Authority of director—Personnel. The director of licensing shall have charge and general supervision of the department of licensing.

He may appoint such clerical and other assistants as may be necessary to carry on the work of the department and deputize one or more of such assistants to perform duties in the name of the director. [1979 c 158 § 94; 1965 c 100 § 1; 1965 c 8 § 43.24.010. Prior: 1921 c 7 § 95; RRS § 10853.]

Director of licensing, appointment and qualifications: RCW 43.17.020, 46.01.090.

Powers of department and director of licensing: RCW 46.01.130.

43.24.020 Powers and duties—Generally. The director of licensing shall administer all laws with respect to the examination of applicants for, and the issuance of, licenses to persons to engage in any business, profession, trade, occupation, or activity except for health professions. [1994 c 92 § 496; 1989 1st ex.s. c 9 § 314; 1979 c 158 § 95; 1965 c 100 § 2; 1965 c 8 § 43.24.020. Prior: (i) 1921 c 7 § 96; RRS § 10854. (ii) 1921 c 7 § 104; RRS § 10862. (iii) 1929 c 133 § 1; RRS § 5852-24.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Powers, duties and functions of director and department of licensing: Chapter 46.01 RCW.

43.24.024 Authorization to delegate rule-making authority to assistant director of the business and professions administration. The director of licensing may delegate to the assistant director of the business and professions administration in the department of licensing authority to promulgate rules and regulations relating to the licensing of persons engaged in businesses and professions. The director may delegate the authority to issue and sign licenses, certificates, permits and renewals thereof pertaining to those activities transferred to the business and professions administration in the department of licensing pursuant to RCW 46.01.050. [1994 c 92 § 497; 1979 c 158 § 96; 1965 ex.s. c 170 § 42.]

43.24.026 Business and professions administration created—Transfer of powers, duties and functions to—Divisions of real estate and professional licensing. See RCW 46.01.050, 46.01.055.

43.24.030 "License" defined. The word "license" shall be construed to mean and include license, certificate of registration, certificate of qualification, certificate of competency, certificate of authority, and any other instrument, by whatever name designated, authorizing the practice of a profession or calling, the carrying on of a business or occupation, or the doing of any act required by law to be authorized by the state. [1965 c 8 § 43.24.030. Prior: 1921 c 7 § 98; RRS § 10856.]

43.24.040 Forms to be prescribed. The director of licensing shall prescribe the various forms of applications, certificates, and licenses required by law. [1979 c 158 § 97; 1965 c 8 § 43.24.040. Prior: 1921 c 7 § 97; RRS § 10855.]

Application forms—Licenses—Mention of race or religion prohibited: RCW 43.01.100, 43.01.110.

Director to prescribe forms for applications, licenses, certificates: RCW 46.01.160.

43.24.060 Examinations—Committees—Duties, compensation, travel expenses. (1) The director of licensing shall, from time to time, fix such times and places for holding examinations of applicants as may be convenient, and adopt general rules and regulations prescribing the method of conducting examinations.

The governor, from time to time, upon the request of the director of licensing, shall appoint examining committees, composed of three persons possessing the qualifications

provided by law to conduct examinations of applicants for licenses to practice the respective professions or callings for which licenses are required.

The committees shall prepare the necessary lists of examination questions, conduct the examinations, which may be either oral or written, or partly oral and partly written, and shall make and file with the director of licensing lists, signed by all the members conducting the examination, showing the names and addresses of all applicants for licenses who have successfully passed the examination, and showing separately the names and addresses of the applicants who have failed to pass the examination, together with all examination questions and the written answers thereto submitted by the applicants.

Each member of a committee shall receive twenty-five dollars per day for each day spent in conducting the examination and in going to and returning from the place of examination, and travel expenses, in accordance with RCW 43.03.050 and 43.03.060.

(2) The director of licensing may appoint advisory committees to advise the department regarding the preparation of examinations for professional licensing and such other specific aspects of regulating the professions within the jurisdiction of the department as the director may designate. Such a committee and its members shall serve at the pleasure of the director.

Each member of an advisory committee shall be compensated in accordance with RCW 43.03.240 and shall receive reimbursement for travel expenses incurred in attending meetings of the committee in accordance with RCW 43.03.050 and 43.03.060. [1984 c 287 § 78; 1982 c 227 § 15; 1979 c 158 § 98; 1975-'76 2nd ex.s. c 34 § 105; 1965 c 100 § 3; 1965 c 8 § 43.24.060. Prior: 1921 c 7 § 99; RRS § 10857.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—1982 c 227: See note following RCW 19.09.100.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.24.065 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The director of licensing may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of licensing, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1985 c 116 § 1.]

43.24.080 Issuance of licenses. At the close of each examination the department of licensing shall prepare the proper licenses, where no further fee is required to be paid, and issue licenses to the successful applicants signed by the director and notify all successful applicants, where a further fee is required, of the fact that they are entitled to receive such license upon the payment of such further fee to the department of licensing and notify all applicants who have failed to pass the examination of that fact. [1979 c 158 § 99; 1965 c 100 § 4; 1965 c 8 § 43.24.080. Prior: 1921 c 7 § 101; RRS § 10859.]

43.24.085 License or registration fees for businesses, occupations and professions—Policy—Maximum fees—Determination.

Reviser's note: RCW 43.24.085 was both amended and repealed during the 1983 legislative sessions, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.24.086 Fee policy for professions, occupations, and businesses—Determination by rule. It shall be the policy of the state of Washington that the cost of each professional, occupational or business licensing program be fully borne by the members of that profession, occupation or business. The director of licensing shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations or businesses, except for health professions, administered by the business and professions administration in the department of licensing. In fixing said fees, the director shall set the fees for each such program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the director in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

For fees associated with the licensing or regulation of health professions administered by the department of health, see RCW 43.70.250. [1989 1st ex.s. c 9 § 315; 1987 c 467 § 7; 1983 c 168 § 12.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

Severability—1983 c 168: See RCW 18.120.910.

Regulation of health professions: Chapters 18.120 and 18.122 RCW.

43.24.090 Examination of handicapped persons. Any person taking any written examination prescribed or authorized by law, for a license or permit to practice any trade, occupation, or profession, who, because of any handicap, is unable to write the examination himself, may dictate it to and have it written or typed by another, to the same effect as though the examination were written out by himself. Any expense connected therewith shall be borne by the person taking the examination. [1965 c 8 § 43.24.090. Prior: 1947 c 143 § 1; Rem. Supp. 1947 § 8265-20.]

43.24.110 Revocation of licenses—Hearings—Committee—Powers, compensation, travel expenses. Whenever there is filed in a matter under the jurisdiction of the director of licensing any complaint charging that the holder of a license has been guilty of any act or omission

which by the provisions of the law under which the license was issued would warrant the revocation thereof, verified in the manner provided by law, the director of licensing shall request the governor to appoint, and the governor shall appoint within thirty days of the request, two qualified practitioners of the profession or calling of the person charged, who, with the director or his duly appointed representative, shall constitute a committee to hear and determine the charges and, in case the charges are sustained, impose the penalty provided by law. In addition, the governor shall appoint a consumer member of the committee.

The decision of any three members of such committee shall be the decision of the committee.

The appointed members of the committee shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses, in accordance with RCW 43.03.050 and 43.03.060. [1986 c 259 § 149. Prior: 1984 c 287 § 79; 1984 c 279 § 60; 1979 c 158 § 101; 1975-'76 2nd ex.s. c 34 § 106; 1965 c 100 § 5; 1965 c 8 § 43.24.110; prior: 1921 c 7 § 103; RRS § 10861.]

Severability—1986 c 259: See note following RCW 18.130.010.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1984 c 279: See RCW 18.130.901.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.24.115 Director's duties as to refusal, revocation or suspension of licenses—Performance by assistants. The director may deputize one or more of his assistants to perform his duties with reference to refusal, revocation or suspension of licenses, including the power to preside at hearings and to render decisions therein subject to the approval of the director. [1965 c 100 § 6.]

43.24.120 Appeal—Further review. Any person feeling aggrieved by the refusal of the director to issue a license, or to renew one, or by the revocation or suspension of a license shall have a right of appeal to superior court from the decision of the director of licensing, which shall be taken, prosecuted, heard, and determined in the manner provided in chapter 34.05 RCW.

The decision of the superior court may be reviewed by the supreme court or the court of appeals in the same manner as other civil cases. [1987 c 202 § 212; 1979 c 158 § 102; 1971 c 81 § 112; 1965 c 8 § 43.24.120. Prior: 1921 c 7 § 106; RRS § 10864.]

Rules of court: *Writ procedure superseded by RAP 2.1, 2.2, 18.22.*

Intent—1987 c 202: See note following RCW 2.04.190.

43.24.130 License moratorium for persons in service. Notwithstanding any provision of law to the contrary, the license of any person licensed by the director of licensing to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The director shall renew the license of every such person who

applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period. [1979 c 158 § 103; 1965 c 8 § 43.24.130. Prior: 1945 c 112 § 1; 1943 c 108 § 1; RRS § 10864-1.]

43.24.140 Extension or modification of licensing, certification, or registration period authorized—Rules and regulations, manner and content. Notwithstanding any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the director of licensing may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the director determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of licensing adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1984 c 279 § 25; 1979 c 158 § 104; 1971 c 52 § 1.]

Severability—1984 c 279: See RCW 18.130.901.

Chapter 43.27A

WATER RESOURCES

Sections

- 43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology.
- 43.27A.020 Definitions.
- 43.27A.090 Powers and duties of department.
- 43.27A.130 Department of ecology to inventory state water resources.
- 43.27A.190 Water resource orders.
- 43.27A.220 "Person" defined.
- 43.27A.900 Liberal construction.
- 43.27A.910 Severability—1967 c 242.

43.27A.015 Powers, duties and functions of department of water resources, director thereof, transferred to department of ecology. See RCW 43.21A.064.

43.27A.020 Definitions. As used in this chapter, and unless the context indicates otherwise, words and phrase shall mean:

"Department" means the department of ecology;

"Director" means the director of ecology;

"State agency" and "state agencies" mean any branch, department or unit of state government, however designated or constituted;

"Water resources" means all waters above, upon, or beneath the surface of the earth, located within the state and over which the state has sole or concurrent jurisdiction.

"Beneficial use" means, but its meaning shall not be limited to: Domestic water supplies; irrigation; fish, shell-

fish, game, and other aquatic life; recreation; industrial water supplies; generation of hydroelectric power; and navigation. [1987 c 109 § 31; 1967 c 242 § 2.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.27A.090 Powers and duties of department. The department shall be empowered as follows:

(1) To represent the state at, and fully participate in, the activities of any basin or regional commission, interagency committee, or any other joint interstate or federal-state agency, committee or commission, or publicly financed entity engaged in the planning, development, administration, management, conservation or preservation of the water resources of the state.

(2) To prepare the views and recommendations of the state of Washington on any project, plan or program relating to the planning, development, administration, management, conservation and preservation of any waters located in or affecting the state of Washington, including any federal permit or license proposal, and appear on behalf of, and present views and recommendations of the state at any proceeding, negotiation or hearing conducted by the federal government, interstate agency, state or other agency.

(3) To cooperate with, assist, advise and coordinate plans with the federal government and its officers and agencies, and serve as a state liaison agency with the federal government in matters relating to the use, conservation, preservation, quality, disposal or control of water and activities related thereto.

(4) To cooperate with appropriate agencies of the federal government and/or agencies of other states, to enter into contracts, and to make appropriate contributions to federal or interstate projects and programs and governmental bodies to carry out the provisions of this chapter.

(5) To apply for, accept, administer and expend grants, gifts and loans from the federal government or any other entity to carry out the purposes of this chapter and make contracts and do such other acts as are necessary insofar as they are not inconsistent with other provisions hereof.

(6) To develop and maintain a coordinated and comprehensive state water and water resources related development plan, and adopt, with regard to such plan, such policies as are necessary to insure that the waters of the state are used, conserved and preserved for the best interest of the state. There shall be included in the state plan a description of developmental objectives and a statement of the recommended means of accomplishing these objectives. To the extent the director deems desirable, the plan shall integrate into the state plan, the plans, programs, reports, research and studies of other state agencies.

(7) To assemble and correlate information relating to water supply, power development, irrigation, watersheds, water use, future possibilities of water use and prospective demands for all purposes served through or affected by water resources development.

(8) To assemble and correlate state, local and federal laws, regulations, plans, programs and policies affecting the beneficial use, disposal, pollution, control or conservation of water, river basin development, flood prevention, parks, reservations, forests, wildlife refuges, drainage and sanitary systems, waste disposal, water works, watershed protection

and development, soil conservation, power facilities and area and municipal water supply needs, and recommend suitable legislation or other action to the legislature, the congress of the United States, or any city, municipality, or to responsible state, local or federal executive departments or agencies.

(9) To cooperate with federal, state, regional, interstate and local public and private agencies in the making of plans for drainage, flood control, use, conservation, allocation and distribution of existing water supplies and the development of new water resource projects.

(10) To encourage, assist and advise regional, and city and municipal agencies, officials or bodies responsible for planning in relation to water aspects of their programs, and coordinate local water resources activities, programs, and plans.

(11) To promulgate such rules and regulations as are necessary to carry out the purposes of this chapter.

(12) To hold public hearings, and make such investigations, studies and surveys as are necessary to carry out the purposes of the chapter.

(13) To subpoena witnesses, compel their attendance, administer oaths, take the testimony of any person under oath and require the production of any books or papers when the department deems such measures necessary in the exercise of its rule-making power or in determining whether or not any license, certificate, or permit shall be granted or extended. [1988 c 127 § 25; 1967 c 242 § 9.]

43.27A.130 Department of ecology to inventory state water resources. The department of ecology may make complete inventories of the state's water resources and enter into such agreements with the director of the United States geological survey as will insure that investigations and surveys are carried on in an economical manner. [1988 c 127 § 26; 1967 c 242 § 15.]

43.27A.190 Water resource orders. Notwithstanding and in addition to any other powers granted to the department of ecology, whenever it appears to the department that a person is violating or is about to violate any of the provisions of the following:

- (1) Chapter 90.03 RCW; or
- (2) Chapter 90.44 RCW; or
- (3) Chapter 86.16 RCW; or
- (4) Chapter 43.37 RCW; or
- (5) Chapter 43.27A RCW; or

(6) Any other law relating to water resources administered by the department; or

(7) A rule or regulation adopted, or a directive or order issued by the department relating to subsections (1) through (6) of this section; the department may cause a written regulatory order to be served upon said person either personally, or by registered or certified mail delivered to addressee only with return receipt requested and acknowledged by him. The order shall specify the provision of the statute, rule, regulation, directive or order alleged to be or about to be violated, and the facts upon which the conclusion of violating or potential violation is based, and shall order the act constituting the violation or the potential violation to cease and desist or, in appropriate cases, shall order necessary corrective action to be taken with regard to such acts

within a specific and reasonable time. The regulation of a headgate or controlling works as provided in RCW 90.03.070, by a watermaster, stream patrolman, or other person so authorized by the department shall constitute a regulatory order within the meaning of this section. A regulatory order issued hereunder shall become effective immediately upon receipt by the person to whom the order is directed, except for regulations under RCW 90.03.070 which shall become effective when a written notice is attached as provided therein. Any person aggrieved by such order may appeal the order pursuant to RCW 43.21B.310. [1987 c 109 § 11; 1969 ex.s. c 284 § 7.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

43.27A.220 "Person" defined. Whenever the word "person" is used in RCW 43.27A.190, it shall be construed to include any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or any other entity whatsoever. [1988 c 127 § 27; 1969 ex.s. c 284 § 11.]

Severability—1969 ex.s. c 284: See note following RCW 90.48.290.

43.27A.900 Liberal construction. The rule of strict construction shall have no application to this chapter, but the same shall be liberally construed, in order to carry out the purposes and objectives for which this chapter is intended. [1967 c 242 § 22.]

43.27A.910 Severability—1967 c 242. If any provision of this chapter, or its application to any person or circumstance, is held invalid, the remainder of this chapter, or the application to other persons or circumstances, is not affected. [1967 c 242 § 21.]

Chapter 43.30

DEPARTMENT OF NATURAL RESOURCES

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- 43.30.360 Clarke-McNary fund.
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Commissioner of public lands: Chapters 43.12, 79.01 RCW.

Disposition of off-road vehicle moneys: RCW 46.09.110.

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Forests and forest products: Title 76 RCW.

Infractions: Chapter 7.84 RCW.

Leases for onshore and offshore facilities: RCW 90.48.386.

Metals mining and milling operations, department of natural resources responsibilities: Chapter 78.56 RCW.

Multiple use concept in management and administration of state-owned lands: Chapter 79.68 RCW.

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Refunds from motor vehicle fund of amounts taxed as off-road vehicle fuel—Distribution—Use: RCW 46.09.170.

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Wildlife and recreation lands; funding of maintenance and operation: Chapter 43.98B RCW.

Youth development and conservation corps: Chapter 43.51 RCW.

43.30.010 Purpose. The purpose of this chapter is to provide for more effective and efficient management of the forest and land resources in the state by consolidating into a department of natural resources certain powers, duties and functions of the division of forestry of the department of conservation and development, the board of state land commissioners, the state forest board, all state sustained yield forest committees, director of conservation and development, state capitol committee, director of licensing, secretary of state, director of revenue, and commissioner of public lands. [1979 c 107 § 4; 1965 c 8 § 43.30.010. Prior: 1957 c 38 § 1.]

43.30.020 Definitions. For the purpose of this chapter, except where a different interpretation is required by the context:

(1) "Department" means the department of natural resources;

(2) "Board" means the board of natural resources;

(3) "Administrator" means the administrator of the department of natural resources;

(4) "Supervisor" means the supervisor of natural resources;

(5) "Agency" and "state agency" means any branch, department, or unit of the state government, however designated or constituted;

(6) "Commissioner" means the commissioner of public lands. [1965 c 8 § 43.30.020. Prior: 1957 c 38 § 2.]

43.30.030 Department created. The department of natural resources is hereby created, to consist of a board of natural resources, an administrator and a supervisor. [1965 c 8 § 43.30.030. Prior: 1957 c 38 § 3.]

43.30.040 Board of natural resources—Composition. The board shall consist of six members: The governor or the governor's designee, the superintendent of public instruction, the commissioner of public lands, the dean of the college of forest resources of the University of Washington, the dean of the college of agriculture of Washington State University, and a representative of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW.

The county representative shall be selected by the legislative authorities of those counties that contain state forest lands acquired or transferred under chapter 76.12 RCW. In the selection of the county representative, each participating county shall have one vote. The Washington state association of counties shall conduct a meeting for the purpose of making the selection and shall notify the board of the selection. The county representative shall be a duly elected member of a county legislative authority who shall serve a term of four years unless the representative should leave office for any reason. The initial term shall begin on July 1, 1986. [1986 c 227 § 1; 1979 ex.s. c 57 § 9; 1965 c 8 § 43.30.040. Prior: 1957 c 38 § 4.]

43.30.050 Administrator of department. The commissioner of public lands shall be the administrator of the department. [1965 c 8 § 43.30.050. Prior: 1957 c 38 § 5.]

43.30.060 Supervisor of natural resources—Appointment. The supervisor shall be appointed by the administrator with the advice and consent of the board. He shall serve at the pleasure of the administrator. [1965 c 8 § 43.30.060. Prior: 1957 c 38 § 6.]

43.30.125 Department to exercise certain powers and duties—State geological survey. The department of natural resources shall assume full charge and supervision of the state geological survey and perform such other duties as may be prescribed by law. [1988 c 127 § 3; 1965 c 8 § 43.21.050. Prior: 1921 c 7 § 69; RRS § 10827. Formerly RCW 43.21.050.]

Coal mining maps: RCW 78.40.250.

Mining survey reports, forwarding to: RCW 78.06.030.

Provisions relating to geological survey: Chapter 43.92 RCW, RCW 43.27A.130.

43.30.130 Department to exercise certain powers and duties—Commissioner of public lands. The department shall exercise all of the powers, duties and functions now vested in the commissioner of public lands and such powers, duties and functions are hereby transferred to the department: PROVIDED, That nothing herein contained shall effect his ex officio membership on any committee provided by law. [1965 c 8 § 43.30.130. Prior: 1957 c 38 § 13.]

43.30.135 Powers of department—Forested lands.

(1) The department may:

(a) Inquire into the production, quality, and quantity of second growth timber to ascertain conditions for reforestation; and

(b) Publish information pertaining to forestry and forest products which it considers of benefit to the people of the state.

(2) The department shall:

(a) Collect information through investigation by its employees, on forest lands owned by the state, including:

(i) Condition of the lands;

(ii) Forest fire damage;

(iii) Illegal cutting, trespassing, or thefts; and

(iv) The number of acres and the value of the timber that is cut and removed each year, to determine which state lands are valuable chiefly for growing timber;

(b) Prepare maps of each timbered county showing state land therein; and

(c) Protect state land as much as is practical and feasible from fire, trespass, theft, and the illegal cutting of timber.

(3) When the department considers it to be in the best interest of the state, it may cooperate with any agency of another state, the United States or any agency thereof, the Dominion of Canada or any agency or province thereof, and any county, town, corporation, individual, or Indian tribe within the state of Washington in:

(a) Forest surveys;

(b) Forest studies;

(c) Forest products studies; and

(d) Preparation of plans for the protection, management, and replacement of trees, wood lots, and timber tracts. [1986 c 100 § 50.]

Study—1989 c 424: "The department of natural resources shall conduct a study of state-owned hardwood forests. The study shall include, but is not limited to: A comprehensive inventory of state-owned hardwood forests and a qualitative assessment of those stands, research into reforestation of hardwoods on state lands, and an analysis of management policies for increasing the supply of commercially harvestable hardwoods on state lands." [1989 c 424 § 5.]

Report to legislature—1989 c 424: "If by October 1, 1989, the United States congress makes an appropriation to the United States forest service for a Washington state forest inventory and timber supply study, the department of natural resources shall conduct an inventory and prepare a report on the timber supply in Washington state. The report shall identify the quantity of timber present now and the quantity of timber that may be available from forest lands in the future using various assumptions of landowner management, including changes in the forest land base, amount of capital invested in timber management, and expected harvest age. This

report shall categorize the results according to region of the state, land ownership, land productivity, and according to major timber species.

The report shall contain an estimate of the acreage and volume of old growth and other timber on lands restricted from commercial timber harvesting due to state or federal decisions, such as national parks, wilderness areas, national recreation areas, scenic river designations, natural areas, geologic areas, or other land allocations which restrict or limit timber harvesting activities. The department shall determine the definition of old growth for the purposes of this section.

State appropriations for these purposes in the 1989-91 budget may be expended if needed for project planning and design. The report shall be submitted to the appropriate committees of the senate and the house of representatives by June 1, 1991." [1989 c 424 § 8.]

43.30.138 Duties of department—Mining. The department of natural resources shall:

(1) Collect, compile, publish, and disseminate statistics and information relating to mining, milling, and metallurgy;

(2) Make special studies of the mineral resources and industries of the state;

(3) Collect and assemble an exhibit of mineral specimens, both metallic and nonmetallic, especially those of economic and commercial importance; such collection to constitute the museum of mining and mineral development;

(4) Collect and assemble a library pertaining to mining, milling, and metallurgy of books, reports, drawings, tracings, and maps and other information relating to the mineral industry and the arts and sciences of mining and metallurgy;

(5) Make a collection of models, drawings, and descriptions of the mechanical appliances used in mining and metallurgical processes;

(6) Issue bulletins and reports with illustrations and maps with detailed description of the natural mineral resources of the state;

(7) Preserve and maintain such collections and library open to the public for reference and examination and maintain a bureau of general information concerning the mineral and mining industry of the state, and issue from time to time at cost of publication and distribution such bulletins as may be deemed advisable relating to the statistics and technology of minerals and the mining industry;

(8) Make determinative examinations of ores and minerals, and consider other scientific and economical problems relating to mining and metallurgy;

(9) Cooperate with all departments of the state government, state educational institutions, the United States geological survey and the United States bureau of mines. All departments of the state government and educational institutions shall render full cooperation to the department in compiling useful and scientific information relating to the mineral industry within and without the state, without cost to the department. [1988 c 127 § 4; 1965 c 8 § 43.21.070. Prior: 1935 c 142 § 2; RRS § 8614-2. Formerly RCW 43.21.070.]

Coal mining maps: RCW 78.40.250.

Mining survey reports forwarded to: RCW 78.06.030.

43.30.141 Gifts and bequests relating to mining.

The department of natural resources may receive on behalf of the state, for the benefit of mining and mineral development, gifts, bequests, devises, and legacies of real or personal property and use them in accordance with the wishes of the donors and manage, use, and dispose of them

for the best interests of mining and mineral development. [1988 c 127 § 5; 1965 c 8 § 43.21.080. Prior: 1935 c 142 § 3; RRS § 8614-3. Formerly RCW 43.21.080.]

43.30.145 Collection of minerals for exhibition. The department of natural resources may, from time to time, prepare special collections of ores and minerals representative of the mineral industry of the state to be displayed or used at any world fair, exposition, mining congress, or state exhibition, in order to promote information relating to the mineral wealth of the state. [1988 c 127 § 6; 1965 c 8 § 43.21.090. Prior: 1935 c 142 § 4; RRS § 8614-4. Formerly RCW 43.21.090.]

43.30.150 Powers and duties of board—Personnel—Advisory committees—Organization—Travel expenses. The board shall:

(1) Perform duties relating to appraisal, appeal, approval and hearing functions as provided by law;

(2) Establish policies to insure that the acquisition, management and disposition of all lands and resources within the department's jurisdiction are based on sound principles designed to achieve the maximum effective development and use of such lands and resources consistent with laws applicable thereto;

(3) Constitute the board of appraisers provided for in Article 16, section 2 of the state Constitution;

(4) Constitute the commission on harbor lines provided for in Article 15, section 1 of the state Constitution as amended;

(5) Hold regular monthly meetings at such times as it may determine, and such special meetings as may be called by the chairman or majority of the board membership upon written notice to all members thereof: PROVIDED, That the board may dispense with any regular meetings, except that the board shall not dispense with two consecutive regular meetings;

(6) Adopt and enforce such rules and regulations as may be deemed necessary and proper for carrying out the powers, duties and functions imposed upon it by this chapter;

(7) Employ and fix the compensation of such technical, clerical and other personnel as may be deemed necessary for the performance of its duties;

(8) Appoint such advisory committees as it may deem appropriate to advise and assist it to more effectively discharge its responsibilities. The members of such committees shall receive no compensation, but shall be entitled to reimbursement for travel expenses in attending committee meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended;

(9) Meet and organize within thirty days after March 6, 1957 and on the third Monday of each January following a state general election at which the elected ex officio members of the board are elected. The board shall select its own chairman. The commissioner of public lands shall be the secretary of the board. The board may select a vice chairman from among its members. In the absence of the chairman and vice chairman at a meeting of the board, the members shall elect a chairman pro tem. No action shall be taken by the board except by the agreement of at least four

members. The department and the board shall maintain its principal office at the capital;

(10) Be entitled to reimbursement individually for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1988 c 128 § 10; 1986 c 227 § 2; 1975-'76 2nd ex.s. c 34 § 107; 1965 c 8 § 43.30.150. Prior: 1957 c 38 § 15.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.30.160 Powers and duties of administrator—Personnel. The administrator shall have responsibility for performance of all the powers, duties and functions of the department except those specifically assigned to the board. In the performance of his powers, duties and functions, the administrator shall conform to policies established by the board, and may employ and fix the compensation of such personnel as may be required to perform the duties of his office. [1965 c 8 § 43.30.160. Prior: 1957 c 38 § 16.]

43.30.170 Powers and duties of supervisor—Personnel—Bond. The supervisor shall:

(1) Be charged with the direct supervision of the department's activities as delegated to him by the administrator;

(2) Perform his duties in conformance with the policies established by the board;

(3) Organize the department, with approval of the administrator, into such subordinate divisions as he may deem appropriate for the conduct of its operations;

(4) Employ and fix the compensation of such technical, clerical and other personnel as may be required to carry on activities under his supervision;

(5) Delegate by order any of his powers, duties and functions to one or more deputies or assistants as he may desire;

(6) Furnish before entering upon his duties a surety bond payable to the state in such amount as may be determined by the board, conditioned for the faithful performance of his duties and for his accounting of all moneys and property of the state that may come into his possession or under his control by virtue of his office. [1965 c 8 § 43.30.170. Prior: 1957 c 38 § 17.]

43.30.180 Oaths may be administered by supervisor and deputies. The supervisor and his duly authorized deputies may administer oaths. [1965 c 8 § 43.30.180. Prior: 1957 c 38 § 18.]

43.30.210 Administrator may designate substitute for member of board, commission, etc. When any officer, member, or employee of an agency abolished by provisions of this chapter is, under provisions of existing law, designated as a member ex officio of another board, commission, committee, or other agency, and no provision is made in this chapter with respect to a substitute, the administrator shall designate the officer or other person to serve hereafter in that capacity. [1965 c 8 § 43.30.210. Prior: 1957 c 38 § 21.]

43.30.250 Property transactions, restrictive conveyances, highway purpose—Existing law to continue. Nothing in this chapter shall be interpreted as changing existing law with respect to:

(1) Property given to a state agency on restrictive conveyance with provision for reversion to the grantor or for the vesting of title in another if and when such property is not used by the agency concerned for the stipulated purposes;

(2) Land or other property acquired by any state agency for highway purposes. [1965 c 8 § 43.30.250. Prior: 1957 c 38 § 25.]

43.30.260 Real property—Services and facilities available to other state agencies, cost. Upon request by any state agency vested by law with the authority to acquire or manage real property, the department shall make available to such agency the facilities and services of the department of natural resources with respect to such acquisition or management, upon condition that such agency reimburse the department for the costs of such services. [1965 c 8 § 43.30.260. Prior: 1957 c 38 § 26.]

43.30.265 Real property asset base—Natural resources real property replacement account. (1) The legislature finds that the department of natural resources has a need to maintain the real property asset base it manages and needs an accounting mechanism to complete transactions without reducing the real property asset base.

(2) The natural resources real property replacement account is created in the state treasury. This account shall consist of funds transferred or paid for the disposal or transfer of real property by the department of natural resources under RCW 79.01.009. The funds in this account shall be used solely for the acquisition of replacement real property and may be spent only when, and as, authorized by legislative appropriation. [1992 c 167 § 1.]

43.30.270 Employees—Applicability of merit system. All employees of the department of natural resources shall be governed by any merit system which is now or may hereafter be enacted by law governing such employment. [1965 c 8 § 43.30.270. Prior: 1957 c 38 § 27.]

43.30.280 Natural resources equipment fund—Authorized—Purposes—Expenditure. A revolving fund in the custody of the state treasurer, to be known as the natural resources equipment fund, is hereby created to be expended by the department of natural resources without appropriation solely for the purchase of equipment, machinery, and supplies for the use of the department and for the payment of the costs of repair and maintenance of such equipment, machinery, and supplies. [1965 c 8 § 43.30.280. Prior: 1963 c 141 § 1.]

43.30.290 Natural resources equipment fund—Reimbursement. The natural resources equipment fund shall be reimbursed by the department of natural resources for all moneys expended from it. Reimbursement may be prorated over the useful life of the equipment, machinery, and supplies purchased by moneys from the fund. Reim-

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bursement may be made from moneys appropriated or otherwise available to the department for the purchase, repair and maintenance of equipment, machinery, and supplies and shall be prorated on the basis of relative benefit to the programs. For the purpose of making reimbursement, all existing and hereafter acquired equipment, machinery, and supplies of the department shall be deemed to have been purchased from the natural resources equipment fund. [1965 c 8 § 43.30.290. Prior: 1963 c 141 § 2.]

43.30.300 Outdoor recreation—Construction, operation, and maintenance of primitive facilities—Right of way and public access—Use of state and federal outdoor recreation funds. The department of natural resources is authorized:

(1) To construct, operate, and maintain primitive outdoor recreation and conservation facilities on lands under its jurisdiction which are of primitive character when deemed necessary by the department to achieve maximum effective development of such lands and resources consistent with the purposes for which the lands are held. This authority shall be exercised only after review by the interagency committee for outdoor recreation and determination by the committee that the department is the most appropriate agency to undertake such construction, operation and maintenance. Such review is not required for campgrounds designated and prepared or approved by the department.

(2) To acquire right of way and develop public access to lands under the jurisdiction of the department of natural resources and suitable for public outdoor recreation and conservation purposes.

(3) To receive and expend funds from federal and state outdoor recreation funding measures for the purposes of RCW 43.30.300 and 79.08.109. [1987 c 472 § 13; 1986 c 100 § 51; 1967 ex.s. c 64 § 1.]

Severability—1987 c 472: See RCW 79.71.900.

Construction—1967 ex.s. c 64: "Nothing in this act shall be construed as affecting the jurisdiction or responsibility of any other state or local governmental agency, except as provided in section 1 of this act." [1967 ex.s. c 64 § 4.]

Severability—1967 ex.s. c 64: "If any provision of sections 1 through 4 of this act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 64 § 3.]

Exchange of lands to secure private lands for parks and recreation purposes: RCW 79.08.109.

Interagency committee for outdoor recreation: Chapter 43.99 RCW.

43.30.310 Rules pertaining to public use of state lands—Enforcement—Penalty. For the promotion of the public safety and the protection of public property, the department of natural resources may, in accordance with chapter 34.05 RCW, issue, promulgate, adopt, and enforce rules pertaining to use by the public of state-owned lands and property which are administered by the department.

A violation of any rule adopted under this section shall constitute a misdemeanor unless the department specifies by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW: PROVIDED, That violation of a rule relating to traffic including parking, standing, stopping, and pedestrian offenses is a traffic infraction, except that violation of a rule

equivalent to those provisions of Title 46 RCW set forth in RCW 46.63.020 remains a misdemeanor.

The commissioner of public lands and such of his employees as he may designate shall be vested with police powers when enforcing:

(1) The rules of the department adopted under this section; or

(2) The general criminal statutes or ordinances of the state or its political subdivisions where enforcement is necessary for the protection of state-owned lands and property. [1987 c 380 § 14; 1979 ex.s. c 136 § 38; 1969 ex.s. c 160 § 1.]

Effective date—Severability—1987 c 380: See RCW 7.84.900 and 7.84.901.

Effective date—Severability—1979 ex.s. c 136: See notes following RCW 46.63.010.

43.30.350 Department of natural resources to exercise mining and geology powers and duties of department of conservation. See RCW 43.27A.120 and 43.27A.130.

43.30.355 Department to participate in and administer federal Safe Drinking Water Act in conjunction with other departments. See RCW 43.21A.445.

43.30.360 Clarke-McNary fund. The department and Washington State University may each receive funds from the federal government in connection with cooperative work with the United States department of agriculture, authorized by sections 4 and 5 of the Clarke-McNary act of congress, approved June 7, 1924, providing for the procurement, protection, and distribution of forestry seed and plants for the purpose of establishing windbreaks, shelter belts, and farm wood lots and to assist the owners of farms in establishing, improving, and renewing wood lots, shelter belts, and windbreaks; and are authorized to disburse such funds as needed. [1986 c 100 § 46.]

43.30.370 Cooperative farm forestry funds. The department and Washington State University may each receive funds from the federal government for cooperative work, as authorized by the cooperative forest management act of congress, approved May 18, 1937, and as subsequently authorized by any amendments to or substitutions for that act, for all purposes authorized by those acts, and to disburse the funds in cooperation with the federal government in accordance therewith. [1986 c 100 § 47.]

43.30.390 Sustainable harvest sale. The board of natural resources shall offer for sale the sustainable harvest as identified in the 1984-1993 forest land management program, or as subsequently revised. In the event that decisions made by entities other than the department cause a decrease in the sustainable harvest the department shall offer additional timber sales from state-managed lands. [1989 c 424 § 9.]

Effective date—1989 c 424: See note following RCW 76.12.200.

43.30.400 Senior environmental corps—Department powers and duties. (1) The department of natural resources

shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps-approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps-approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 10.]

Severability—1992 c 63: See note following RCW 43.63A.240.

Chapter 43.31

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—AUTHORITY

(Formerly: Department of trade and economic development)

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43.31.055 Business expansion and trade development.

Reviser's note: RCW 43.31.055 was both amended and repealed during the 1993 legislative session, each without reference to the other. It has been decodified, effective July 1, 1994, for publication purposes pursuant to RCW 1.12.025.

43.31.057 Washington products—Expansion of market—Pamphlet. The department of community, trade, and economic development is directed to develop and promote means to stimulate the expansion of the market for Washington products and shall have the following powers and duties:

(1) To develop a pamphlet for state-wide circulation which will encourage the purchase of items produced in the state of Washington;

(2) To include in the pamphlet a listing of products of Washington companies which individuals can examine when making purchases so they may have the opportunity to select one of those products in support of this program;

(3) To distribute the pamphlets on the broadest possible basis through local offices of state agencies, business organizations, chambers of commerce, or any other means the department deems appropriate;

(4) In carrying out these powers and duties the department shall cooperate and coordinate with other agencies of government and the private sector. [1993 c 280 § 39; 1986 c 183 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration—1986 c 183: "The legislature declares that: (1) The development and sale of Washington business products is a vital element in expanding the state economy.

(2) The marketing of items produced in Washington state contributes substantial benefits to the economic base of the state, provides a large number of jobs and sizeable tax revenues to state and local governments, and provides an important stimulation to the economic strength of Washington companies.

(3) State government should play a significant role in the development and expansion of markets for Washington products." [1986 c 183 § 1.]

Severability—1986 c 183: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 183 § 5.]

43.31.083 Business assistance center established. (Effective until June 30, 1996.) There is established within the department the business assistance center to assist businesses; to provide comprehensive referral services to businesses and especially small businesses on government assistance programs; and to cooperate with local associate development organizations in providing business assistance services. [1987 c 348 § 2.]

43.31.085 Business assistance center—Duties. (Effective until June 30, 1996.) The business assistance center shall:

(1) Serve as the state's lead agency and advocate for the development and conservation of businesses.

(2) Coordinate the delivery of state programs to assist businesses.

(3) Provide comprehensive referral services to businesses requiring government assistance.

(4) Serve as the business ombudsman within state government and advise the governor and the legislature of the need for new legislation to improve the effectiveness of state programs to assist businesses.

(5) Aggressively promote business awareness of the state's business programs and distribute information on the services available to businesses.

(6) Develop, in concert with local economic development and business assistance organizations, coordinated processes that complement both state and local activities and services.

(7) Work with other federal, state, and local agencies and organizations to ensure that business assistance services including small business, trade services, and distressed area programs are provided in a coordinated and cost-effective manner.

(8) Provide or contract for technical assistance to minority and women-owned business enterprises in a variety of areas, including, but not limited to, marketing, finance, bidding and estimating assistance, public contracting assistance, and management.

(9) In collaboration with the child care coordinating committee in the department of social and health services, prepare and disseminate information on child care options for employers and the existence of the program. As much as possible, and through interagency agreements where necessary, such information should be included in the routine communications to employers from (a) the department of revenue, (b) the department of labor and industries, (c) the employment security department, (d) the department of community, trade, and economic development, (e) the small business development center, and (f) the department of social and health services.

(10) In collaboration with the child care coordinating committee in the department of social and health services, compile information on and facilitate employer access to individuals, firms, organizations, and agencies that provide technical assistance to employers to enable them to develop and support child care services or facilities.

(11) Actively seek public and private money to support the child care facility fund described in RCW 43.31.502, staff and assist the child care facility fund committee as described in RCW 43.31.504, and work to promote applications to the committee for loan guarantees, loans, and grants. [1993 c 512 § 3; 1993 c 280 § 40; 1989 c 430 § 2; 1987 c 348 § 3; 1985 c 466 § 11.]

Reviser's note: This section was amended by 1993 c 280 § 40 and by 1993 c 512 § 3, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Legislative findings—1987 c 348: "The Washington state legislature finds that businesses are an integral part of the state's economy which promote economic development and are a primary source of employment

opportunities for the state's citizens. The legislature further recognizes the ability of state government to assist businesses and especially small businesses by coordinating existing business programs and expanding effective business services." [1987 c 348 § 1.]

Office of small business abolished—Transfer of functions—References—1987 c 348: "The office of small business is hereby abolished and its powers, duties, and functions are hereby transferred to the business assistance center. All references to the office of small business in the Revised Code of Washington shall be construed to mean the business assistance center." [1987 c 348 § 9.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Effective date—1985 c 466: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985." [1985 c 466 § 96.]

Severability—1985 c 466: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1985 c 466 § 95.]

Headings—1985 c 466: "As used in this act, section headings constitute no part of the law." [1985 c 466 § 77.]

Transfer of assets—1985 c 466: "All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce and economic development shall be delivered to the custody of the department of trade and economic development. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce and economic development shall be made available to the department of trade and economic development. All funds, credits, or other assets held by the department of commerce and economic development shall be assigned to the department of trade and economic development.

Any appropriations made to the department of commerce and economic development shall, June 30, 1985, be transferred and credited to the department of trade and economic development.

Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned." [1985 c 466 § 19.]

Transfer of employees—1985 c 466: "All classified employees of the department of commerce and economic development are transferred to the jurisdiction of the department of trade and economic development. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of trade and economic development to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service." [1985 c 466 § 20.]

Continuation of rules and business and existing contracts and obligations—1985 c 466: "All rules and all pending business before the department of commerce and economic development shall be continued and acted upon by the department of trade and economic development. All existing contracts and obligations shall remain in full force and shall be performed by the department of trade and economic development." [1985 c 466 § 21.]

Savings—1985 c 466: "The transfer of the powers, duties, functions, and personnel of the department of commerce and economic development shall not affect the validity of any act performed prior to June 30, 1985." [1985 c 466 § 22.]

Apportionment of funds—1985 c 466: "If apportionments of budgeted funds are required because of the transfers directed by sections 19 through 22, chapter 466, Laws of 1985, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification." [1985 c 466 § 23.]

Child care coordinating committee: RCW 74.13.090.

Investment opportunities office: RCW 43.31.403 through 43.31.417.

Marketplace program: RCW 43.31.522.

Small business bonding assistance program: Chapter 43.119 RCW.

43.31.086 Business assistance center—Additional duties. To assist state agencies in reducing regulatory costs to small business and to promote greater public participation in the rule-making process, the business assistance center shall:

(1) Develop agency guidelines for the preparation of a small business economic impact statement and compliance with chapter 19.85 RCW;

(2) Review and provide comments to agencies on draft or final small business economic impact statements;

(3) Advise the joint administrative rules review committee on whether an agency reasonably assessed the costs of a proposed rule and reduced the costs for small business as required by chapter 19.85 RCW; and

(4) Organize and chair a state rules coordinating committee, consisting of agency rules coordinators and interested members of the public, to develop an education and training program that includes, among other components, a component that addresses voluntary compliance, for agency personnel responsible for rule development and implementation. The business assistance center shall submit recommendations to the department of personnel for an administrative procedures training program that is based on the sharing of interagency resources. [1994 c 249 § 15.]

Severability—Application—1994 c 249: See notes following RCW 43.05.310.

43.31.087 Business assistance center—Reports. (Effective until June 30, 1996.) The center shall report to the governor and the legislature annually outlining: The center's activities; the center's effectiveness and accomplishments; the degree of coordination between the center and other state programs assisting businesses; and recommendations on expanding or improving the center's services. [1987 c 348 § 4.]

Legislative findings—1987 c 348: See note following RCW 43.31.083.

43.31.088 Business assistance center—ISO-9000 quality standards. (1) The department, through its business assistance center, shall assist companies seeking to adopt ISO-9000 quality standards. The department shall:

(a) Prepare and disseminate information regarding ISO-9000;

(b) Assemble and maintain information on public and private sector individuals, organizations, educational institutions, and advanced technology centers that can provide technical assistance to firms that wish to become ISO-registered;

(c) Assemble and maintain information on Washington firms which have received ISO registration;

(d) Undertake other activities it deems necessary to execute this section;

(e) Survey appropriate sectors to determine the level of interest in receiving ISO-9000 certification and coordinate with the program;

(f) Establish a mechanism for businesses to make self-assessments of relative need to become ISO-9000 certified;

(g) Assist and support nonprofit organizations, and other organizations, currently providing education, screening, and certification training; and

(h) Coordinate the Washington program with other similar state, regional, and federal programs.

(2) For the purposes of this section, "ISO-9000" means the series of standards published in 1987, and subsequent revisions, by the international organization for standardization for quality assurance in design, development, production, final inspection and testing, and installation and servicing of products, processes, and services.

(3) For the purposes of this section, registration to the American national standards institute/American society for quality control Q90 series shall be considered ISO-9000 registration. [1994 c 140 § 2.]

Findings—Intent—1994 c 140: "The legislature finds that since the publication by the international organization for standardization of its ISO-9000 series of quality systems standards, more than twenty thousand facilities in the United Kingdom and several thousand in Europe have become registered in the standards. By comparison, currently only about four hundred United States companies have adopted the standards. The international organization for standardization is a Geneva-based organization founded in 1947 to promote standardization with a view to facilitating trade.

The legislature further finds that the growing world-wide acceptance by over sixty nations of the ISO-9000 series of quality systems standards, including adoption by the twelve nations of the European Community, means that more Washington companies will need to look at the adoption of ISO-9000 to remain competitive in global markets. Adoption of ISO-9000, as well as other quality systems, may also help Washington companies improve quality. However, many small businesses know little about the standards or how registration is achieved.

It is the intent of the legislature that the department of community, trade, and economic development encourage and assist state businesses to adopt ISO-9000 and other quality systems as part of the state's strategy for global industrial competitiveness." [1994 c 140 § 1.]

Effective date—1994 c 140: "This act shall take effect July 1, 1994." [1994 c 140 § 4.]

43.31.089 Business assistance center coordinating task force. (Effective until June 30, 1996.) There is established the business assistance center coordinating task force. The members of the task force shall be appointed by the governor from the appropriate state agencies providing business assistance services. The task force, in consultation with the small business improvement council and business organizations, shall assist and advise the department in the development of the initial work plan, goals, and objectives of the center. The task force will also facilitate and ensure interagency coordination regarding the business assistance center on a continuing basis. [1987 c 348 § 5.]

Legislative findings—1987 c 348: See note following RCW 43.31.083.

43.31.091 Business assistance center—Termination. The business assistance center and its powers and duties shall be terminated on June 30, 1995, as provided in RCW 43.31.092. [1993 c 280 § 80; 1990 c 297 § 9; 1987 c 348 § 16. Formerly RCW 43.131.343.]

Effective date—1993 c 280 §§ 80, 81: "Sections 80 and 81 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 10, 1993]." [1993 c 280 § 85.]

Severability—1993 c 280: See RCW 43.330.903.

Legislative findings—1987 c 348: See note following RCW 43.31.083.

43.31.092 Business assistance center—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

(1) Section 2, chapter 348, Laws of 1987 and RCW 43.31.083;

(2) Section 11, chapter 466, Laws of 1985, section 3, chapter 348, Laws of 1987, section 2, chapter 430, Laws of 1989 and RCW 43.31.085;

(3) Section 4, chapter 348, Laws of 1987 and RCW 43.31.087; and

(4) Section 5, chapter 348, Laws of 1987 and RCW 43.31.089. [1993 c 280 § 81; 1990 c 297 § 10; 1987 c 348 § 17. Formerly RCW 43.131.344.]

Effective date—1993 c 280 §§ 80, 81: See note following RCW 43.31.091.

Severability—1993 c 280: See RCW 43.330.903.

Legislative findings—1987 c 48: See note following RCW 43.31.083.

43.31.0925 Business assistance center—Minority and women business development office. There is established within the department's business assistance center the minority and women business development office. This office shall provide business-related assistance to minorities and women as well as serve as an outreach program to increase minority and women-owned businesses' awareness and use of existing business assistance services. [1993 c 512 § 7.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.31.093 Minority and women-owned small businesses—Entrepreneurial training courses. The *department of trade and economic development shall contract with public and private agencies, institutions, and organizations to conduct entrepreneurial training courses for minority and women-owned small businesses. The instruction shall be intensive, practical training courses in financing, marketing, managing, accounting, and recordkeeping for a small business, with an emphasis on federal, state, local, or private programs available to assist small businesses. The business assistance center may recommend professional instructors, with practical knowledge and experience on how to start and operate a business, to teach the courses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for minority and women small business owners and entrepreneurs. [1993 c 512 § 6.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.31.125 Advisory groups. The director may establish such advisory groups as in the director's discretion are necessary to carry out the purposes of this chapter. Members of and vacancies in such advisory groups shall be filled by appointment by the director. Members shall receive reimbursement for travel expenses incurred in the perfor-

mance of their duties in accordance with RCW 43.03.050 and 43.03.060. [1985 c 466 § 16.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.31.145 Foreign offices—Promotion of overseas trade and commerce. The department is charged with the primary role within state government for the establishment and operation of foreign offices created for the purpose of promoting overseas trade and commerce. [1991 c 24 § 7; 1985 c 466 § 18.]

Effective date—1991 c 24: See RCW 43.290.900.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.31.205 Hanford reservation—Promotion of sublease for nuclear-related industry. In an effort to enhance the economy of the Tri-Cities area, the department of community, trade, and economic development is directed to promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington, and the opportunity of subleasing the land to entities for nuclear-related industry, in agreement with the terms of the lease. When promoting the existence of the lease, the department shall work in cooperation with any associate development organization located in or near the Tri-Cities area. [1993 c 280 § 41; 1992 c 228 § 2; 1990 c 281 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1992 c 228: "The legislature finds that the ninety-nine-year lease of one thousand acres of land by the state from the federal government requires that the state use any rent moneys from subleasing the land for the development of the leased land and nuclear-related industries in the Tri-Cities area. The legislature further finds that the new emphasis on waste cleanup at Hanford and the new technologies needed for environmental restoration warrant a renewed effort to promote development of the leased land and nuclear-related industries in the Tri-Cities area." [1992 c 228 § 1.]

Legislative findings—1990 c 281: "The legislature finds that the one thousand acres of land leased from the federal government to the state of Washington on the Hanford reservation constitutes an unmatched resource for development of high-technology industry, nuclear medicine research, and research into new waste immobilization and reduction techniques. The legislature further finds that continued diversification of the Tri-Cities economy will help stabilize and improve the Tri-Cities economy, and that this effort can be aided by emphasizing the resources of local expertise and nearby facilities." [1990 c 281 § 1.]

43.31.207 Hanford sublease rent account—Expiration of section. (1) The Hanford sublease rent account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation and only for the following purposes:

(a) To promote the existence of the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington;

(b) To promote development of the leased land and nuclear-related industry in the Tri-Cities area, in accordance with the terms of the lease; and

(c) To execute any new sublease agreements that meet the terms of the lease.

(2) Sources for this account shall include:

(a) Any rent payments from subleases of the site; and

(b) Other funding from federal, state, and local agencies.

(3) Nothing in this section shall affect any agreements or contracts related to sublease rental payments in effect as of June 11, 1992.

(4) This section expires on June 30, 1999. [1992 c 228 § 3.]

Legislative findings—1992 c 228: See note following RCW 43.31.205.

43.31.215 Hanford reservation—Tri-cities area—Emphasize work force and facilities. When the department implements programs intended to attract or maintain industrial or high-technology investments in the state, the department shall, to the extent possible, emphasize the following:

(1) The highly skilled and trained work force in the Tri-Cities area;

(2) The world-class research facilities in the area, including the fast flux test facility and the Pacific Northwest laboratories;

(3) The existence of the one thousand acres leased by the state from the federal government for the purpose of nuclear-related industries; and

(4) The ability for high-technology and medical industries to safely dispose of low-level radioactive waste at the Hanford commercial low-level waste disposal facility. [1990 c 281 § 3.]

Legislative findings—1990 c 281: See note following RCW 43.31.205.

43.31.390 Information from environmental profile—Use in brochures and presentations—Availability to local economic development groups. The department shall incorporate information from the environmental profile developed by the department of ecology in accordance with RCW 43.21A.510 in preparing promotional brochures and in its presentations to businesses considering locating in Washington state. It shall also make the information available to local economic development groups for use in local economic development efforts. [1985 c 466 § 33; 1984 c 94 § 4.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

Findings—1984 c 94: See note following RCW 43.21A.510.

43.31.403 Investment opportunities office—Finding and purpose. The legislature finds that the growth of small and young businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the market place, and expanding tax revenues. Access to financial markets by entrepreneurs is vital to this process. Without reasonable access to financing, talented and aggressive entrepreneurs are cut out of the economic system and the state's economy suffers. It is the purpose of RCW 43.31.403 through 43.31.414 to guarantee that entrepreneurs and investors have an institutionalized means of meeting their respective needs for access to capital resources

and information about promising business investments in Washington state. [1989 c 312 § 1.]

Severability—1989 c 312: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 312 § 10.]

43.31.406 Investment opportunities office—Definitions. As used in RCW 43.31.403 through 43.31.414, the term:

(1) "Entrepreneur" means an individual, proprietorship, joint venture, partnership, trust, business trust, syndicate, association, joint stock company, cooperative, corporation, or any other organization operating in this state, engaged in manufacturing, wholesaling, transportation services, traded services, or the development of destination tourism resorts, with fewer than two hundred fifty employees and paying more than fifty percent of its contributions or payments for the purposes of unemployment insurance to this state.

(2) "Manufacturing" means all activities of a commercial or industrial nature wherein labor or skill is applied, by hand or machinery, to materials so that as a result thereof a new, different, or useful substance or article of tangible personal property is produced for sale or commercial or industrial use and shall include the production or fabrication of specially made or custom made articles. "Manufacturing" also includes computer programming, the production of computer software, and other computer-related services, and the activities performed by research and development laboratories and commercial testing laboratories.

(3) "Traded services" means those commercial and professional services that are developed for sale outside the state.

(4) "Wholesaling" means activities related to the sale or storage of commodities in large quantities.

(5) "Transportation services" means those services which involve the transport of passengers or goods.

(6) "Destination tourism resort" means a tourism and recreation complex that is developed primarily as a location for recreation and tourism activities that will be used primarily by nonresidents of the immediate area. [1989 c 312 § 2.]

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.409 Investment opportunities office—Created. There is created in the business assistance center of the department of community, trade, and economic development the Washington investment opportunities office. [1993 c 280 § 42; 1989 c 312 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

Business assistance center: RCW 43.31.083.

43.31.411 Investment opportunities office—Duties—Report to legislature. The Washington investment opportunities office shall:

(1) Maintain a list of all entrepreneurs engaged in manufacturing, wholesaling, transportation services, development of destination tourism resorts, or traded services

throughout the state seeking capital resources and interested in the services of the investment opportunities office.

(2) Maintain a file on each entrepreneur which may include the entrepreneur's business plan and any other information which the entrepreneur offers for review by potential investors.

(3) Assist entrepreneurs in procuring the managerial and technical assistance necessary to attract potential investors. Such assistance shall include the automatic referral to the small business innovators opportunity program of any entrepreneur with a new product meriting the services of the program.

(4) Provide entrepreneurs with information about potential investors and provide investors with information about those entrepreneurs which meet the investment criteria of the investor.

(5) Promote small business securities financing.

(6) Remain informed about investment trends in capital markets and preferences of individual investors or investment firms throughout the nation through literature surveys, conferences, and private meetings.

(7) Publicize the services of the investment opportunities office through public meetings throughout the state, appropriately targeted media, and private meetings. Whenever practical, the office shall use the existing services of local associate development organizations in outreach and identification of entrepreneurs and investors.

(8) Report to the ways and means committees and appropriate economic development committees of the senate and the house of representatives by December 1, 1989, and each year thereafter, on the accomplishments of the office. Such reports shall include:

(a) The number of entrepreneurs on the list referred to in subsection (1) of this section, segregated by standard industrial classification codes;

(b) The number of investments made in entrepreneurs, segregated as required by (a) of this subsection, as a result of contact with the investment opportunities office, the dollar amount of each such investment, the source, by state or nation, of each investment, and the number of jobs created as a result of each investment;

(c) The number of entrepreneurs on the list referred to in subsection (1) of this section segregated by counties, the number of investments, the dollar amount of investments, and the number of jobs created through investments in each county as a result of contact with the investment opportunities office;

(d) A categorization of jobs created through investments made as a result of contact with the investment opportunities office, the number of jobs created in each such category, and the average pay scale for jobs created in each such category;

(e) The results of client satisfaction surveys distributed to entrepreneurs and investors using the services of the investment opportunities office; and

(f) Such other information as the managing director finds appropriate. [1993 c 280 § 43; 1989 c 312 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.414 Investment opportunities office—Service fees. The business assistance center may charge reasonable fees or other appropriate charges to participants using the services of the investment opportunities office for the purpose of defraying all or part of the costs of the business assistance center in administering this program. [1989 c 312 § 5.]

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.417 Investment opportunities office—Contracting authority. The director of the business assistance center may enter into contracts with nongovernmental agencies to provide any of the services under RCW 43.31.411. [1989 c 312 § 6.]

Severability—1989 c 312: See note following RCW 43.31.403.

43.31.422 Hanford area economic investment fund. The Hanford area economic investment fund is established in the custody of the state treasurer. Moneys in the fund shall only be used pursuant to the recommendations of the committee created in RCW 43.31.425 and the approval of the director of community, trade, and economic development for Hanford area revolving loan funds, Hanford area infrastructure projects, or other Hanford area economic development and diversification projects, but may not be used for government or nonprofit organization operating expenses. Up to five percent of moneys in the fund may be used for program administration. For the purpose of this chapter "Hanford area" means Benton and Franklin counties. Disbursements from the fund shall be on the authorization of the director of community, trade, and economic development or the director's designee after an affirmative vote of at least six members of the committee created in RCW 43.31.425 on any recommendations by the committee created in RCW 43.31.425. The fund is subject to the allotment procedures under chapter 43.88 RCW, but no appropriation is required for disbursements. The legislature intends to establish similar economic investment funds for areas that develop low-level radioactive waste disposal facilities. [1993 c 280 § 44; 1991 c 272 § 19.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective dates—1991 c 272: See RCW 81.108.901.

Surcharge on waste generators: RCW 43.200.230, 43.200.233, and 43.200.235.

43.31.425 Hanford area economic investment fund committee. The Hanford area economic investment fund committee staffed by the local associate development organization is hereby established.

(1) The committee shall have eleven members. The governor shall appoint the members, in consultation with the Hanford area associate development organization and Hanford area elected officials, subject to the following requirements:

(a) All members shall either reside or be employed within the Hanford area.

(b) The committee shall have a balanced membership representing one member each from the elected leadership of Benton county, Franklin county, the city of Richland, the city of Kennewick, the city of Pasco, a Hanford area port

district, the labor community, and four members from the Hanford area business and financial community.

(c) Careful consideration shall be given to assure minority representation on the committee.

(2) Each member appointed by the governor shall serve a term of three years, except that of the members first appointed, four shall serve two-year terms and four shall serve one-year terms. A person appointed to fill a vacancy of a member shall be appointed in a like manner and shall serve for only the unexpired term. A member is eligible for reappointment. A member may be removed by the governor for cause.

(3) The governor shall designate a member of the committee as its chairperson. The committee may elect such other officers as it deems appropriate. Six members of the committee constitute a quorum and six affirmative votes are necessary for the transaction of business or the exercise of any power or function of the committee.

(4) The members shall serve without compensation, but are entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties in accordance with RCW 43.03.050 and 43.03.060.

(5) Members shall not be liable to the state, to the fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violations of law. The department may purchase liability insurance for members and may indemnify these persons against the claims of others. [1991 c 272 § 20.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.31.428 Hanford area economic investment fund committee—Powers. The Hanford area economic investment fund committee created under RCW 43.31.425 may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(2) Utilize the services of other governmental agencies;

(3) Accept from any federal or state agency loans or grants for the purposes of funding Hanford area revolving loan funds, Hanford area infrastructure projects, or Hanford area economic development projects;

(4) Recommend to the director rules for the administration of the program, including the terms and rates pertaining to its loans, and criteria for awarding grants, loans, and financial guarantees;

(5) Recommend to the director a spending strategy for the moneys in the fund created in RCW 43.31.422. The strategy shall include five and ten year goals for economic development and diversification for use of the moneys in the Hanford area; and

(6) Recommend to the director no more than two allocations eligible for funding per calendar year, with a first priority on Hanford area revolving loan allocations, and Hanford area infrastructure allocations followed by other Hanford area economic development and diversification projects if the committee finds that there are no suitable allocations in the priority allocations described in this section. [1991 c 272 § 21.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.31.502 Child care facility revolving fund—Purpose—Source of funds. (1) A child care facility revolving fund is created. Money in the fund shall be used solely for the purpose of starting or improving a child care facility pursuant to RCW 43.31.085 and 43.31.502 through 43.31.514. Only moneys from private or federal sources may be deposited into this fund.

(2) Funds provided under this section shall not be subject to reappropriation. The child care facility fund committee may use loan and grant repayments and income for the revolving fund program. [1991 c 248 § 1; 1989 c 430 § 3.]

Legislative findings—1989 c 430: "The legislature finds that increasing the availability and affordability of quality child care will enhance the stability of the family and facilitate expanded economic prosperity in the state. The legislature finds that balancing work and family life is a critical concern for employers and employees. The dramatic increase in participation of women in the work force has resulted in a demand for affordable child care exceeding the supply. The future of the state's work force depends in part upon the availability of quality affordable child care. There are not enough child care services and facilities to meet the needs of working parents, the costs of care are often beyond the resources of working parents, and facilities are not located conveniently to work places and neighborhoods. The prospect for labor shortages resulting from the aging of the population and the importance of the quality of the work force to the competitiveness of Washington businesses make the availability of quality child care an important concern for the state's businesses.

The legislature further finds that a partnership between business and child care providers can help the market for child care adjust to the needs of businesses and working families and improve productivity, reduce absenteeism, improve recruitment, and improve morale among Washington's labor force. The legislature further finds that private and public partnerships and investments are necessary to increase the supply, affordability, and quality of child care in the state." [1989 c 430 § 1.]

Severability—1989 c 430: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 430 § 12.]

43.31.504 Child care facility fund committee—Generally. The child care facility fund committee is established within the business assistance center of the department of community, trade, and economic development. The committee shall administer the child care facility fund, with review by the director of community, trade, and economic development.

(1) The committee shall have five members. The director of community, trade, and economic development shall appoint the members, who shall include:

(a) Two persons experienced in investment finance and having skills in providing capital to new businesses, in starting and operating businesses, and providing professional services to small or expanding businesses;

(b) One person representing a philanthropic organization with experience in evaluating funding requests;

(c) One child care services expert; and

(d) One early childhood development expert.

In making these appointments, the director shall give careful consideration to ensure that the various geographic regions of the state are represented and that members will be available for meetings and are committed to working cooperatively to address child care needs in Washington state.

(2) The committee shall elect officers from among its membership and shall adopt policies and procedures specify-

ing the lengths of terms, methods for filling vacancies, and other matters necessary to the ongoing functioning of the committee.

(3) Committee members shall serve without compensation, but may request reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) Committee members shall not be liable to the state, to the child care facility fund, or to any other person as a result of their activities, whether ministerial or discretionary, as members except for willful dishonesty or intentional violation of the law. The department of community, trade, and economic development may purchase liability insurance for members and may indemnify these persons against the claims of others. [1993 c 280 § 45; 1989 c 430 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

Business assistance center: RCW 43.31.083.

43.31.506 Child care facility fund committee—Authority to award moneys from fund. The child care facility fund committee is authorized to solicit applications for and award grants and loans from the child care facility fund to assist persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility. Grants and loans shall be awarded on a one-time only basis, and shall not be awarded to cover operating expenses beyond the first three months of business. No grant shall exceed twenty-five thousand dollars. No loan shall exceed one hundred thousand dollars. [1991 c 248 § 2; 1989 c 430 § 5.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.508 Child care facility fund committee—Loans to child care facilities. The child care facility fund committee is authorized, upon application, to use the child care facility fund to guarantee loans made to persons, businesses, or organizations to start a licensed child care facility, or to make capital improvements in an existing licensed child care facility.

(1) Loan guarantees shall be awarded on a one-time only basis, and shall not be awarded for loans to cover operating expenses beyond the first three months of business.

(2) The total aggregate amount of the loan guarantee awarded to any applicant may not exceed twenty-five thousand dollars and may not exceed eighty percent of the loan.

(3) The total aggregate amount of guarantee from the child care facility fund, with respect to the guaranteed portions of loans, may not exceed at any time an amount equal to five times the balance in the child care facility fund. [1989 c 430 § 6.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.512 Child care facility fund committee—Loans or grants to individuals, businesses, or organizations. The child care facility fund committee shall award loan guarantees, loans or grants to those persons, businesses,

or organizations meeting the minimum standards set forth in this chapter who will best serve the intent of the chapter to increase the availability of high quality, affordable child care in Washington state. The committee shall promulgate rules regarding the application for and disbursement of loan guarantees, loans, or grants from the fund, including loan terms and repayment procedures. At a minimum, such rules shall require an applicant to submit a plan which includes a detailed description of:

(1) The need for a new or improved child care facility in the area served by the applicant;

(2) The steps the applicant will take to serve a reasonable number of handicapped children as defined in *chapter 72.40 RCW, sick children, infants, children requiring night time or weekend care, or children whose costs of care are subsidized by government;

(3) Why financial assistance from the state is needed to start or improve the child care facility;

(4) How the guaranteed loan, loan, or grant will be used, and how such uses will meet the described need;

(5) The child care services to be available at the facility and the capacity of the applicant to provide those services; and

(6) The financial status of the applicant, including other resources available to the applicant which will ensure the continued viability of the facility and the availability of its described services.

Recipients shall annually for two years following the receipt of the loan guarantee, loan, or grant, submit to the child care facility fund committee a report on the facility and how it is meeting the child care needs for which it was intended. [1989 c 430 § 7.]

***Reviser's note:** Chapter 72.40 RCW does not contain a definition of "handicapped children."

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.514 Child care facility fund committee—Grants, repayment requirements. Where the child care facility fund committee makes a grant to a person, organization, or business, the grant shall be repaid to the child care facility fund if the child care facility using the grant to start or expand ceases to provide child care earlier than the following time periods from the date the grant is made: (1) Twelve months for a grant up to five thousand dollars; (2) twenty-four months for a grant over five thousand dollars up to ten thousand dollars; (3) thirty-six months for a grant over ten thousand dollars up to fifteen thousand dollars; (4) forty-eight months for a grant over fifteen thousand dollars up to twenty thousand dollars; and (5) sixty months for a grant over twenty thousand dollars up to twenty-five thousand dollars. [1989 c 430 § 8.]

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.31.522 Marketplace program—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.31.524 and 43.31.526:

(1) "Department" means the department of community, trade, and economic development.

(2) "Center" means the business assistance center established under RCW 43.31.083.

(3) "Director" means the director of community, trade, and economic development.

(4) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations. [1993 c 280 § 46; 1990 c 57 § 2; 1989 c 417 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: "The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from Washington state suppliers rather than from out-of-state suppliers and in identifying new markets for Washington state firms to provide goods and services. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services." [1990 c 57 § 1; 1989 c 417 § 1.]

Severability—1989 c 417: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 417 § 15.]

43.31.524 Marketplace program—Generally. There is established a Washington marketplace program within the business assistance center established under RCW 43.31.083. The program shall assist businesses to competitively meet their needs for goods and services within Washington state by providing information relating to the replacement of imports or the fulfillment of new requirements with Washington products produced in Washington state. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state meeting the criteria of an "eligible area" as defined in RCW 82.60.020(3). [1993 c 280 § 47; 1990 c 57 § 3; 1989 c 417 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability—1989 c 417: See note following RCW 43.31.522.

43.31.526 Marketplace program—Contracts to foster linkages—Department duties. (1) The department shall contract with governments, industry associations, or local nonprofit organizations to foster cooperation and linkages between distressed and nondistressed areas and between urban and rural areas, and between Washington and

other Northwest states. The department may enter into joint contracts with multiple nonprofit organizations. Contracts with economic development organizations to foster cooperation and linkages between distressed and nondistressed areas and urban and rural areas shall be structured by the department and the distressed area marketplace programs. Contracts with economic development organizations shall:

(a) Award contracts based on a competitive bidding process, pursuant to chapter 43.19 RCW; and

(b) Ensure that each location contain sufficient business activity to permit effective program operation.

The department may require that contractors contribute at least twenty percent local funding.

(2) The contracts with governments, industry associations, or local nonprofit organizations shall be for, but not limited to, the performance of the following services for the Washington marketplace program:

(a) Contacting Washington state businesses to identify goods and services they are currently buying or are planning in the future to buy out-of-state and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Identifying locally sold goods and services which are currently provided by out-of-state businesses;

(c) Determining, in consultation with local business, goods and services for which the business is willing to make contract agreements;

(d) Advertising market opportunities described in (c) of this subsection;

(e) Receiving bid responses from potential suppliers and sending them to that business for final selection; and

(f) Establish linkages with federal, regional, and Northwest governments, industry associations, and nonprofit organizations to foster buying leads and information benefiting Washington suppliers and industry and trade associations.

(3) Contracts may include provisions for charging service fees of businesses that participate in the program.

(4) The center shall also perform the following activities in order to promote the goals of the program:

(a) Prepare promotional materials or conduct seminars to inform communities and organizations about the Washington marketplace program;

(b) Provide technical assistance to communities and organizations interested in developing an import replacement program;

(c) Develop standardized procedures for operating the local component of the Washington marketplace program;

(d) Provide continuing management and technical assistance to local contractors; and

(e) Report by December 31 of each year to the appropriate economic development committees of the senate and the house of representatives describing the activities of the Washington marketplace program. [1994 c 47 § 2; 1993 c 280 § 48; 1990 c 57 § 4; 1989 c 417 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Finding—1990 c 57; 1989 c 417: See note following RCW 43.31.522.

Severability—1989 c 417: See note following RCW 43.31.522.

43.31.545 Recycled materials and products—Market development. The department is the lead state

agency to assist in establishing and improving markets for recyclable materials generated in the state. [1991 c 319 § 210; 1989 c 431 § 64.]

Severability—Part headings not law—1991 c 319: See RCW 70.95F.900 and 70.95F.901.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

Clean Washington center: Chapter 70.95H RCW.

43.31.601 Definitions. For the purposes of RCW 43.31.601 through 43.31.661:

(1) "Board" means the economic recovery coordination board;

(2) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (i) A lumber and wood products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection. [1992 c 21 § 2; 1991 c 314 § 2.]

Findings—1991 c 314: "The legislature finds that:

(1) Cutbacks in allowable sales of old growth timber in Washington state pose a substantial threat to the region and the state with massive layoffs, loss of personal income, and declines in state revenues;

(2) The timber impact areas are of critical significance to the state because of their leading role in the overall economic well-being of the state and their importance to the quality of life to all residents of Washington, and that these regions require a special state effort to diversify the local economy;

(3) There are key opportunities to broaden the economic base in the timber impact areas including agriculture, high-technology, tourism, and regional exports; and

(4) A coordinated state, local, and private sector effort offers the greatest potential to promote economic diversification and to provide support for new projects within the region.

The legislature further finds that if a special state effort does not take place the decline in allowable timber sales may result in a loss of six thousand logging and milling jobs; two hundred million dollars in direct wages and benefits; twelve thousand indirect jobs; and three hundred million dollars in indirect wages and benefits.

It is the intent of the legislature to develop comprehensive programs to provide diversified economic development and promote job creation and employment opportunities for the citizens of the timber impact areas." [1991 c 314 § 1.]

43.31.611 Timber recovery coordinator—Expiration of section. (1) The governor shall appoint a timber recovery coordinator. The coordinator shall coordinate the state and federal economic and social programs targeted to timber impact areas.

(2) The coordinator's responsibilities shall include but not be limited to:

(a) Serving as executive secretary of the economic recovery coordination board and directing staff associated with the board.

(b) Chairing the agency timber task force and directing staff associated with the task force.

(c) Coordinating and maximizing the impact of state and federal assistance to timber impact areas.

(d) Coordinating and expediting programs to assist timber impact areas.

(e) Providing the legislature with a status and impact report on the timber recovery program in January 1992.

(3) This section shall expire June 30, 1995. [1993 c 316 § 1; 1991 c 314 § 3.]

Effective date—1993 c 316: "Sections 1 through 9 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect June 30, 1993." [1993 c 316 § 12.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.621 Agency timber task force—Expiration of section. (1) There is established the agency timber task force. The task force shall be chaired by the timber recovery coordinator. It shall be the responsibility of the coordinator that all directives of chapter 314, Laws of 1991 are carried out expeditiously by the agencies represented in the task force. The task force shall consist of the directors, or representatives of the directors, of the following agencies: The department of community, trade, and economic development, employment security department, department of social and health services, state board for community and technical colleges, state work force training and education coordinating board, or its replacement entity, department of natural resources, department of transportation, state energy office, department of fish and wildlife, University of Washington center for international trade in forest products, and department of ecology. The task force may consult and enlist the assistance of the following: The higher education coordinating board, University of Washington college of forest resources, Washington State University school of forestry, Northwest policy center, state superintendent of public instruction, the Evergreen partnership, Washington association of counties, and rural development council.

(2) This section shall expire June 30, 1995. [1994 c 264 § 18. Prior: 1993 c 316 § 2; 1993 c 280 § 49; 1991 c 314 § 4.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.631 Economic recovery coordination board—Expiration of section. (1) There is established the economic recovery coordination board consisting of one representative, appointed by the governor, from each county that is a timber impact area. The timber recovery coordinator shall also be a member of the board. Each associate development organization from counties that are timber impact areas, in consultation with the county legislative authority, shall submit to the governor the names of three nominees representing different interests in each county. Within sixty days after July 28, 1991, the governor shall select one nominee from each list submitted by associate development organiza-

tions. In making the appointments, the governor shall endeavor to ensure that the board represents a diversity of backgrounds. Vacancies shall be filled in the same manner as the original appointment.

(2) The board shall:

(a) Advise the timber recovery coordinator and the agency timber task force on issues relating to timber impact area economic and social development, and review and provide recommendations on proposals for the diversification of the timber impact areas presented to it by the timber recovery coordinator.

(b) Respond to the needs and concerns of citizens at the local level.

(c) Develop strategies for the economic recovery of timber impact areas.

(d) Provide recommendations to the governor, the legislature, and congress on land management and economic and regulatory policies that affect timber impact areas.

(e) Recommend to the legislature any changes or improvements in existing programs designed to benefit timber impact areas.

(3) Members of the board and committees shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(4) This section shall expire June 30, 1995. [1993 c 316 § 3; 1991 c 314 § 6.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.641 Department duties—Extension programs—Value-added production—Industrial diversification. The department of community, trade, and economic development, as a member of the agency timber task force and in consultation with the board, shall:

(1) Implement an expanded value-added forest products development industrial extension program. The department shall provide technical assistance to small and medium-sized forest products companies to include:

- (a) Secondary manufacturing product development;
- (b) Plant and equipment maintenance;
- (c) Identification and development of domestic market opportunities;
- (d) Building products export development assistance;
- (e) At-risk business development assistance;
- (f) Business network development; and
- (g) Timber impact area industrial diversification.

(2) Provide local contracts for small and medium-sized forest product companies, start-ups, and business organizations for business feasibility, market development, and business network contracts that will benefit value-added production efforts in the industry.

(3) Contract with local business organizations in timber impact areas for development of programs to promote industrial diversification. The department shall provide local capacity-building grants to local governments and community-based organizations in timber impact areas, which may include long-range planning and needs assessments.

For the 1991-93 biennium, the department of community, trade, and economic development shall use funds appropriated for this section for contracts and for no more than

two additional staff positions. [1993 c 280 § 50; 1991 c 314 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.651 Sustainable economic development efforts—Community assistance. The department of community, trade, and economic development as a part of the agency timber task force and in consultation with the board, shall implement a community assistance program to enable communities to build local capacity for sustainable economic development efforts. The program shall provide resources and technical assistance to timber impact areas. [1993 c 280 § 51; 1991 c 314 § 9.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.661 Air transportation options in timber impact areas. In order to explore economic diversification options in timber impact areas and address urban congestion, the Washington state air transportation commission study shall consider the possibility of locating an airport facility designed to relieve air traffic overflow from Seattle-Tacoma international airport in Grays Harbor county.

The commission shall consider airport facilities currently in use in Grays Harbor county, the property set aside at the uncompleted Satsop nuclear site, the distance from operating port facilities, the desires of the community, and linkage with the Interstate 5 corridor by rapid transit rail service. [1991 c 314 § 10.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.31.800 State international trade fairs—"Director" defined. "Director" as used in RCW *43.31.790 through 43.31.850 and 67.16.100 means the director of community, trade, and economic development. [1993 c 280 § 52; 1987 c 195 § 4; 1965 c 148 § 2.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.810 State international trade fairs—State aid eligibility requirements. For the purposes of *RCW 43.31.790 through 43.31.850 and 67.16.100, as now or hereafter amended, state international trade fair organizations, to be eligible for state financial aid hereunder (1) must have had at least two or more years of experience in the presentation of or participation in state international trade fairs, whether held in this state, another state or territory of the United States or a foreign country, however these need not be consecutive years; (2) must be able to provide, from its own resources derived from general admission or otherwise, funds sufficient to match at least one-half the amount of state financial aid allotted. [1987 c 195 § 5; 1975 1st ex.s. c 292 § 3; 1965 c 148 § 3.]

***Reviser's note:** RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.820 State international trade fairs—Application for funds. The board of trustees of any state international trade fair sponsored by any public agency, qualifying under the provisions of *RCW 43.31.790 through 43.31.850 and 67.16.100, as now or hereafter amended, may apply to the director for moneys to carry on the continued development as well as the operation of said fair, said money to be appropriated from the state trade fair fund as provided for in RCW 67.16.100, as now or hereafter amended. [1987 c 195 § 6; 1975 1st ex.s. c 292 § 4; 1965 c 148 § 4.]

*Reviser's note: RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.830 State international trade fairs—Certification of fairs—Allotments—Division and payment from state trade fair fund. (1) It shall be the duty of the director of community, trade, and economic development to certify, from the applications received, the state international trade fair or fairs qualified and entitled to receive funds under RCW 67.16.100, and under rules established by the director.

(2) The director shall make annual allotments to state international trade fairs determined qualified to be entitled to participate in the state trade fair fund and shall fix times for the division of and payment from the state trade fair fund: PROVIDED, That total payment to any one state international trade fair shall not exceed sixty thousand dollars in any one year, where participation or presentation occurs within the United States, and eighty thousand dollars in any one year, where participation or presentation occurs outside the United States: PROVIDED FURTHER, That a state international trade fair may qualify for the full allotment of funds under either category. Upon certification of the allotment and division of fair funds by the director the treasurer shall proceed to pay the same to carry out the purposes of RCW 67.16.100. [1993 c 280 § 53; 1987 c 195 § 7; 1975 1st ex.s. c 292 § 5; 1965 c 148 § 5.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.832 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Expenditure. Funds determined to be surplus funds by the director may be transferred from the state trade fair fund to the general fund upon the recommendation of the director and the state treasurer: PROVIDED, That the director may also elect to expend up to one million dollars of such surplus on foreign trade related activities, including, but not limited to, promotion of investment, tourism, and foreign trade. [1985 c 466 § 34; 1981 2nd ex.s. c 2 § 1; 1975 1st ex.s. c 292 § 8; 1972 ex.s. c 93 § 2.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

State trade fair fund: RCW 67.16.100.

43.31.833 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Construction. RCW 43.31.832 through 43.31.834 shall not be construed to interfere with the state financial aid made available under the provisions of *RCW 43.31.790 through

43.31.850 regardless of whether such aid was made available before or after May 23, 1972. [1987 c 195 § 8; 1985 c 466 § 35; 1972 ex.s. c 93 § 3.]

*Reviser's note: RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.31.834 State trade fairs—Transfer of surplus funds in state trade fair fund to general fund—Construction. RCW 43.31.832 through 43.31.834 shall be construed to supersede any provision of existing law to the contrary. [1985 c 466 § 36; 1972 ex.s. c 93 § 4.]

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.31.840 State international trade fairs—Post audit of participating fairs—Reports. The director of community, trade, and economic development shall at the end of each year for which an annual allotment has been made, conduct a post audit of all of the books and records of each state international trade fair participating in the state trade fair fund. The purpose of such post audit shall be to determine how and to what extent each participating state international trade fair has expended all of its funds.

The audit required by this section shall be a condition to future allotments of money from the state international trade fair fund, and the director shall make a report of the findings of each post audit and shall use such report as a consideration in an application for any future allocations. [1993 c 280 § 54; 1975 1st ex.s. c 292 § 6; 1965 c 148 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.31.850 State international trade fairs—State international trade fair defined. State international trade fair as used in *RCW 43.31.790 through 43.31.840 and 67.16.100, as now or hereafter amended, shall mean a fair supported by public agencies basically for the purpose of introducing and promoting the sale of manufactured or cultural products and services of a given area, whether presented in this state, the United States or its territories, or in a foreign country. [1987 c 195 § 9; 1975 1st ex.s. c 292 § 7; 1965 c 148 § 8.]

*Reviser's note: RCW 43.31.790 was repealed by 1993 c 280 § 82, effective July 1, 1994.

43.31.942 Bond anticipation notes—Pacific northwest festival facility construction account created—Deposit of proceeds from bonds and notes.

Reviser's note: RCW 43.31.942 was both amended and repealed during the 1985 legislative session, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.31.956 General obligation bonds—Authorized—Issuance, sale, terms, conditions, etc.—Appropriation required—Pledge and promise—Seal. For the purpose of providing matching funds for the planning, design, construction, renovation, furnishing, and landscaping of a regionally based performing arts facility, to be known as "the Washington center for the performing arts" facility located in Thurston county within the area of the city of Olympia, and

for the purpose of providing matching funds for the restoration and renovation of "the Pantages theatre" facility located in Pierce county within the area of the city of Tacoma, the state finance committee is directed and authorized to issue general obligation bonds of the state of Washington in the sum of three million dollars, or so much thereof as may be required to finance that portion of the grant by the state for the projects as provided by law: PROVIDED, That one million five hundred thousand dollars shall be allocated for the Washington center for the performing arts, to be built or renovated on real estate provided by the city of Olympia as a performing arts recreational facility for the people of the state of Washington: AND PROVIDED FURTHER, That one million five hundred thousand dollars shall be allocated for the renovation and restoration of the "Pantages theatre" as a performing arts recreational facility for the people of the state of Washington.

No bonds may be issued for the Washington center for the performing arts unless matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Washington center for the performing arts and the city of Olympia provides real estate for the site of the facility.

No bonds may be issued for the Pantages theatre unless matching funds are provided or secured from the federal government, private sources, or any other sources available including funds available pursuant to chapter 67.28 RCW in the amount of one million five hundred thousand dollars for the Pantages theatre.

No bonds authorized by this section shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1981 c 244 § 1; 1979 ex.s. c 260 § 1.]

Severability—1979 ex.s. c 260: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 260 § 7.]

43.31.960 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in RCW 43.31.956 shall be administered by the *director of trade and economic development. [1987 c 195 § 10; 1979 ex.s. c 260 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability—1979 ex.s. c 260: See note following RCW 43.31.956.

43.31.962 Retirement of bonds from cultural facilities bond redemption fund of 1979—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The cultural facilities bond redemption fund of 1979, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.31.956 and *43.31.958. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury an amount equal to the amount certified by the state finance committee to be due on such payment date and deposit the same in the cultural facilities bond redemption fund of 1979.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.31.956 through 43.31.964, the state general obligation bond retirement fund shall be used for purposes of RCW 43.31.956 through 43.31.964 in lieu of the cultural facilities bond redemption fund of 1979, and the cultural facilities bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed by this section. [1979 ex.s. c 260 § 4.]

***Reviser's note:** RCW 43.31.958 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

Severability—1979 ex.s. c 260: See note following RCW 43.31.956.
State general obligation bond retirement fund: RCW 43.83.160.

43.31.964 Bonds legal investment for public funds. The bonds authorized by RCW 43.31.956 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1979 ex.s. c 260 § 5.]

Severability—1979 ex.s. c 260: See note following RCW 43.31.956.

Chapter 43.31A

ECONOMIC ASSISTANCE ACT OF 1972

Sections

43.31A.400 Economic assistance authority abolished—Transfer of duties to department of revenue.

43.31A.400 Economic assistance authority abolished—Transfer of duties to department of revenue. The economic assistance authority established by section 2, chapter 117, Laws of 1972 ex. sess. as amended by section 111, chapter 34, Laws of 1975-'76 2nd ex. sess. is abolished, effective June 30, 1982. Any remaining duties of the economic assistance authority are transferred to the department of revenue on that date. The public facilities construction loan and grant revolving account within the state

treasury is continued to service the economic assistance authority's loans. [1991 sp.s. c 13 § 27; 1981 c 76 § 4.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Review—Report—1981 c 76: "The economic assistance authority shall be reviewed and analyzed during the interim between the 1981 and 1982 legislative sessions by the ways and means committees of the house of representatives and senate and a report shall be presented, with any recommendations, to the forty-seventh legislature which convenes in January 1, 1982." [1981 c 76 § 3.]

Savings—1981 c 76: "This act does not affect any duty owed by a taxpayer, political subdivision of the state, or Indian tribe under the statutes repealed under section 6 of this act. The duties owed shall be administered as if the laws in section 6 of this act were not repealed. New investment tax deferral certificates under chapter 43.31A RCW shall not be issued on or after June 30, 1982. The deferral of taxes and the repayment schedules under tax deferral certificates issued before June 30, 1982, are not affected." [1981 c 76 § 7.]

Reviser's note: "Section 6 of this act" repealed, effective June 30, 1982, the following sections: RCW 43.31A.010, 43.31A.020, 43.31A.030, 43.31A.040, 43.31A.050, 43.31A.060, 43.31A.070, 43.31A.080, 43.31A.090, 43.31A.100, 43.31A.140, 43.31A.150, 43.31A.200, 43.31A.210, 43.31A.220, 43.31A.230, 43.31A.240, 43.31A.250, 43.31A.260, 43.31A.270, 43.31A.280, 43.31A.290, 43.31A.300, 43.31A.310, 43.31A.330, 43.31A.900, and 43.31A.920.

Severability—1981 c 76: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 76 § 8.]

Effective dates—1981 c 76: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions. Sections 1 and 2 of this act shall take effect March 1, 1981. Section 3 of this act shall take effect May 1, 1981. Sections 4, 5, 6, and 7 of this act shall take effect June 30, 1982." [1981 c 76 § 9.] Sections 1, 2, and 5 consist of the 1981 c 76 amendments to RCW 43.31A.130, 43.31A.140, and 43.31A.110, respectively; sections 3 and 7 are noted above; section 4 consists of the enactment of RCW 43.31A.400; and section 6 is a repealer (see reviser's note above).

Chapter 43.32

COUNTY ROADS DESIGN STANDARDS

(Formerly: Design standards committee)

Sections

- 43.32.010 Composition of committee.
43.32.020 Duties of committee.

43.32.010 Composition of committee. There is created a state design standards committee of seven members, six of which shall be appointed by the executive committee of the Washington state association of counties to hold office at its pleasure and the seventh to be the state aid engineer for the department of transportation. The members to be appointed by the executive committee of the Washington state association of counties shall be restricted to the membership of such association or to those holding the office and/or performing the functions of county engineer in any of the several counties of the state. [1982 c 145 § 4; 1971 ex.s. c 85 § 6; 1965 c 8 § 43.32.010. Prior: 1949 c 165 § 2; RRS § 6450-8.]

Design standards committee for arterial streets: Chapter 35.78 RCW.

43.32.020 Duties of committee. On or before January 1, 1950, and from time to time thereafter the design standards committee shall adopt uniform design standards for the

county primary road systems. [1965 c 8 § 43.32.020. Prior: 1949 c 165 § 3; RRS § 6450-8.]

Design standards for county roads and bridges: Chapter 36.86 RCW.

Chapter 43.33

STATE FINANCE COMMITTEE

Sections

- 43.33.010 Composition of committee.
43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions.
43.33.030 Records—Administrative and clerical assistance.
43.33.040 Rules and regulations—Chairman.
43.33.130 Reports of debt management activities.

Acquisition of highway property in advance of programmed construction, committee duties relating to: Chapter 47.12 RCW.

Bonds, notes and other evidences of indebtedness, finance committee duties: Chapter 39.42 RCW.

Committee created: RCW 43.17.070.

County funds, surplus, investment: RCW 36.33.180.

County held United States bonds, disposal: RCW 36.33.190.

Fiscal agencies: Chapter 43.80 RCW.

Industrial insurance, investments: RCW 51.44.100.

Intoxicating liquor warehouses, acquisition: RCW 66.08.160.

State depositaries: Chapter 43.85 RCW.

State investment board: Chapter 43.33A RCW.

Washington State University Tree Fruit Research Center office-laboratory facility, financing, finance committee powers and duties: RCW 28B.30.600 through 28B.30.620.

43.33.010 Composition of committee. The state treasurer, the lieutenant governor, and the governor, ex officio, shall constitute the state finance committee. [1965 c 8 § 43.33.010. Prior: 1961 c 300 § 2; 1921 c 7 § 6, part; RRS § 10764, part.]

43.33.022 Washington public deposit protection commission, state finance committee constitutes, powers, duties and functions. See chapter 39.58 RCW.

43.33.030 Records—Administrative and clerical assistance. The state finance committee shall keep a full and complete public record of its proceedings in appropriate books of record.

The state treasurer shall provide administrative and clerical assistance for the state finance committee. [1981 c 3 § 24; 1965 c 8 § 43.33.030. Prior: 1961 c 300 § 4; 1907 c 12 § 2; RRS § 5537.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33.040 Rules and regulations—Chairman. The state finance committee may make appropriate rules and regulations for the performance of its duties. The state treasurer shall act as chairman of the committee. [1965 c 8 § 43.33.040. Prior: 1907 c 12 § 3; RRS § 5538.]

43.33.130 Reports of debt management activities. The state finance committee shall prepare written reports at least annually summarizing the debt management activities

of the finance committee, which reports shall be sent to the governor, to the senate ways and means committee, the house appropriations committee, agencies having a direct financial interest in the issuance and sale of bonds by the committee, and to other persons on written request. [1981 c 3 § 25; 1977 ex.s. c 251 § 10.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Chapter 43.33A

STATE INVESTMENT BOARD

Sections

- 43.33A.010 General powers and duties.
- 43.33A.020 Board created—Membership—Terms—Vacancies—Removal.
- 43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties.
- 43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson.
- 43.33A.050 Compensation of members—Travel expenses.
- 43.33A.060 Employment restrictions.
- 43.33A.070 Liability of members.
- 43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank.
- 43.33A.090 Records.
- 43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations.
- 43.33A.110 Rules and regulations—Investment policies and procedures.
- 43.33A.120 Examination of accounts, files, and other records.
- 43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee.
- 43.33A.140 Investments—Standard of judgment and care.
- 43.33A.150 Reports of investment activities.
- 43.33A.160 Funding of board—State investment board expense account.
- 43.33A.170 State investment board commingled trust fund—Participation of funds in investments of board.
- 43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office.

43.33A.010 General powers and duties. The state investment board shall exercise all the powers and perform all duties prescribed by law with respect to the investment of public trust and retirement funds. [1981 c 3 § 1.]

Effective dates—1981 c 3: "Sections 2, 4, 5, 6, 7, 10, 11, 16, and 47 of this 1980 act shall take effect on July 1, 1980. The remaining sections of this 1980 act shall take effect on July 1, 1981." [1981 c 3 § 46.]

Reviser's note: Substitute House Bill No. 1610 was enacted during the 1980 legislative session, but was vetoed. The veto was overridden by the legislature as follows: Passed the House of Representatives on January 30, 1981; passed the Senate on February 6, 1981. The bill became chapter 3, Laws of 1981.

Severability—1981 c 3: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 3 § 49.]

43.33A.020 Board created—Membership—Terms—Vacancies—Removal. There is hereby created the state investment board to consist of fourteen members to be appointed as provided in this section.

(1) One member who is an active member of the public employees' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be one year.

(2) One member who is an active member of the law enforcement officers' and fire fighters' retirement system and has been an active member for at least five years. This member shall be appointed by the governor, subject to confirmation by the senate, from a list of nominations submitted by organizations representing active members of the system. The initial term of appointment shall be two years.

(3) One member who is an active member of the teachers' retirement system and has been an active member for at least five years. This member shall be appointed by the superintendent of public instruction subject to confirmation by the senate. The initial term of appointment shall be three years.

(4) The state treasurer or the assistant state treasurer if designated by the state treasurer.

(5) A member of the state house of representatives. This member shall be appointed by the speaker of the house of representatives.

(6) A member of the state senate. This member shall be appointed by the president of the senate.

(7) One member who is a retired member of a state retirement system shall be appointed by the governor, subject to confirmation by the senate. The initial term of appointment shall be three years.

(8) The director of the department of labor and industries.

(9) The director of the department of retirement systems.

(10) Five nonvoting members appointed by the state investment board who are considered experienced and qualified in the field of investments.

The legislative members shall serve terms of two years. The initial legislative members appointed to the board shall be appointed no sooner than January 10, 1983. The position of a legislative member on the board shall become vacant at the end of that member's term on the board or whenever the member ceases to be a member of the senate or house of representatives from which the member was appointed.

After the initial term of appointment, all other members of the state investment board, except ex officio members, shall serve terms of three years and shall hold office until successors are appointed. Members' terms, except for ex officio members, shall commence on January 1 of the year in which the appointments are made.

Members may be reappointed for additional terms. Appointments for vacancies shall be made for the unexpired terms in the same manner as the original appointments. Any member may be removed from the board for cause by the member's respective appointing authority. [1985 c 195 § 1; 1981 c 219 § 1; 1981 c 3 § 2.]

Effective dates—1981 c 219: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately [May 14, 1981], except sections 1 and 2 of this act shall take effect July 1, 1981." [1981 c 219 § 6.] Sections 1 and 2 of this act are the 1981 c 219 amendments to RCW 43.33A.020 and 43.33A.040, respectively.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.030 Trusteeship of funds—Contracts—Delegation of powers and duties. Trusteeship of those

funds under the authority of the board is vested in the voting members of the board. The nonvoting members of the board shall advise the voting members on matters of investment policy and practices.

The board may enter into contracts necessary to carry out its powers and duties. The board may delegate any of its powers and duties to its executive director as deemed necessary for efficient administration and when consistent with the purposes of *this 1980 act. [1981 c 3 § 3.]

***Reviser's note:** "This 1980 act" consists of the enactment of this chapter; the 1981 c 3 amendments to RCW 2.10.080, 2.12.070, 41.24.030, 41.26.060, 41.26.070, 41.32.207, 41.40.072, 41.40.075, 41.40.080, 41.50.050, 41.50.080, 43.31.300, 43.33.030, 43.33.130, 43.43.170, 43.43.175, 43.84.031, 43.84.080, 43.84.140, 43.84.150, 43.84.170, 47.12.210, 47.58.070, 47.60.100, 51.44.100, 73.12.060, 77.12.323; the repeal of RCW 43.33.020, 43.33.025, 43.33.050, 43.33.060, 43.33.070, 43.33.080, 43.33.090, 43.33.110, 43.33.120; and effective dates and construction sections footnoted after RCW 2.10.080 and 43.33A.010.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.040 Quorum—Meetings—Chairperson—Vice chairperson. (1) A quorum to conduct the business of the state investment board consists of at least four voting members of the board before January 10, 1983, and five voting members thereafter. No action may be taken by the board without the affirmative vote of four members before January 10, 1983, and five members thereafter.

(2) The state investment board shall meet at least quarterly at such times as it may fix. The board shall elect a chairperson and vice chairperson annually: **PROVIDED,** That the legislative members are not eligible to serve as chairperson. [1981 c 219 § 2; 1981 c 3 § 4.]

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.050 Compensation of members—Travel expenses. Members of the state investment board who are public employees shall serve without compensation but shall suffer no loss because of absence from their regular employment. Members of the board who are not public employees shall be compensated in accordance with RCW 43.03.240. Members of the board who are not legislators shall be reimbursed for travel expenses incurred in the performance of their duties as provided in RCW 43.03.050 and 43.03.060. Legislative members shall receive allowances provided for in RCW 44.04.120. [1984 c 287 § 80; 1981 c 3 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.060 Employment restrictions. No member during the term of appointment may be employed by any investment brokerage or mortgage servicing firm doing business with the state investment board. A trust department of a commercial bank or trust company organized under federal or state law is not considered a mortgage servicing firm for purposes of this section. [1981 c 3 § 6.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.070 Liability of members. No member of the state investment board is liable for the negligence, default, or failure of any other person or other member of the board to perform the duties of the member's office and no member of the board shall be considered or held to be an insurer of the funds or assets of any of the trust and retirement funds nor is any nonvoting member liable for actions performed with the exercise of reasonable diligence within the scope of the member's authorized activities as a member of the board. [1981 c 3 § 7.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.080 Investment of funds in farm, soil, water conservation loans and in Washington land bank. The state investment board may invest those funds which are not under constitutional prohibition in: (1) Farm ownership and soil and water conservation loans fully guaranteed as to principal and interest under the Bankhead-Jones farm tenant act administered by the United States department of agriculture; and (2) the Washington land bank established by chapter 31.30 RCW. [1987 c 29 § 2; 1981 c 3 § 8.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.090 Records. The state investment board shall keep a full and complete public record of its proceedings in appropriate books of record. Within sixty days of July 1, 1981, the state investment board shall assume physical custody of all investment accounts, files, and other records of each fund placed under the investment authority of the board. [1981 c 3 § 9.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.100 Offices—Personnel—Officers—Compensation—Transfer of employees—Existing contracts and obligations. The state investment board shall maintain appropriate offices and employ such personnel as may be necessary to perform its duties. Employment by the investment board shall include but not be limited to an executive director, investment officers, and a confidential secretary, which positions are exempt from classified service under chapter 41.06 RCW. Employment of the executive director by the board shall be for a term of three years, and such employment shall be subject to confirmation of the state finance committee: **PROVIDED,** That nothing shall prevent the board from dismissing the director for cause before the expiration of the term nor shall anything prohibit the board, with the confirmation of the state finance committee, from employing the same individual as director in succeeding terms. Compensation levels for the investment officers employed by the investment board shall be established by the Washington personnel resources board.

As of July 1, 1981, all employees classified under chapter 41.06 RCW and engaged in duties assumed by the state investment board on July 1, 1981, are assigned to the state investment board. The transfer shall not diminish any rights granted these employees under chapter 41.06 RCW nor exempt the employees from any action which may occur thereafter in accordance with chapter 41.06 RCW.

All existing contracts and obligations pertaining to the functions transferred to the state investment board in *this 1980 act shall remain in full force and effect, and shall be performed by the board. None of the transfers directed by *this 1980 act shall affect the validity of any act performed by a state entity or by any official or employee thereof prior to July 1, 1981. [1993 c 281 § 50; 1981 c 219 § 3; 1981 c 3 § 10.]

*Reviser's note: For "this 1980 act," see note following RCW 43.33A.030.

Effective date—1993 c 281: See note following RCW 41.06.022.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.110 Rules and regulations—Investment policies and procedures. (Effective until January 1, 1995.) The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.18 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.05 RCW. [1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.110 Rules and regulations—Investment policies and procedures. (Effective January 1, 1995.) The state investment board may make appropriate rules and regulations for the performance of its duties. The board shall establish investment policies and procedures designed exclusively to maximize return at a prudent level of risk. However, in the case of the department of labor and industries' accident, medical aid, and reserve funds, the board shall establish investment policies and procedures designed to attempt to limit fluctuations in industrial insurance premiums and, subject to this purpose, to maximize return at a prudent level of risk. The board shall adopt rules to ensure that its members perform their functions in compliance with chapter 42.52 RCW. Rules adopted by the board shall be adopted pursuant to chapter 34.05 RCW. [1994 c 154 § 310; 1989 c 179 § 1; 1988 c 130 § 1; 1981 c 219 § 4; 1981 c 3 § 11.]

Parts and captions not law—Effective date—Severability—1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.120 Examination of accounts, files, and other records. All accounts, files, and other records of the

state investment board which pertain to each retirement system are subject at any time or from time to time to such reasonable periodic, special, or other examinations by the department of retirement systems as the director of the department of retirement systems deems necessary or appropriate. [1981 c 3 § 12.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.130 Securities—State treasurer may cause same to be registered in the name of the nominee. The state treasurer may cause any securities in which the state investment board deals to be registered in the name of a nominee without mention of any fiduciary relationship, except that adequate records shall be maintained to identify the actual owner of the security so registered. The securities so registered shall be held in the physical custody of the state treasurer, the federal reserve system, the designee of the state treasurer, or, at the election of the designee and upon approval of the state treasurer, the Depository Trust Company of New York City or its designees.

With respect to the securities, the nominee shall act only upon the order of the state treasurer who shall act only on the direction of the state investment board. All rights to the dividends, interest, and sale proceeds from the securities and all voting rights of the securities are vested in the actual owners of the securities, and not in the nominee. [1981 c 3 § 13.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.140 Investments—Standard of judgment and care. Any investments made by the state investment board shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1981 c 3 § 14.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.150 Reports of investment activities. (1) The state investment board shall prepare written reports at least quarterly summarizing the investment activities of the state investment board, which reports shall be sent to the governor, the senate ways and means committee, the house appropriations committee, the department of retirement systems, and other agencies having a direct financial interest in the investment of funds by the board, and to other persons on written request. The state investment board shall provide information to the department of retirement systems necessary for the preparation of monthly reports.

(2) At least annually, the board shall report on the board's investment activities for the department of labor and industries' accident, medical aid, and reserve funds to the senate financial institutions and insurance committee, the senate economic development and labor committee, and the house commerce and labor committee, or appropriate successor committees. [1989 c 179 § 2; 1981 c 3 § 15.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.160 Funding of board—State investment board expense account. (1) The state investment board shall be funded from the earnings of the funds managed by the state investment board, proportional to the value of the assets of each fund, subject to legislative appropriation.

(2) There is established in the state treasury a state investment board expense account from which shall be paid the operating expenses of the state investment board. Prior to November 1 of each even-numbered year, the state investment board shall determine and certify to the state treasurer and the office of financial management the value of the various funds managed by the investment board in order to determine the proportional liability of the funds for the operating expenses of the state investment board. Pursuant to appropriation, the state treasurer is authorized to transfer such moneys from the various funds managed by the investment board to the state investment board expense account as are necessary to pay the operating expenses of the investment board. [1991 sp.s. c 13 § 32; 1985 c 57 § 32; 1982 c 10 § 10. Prior: 1981 c 242 § 1; 1981 c 219 § 5; 1981 c 3 § 16.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1982 c 10: See note following RCW 6.13.080.

Effective dates—1981 c 242: See note following RCW 43.79.330.

Effective dates—1981 c 219: See note following RCW 43.33A.020.

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.33A.170 State investment board commingled trust fund—Participation of funds in investments of board. There is established in the state treasury the state investment board commingled trust fund. At the discretion of the state investment board, the funds under the jurisdiction of the board may participate in the investments made by the board through the state investment board commingled trust fund. The state investment board may establish accounts within the commingled trust fund as necessary for the implementation of specific investment programs. [1982 c 58 § 1.]

43.33A.180 Investment accounting—Transfer of functions and duties from state treasurer's office. The state investment board shall account for and report on the investments authorized by this chapter in the manner prescribed by the office of financial management under chapter 43.88 RCW.

After approval of the director of financial management, all positions, reports, documents, and office equipment along with any appropriation necessary for carrying out the functions and duties transferred shall, on July 1, 1992, be transferred from the state treasurer's office to the state investment board. All employees assigned to such classified positions to be transferred, are assigned, without any loss of rights, to the state investment board. [1992 c 232 § 905.]

Severability—1992 c 232: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of

the act or the application of the provision to other persons or circumstances is not affected." [1992 c 232 § 911.]

Chapter 43.34 CAPITOL COMMITTEE

Sections

43.34.010 Composition of committee.

43.34.015 Secretary of committee—Committee records.

43.34.040 Buildings—Erection—Improvements.

43.34.080 Capitol campus design advisory committee—Generally.

Capitol building lands: Chapter 79.24 RCW.

Committee created: RCW 43.17.070.

East capitol site, powers and duties concerning: RCW 79.24.500.

Housing for state offices, duties: RCW 43.82.010.

43.34.010 Composition of committee. The governor or the governor's designee, the lieutenant governor, and the commissioner of public lands, ex officio, shall constitute the state capitol committee. [1979 ex.s. c 57 § 10; 1965 c 8 § 43.34.010. Prior: 1961 c 300 § 5; 1921 c 7 § 8; RRS § 10766.]

43.34.015 Secretary of committee—Committee records. The commissioner of public lands shall be the secretary of the state capitol committee, but the committee may appoint a suitable person as acting secretary thereof, and fix his compensation: PROVIDED, That all records of the committee shall be filed in the office of the commissioner of public lands. [1965 c 8 § 43.34.015. Prior: 1959 c 257 § 45; 1909 c 69 § 1; RRS § 7897. Formerly RCW 79.24.080.]

43.34.040 Buildings—Erection—Improvements. The state capitol committee may erect one or more permanent buildings; one or more temporary buildings; excavate or partially excavate for any such building or buildings; partially erect any such building or buildings; make other temporary or permanent improvements wholly or in part; upon the capitol grounds belonging to the state and known as the "Sylvester site" or "Capitol place" in Olympia, Washington. [1965 c 8 § 43.34.040. Prior: 1933 ex.s. c 34 § 1; RRS § 7915-1.]

43.34.080 Capitol campus design advisory committee—Generally. (1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The governor shall appoint the chair and vice-chair and shall instruct the director of general administration to provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include:

(a) The process of solicitation and selection of appropriate professional design services including design-build proposals;

(b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;

(c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns, and other factors;

(d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings. [1990 c 93 § 1.]

Chapter 43.37

WEATHER MODIFICATION

Sections

43.37.010	Definitions.
43.37.030	Powers and duties.
43.37.040	Promotion of research and development activities— Contracts and agreements.
43.37.050	Hearing procedure.
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43.37.080	License and permit required.
43.37.090	Exemptions.
43.37.100	Licenses—Requirements, duration, renewal, fees.
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43.37.170	Records and reports—Open to public examination.
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43.37.215	Program of emergency cloud seeding authorized.
43.37.220	Exemption of licensee from certain requirements.
43.37.910	Effective date—1973 c 64.

43.37.010 Definitions. As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of ecology;

(2) "Operation" means the performance of weather modification and control activities pursuant to a single contract entered into for the purpose of producing or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year; or, in case the performance of weather modification and control activities is to be undertaken individually or jointly by a person or persons to be benefited and not undertaken pursuant to a contract, "operation" means the performance of weather modification and control activities entered into for the purpose of producing, or attempting to produce, a certain modifying effect within one geographical area over one continuing time interval not exceeding one year;

(3) "Research and development" means theoretical analysis exploration and experimentation, and the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes;

(4) "Weather modification and control" means changing or controlling, or attempting to change or control, by artificial methods, the natural development of any or all atmospheric cloud forms or precipitation forms which occur in the troposphere. [1973 c 64 § 1; 1965 c 8 § 43.37.010. Prior: 1957 c 245 § 1.]

43.37.030 Powers and duties. In the performance of its functions the department may, in addition to any other acts authorized by law:

(1) Establish advisory committees to advise with and make recommendations to the department concerning legislation, policies, administration, research, and other matters;

(2) Establish by regulation or order such standards and instructions to govern the carrying out of research or projects in weather modification and control as the department may deem necessary or desirable to minimize danger to health or property; and make such rules and regulations as are necessary in the performance of its powers and duties;

(3) Make such studies, investigations, obtain such information, and hold such hearings as the department may deem necessary or proper to assist it in exercising its authority or in the administration or enforcement of this chapter or any regulations or orders issued thereunder;

(4) Appoint and fix the compensation of such personnel, including specialists and consultants, as are necessary to perform its duties and functions;

(5) Acquire, in the manner provided by law, such materials, equipment, and facilities as are necessary to perform its duties and functions;

(6) Cooperate with public or private agencies in the performance of the department's functions or duties and in furtherance of the purposes of this chapter;

(7) Represent the state in any and all matters pertaining to plans, procedures, or negotiations for interstate compacts

relating to weather modification and control. [1973 c 64 § 2; 1965 c 8 § 43.37.030. Prior: 1957 c 245 § 3.]

43.37.040 Promotion of research and development activities—Contracts and agreements. The department shall exercise its powers in such manner as to promote the continued conduct of research and development activities in the fields specified below by private or public institutions or persons and to assist in the acquisition of an expanding fund of theoretical and practical knowledge in such fields. To this end the department may conduct, and make arrangements, including contracts and agreements, for the conduct of, research and development activities relating to:

(1) The theory and development of methods of weather modification and control, including processes, materials, and devices related thereto;

(2) Utilization of weather modification and control for agricultural, industrial, commercial, and other purposes;

(3) The protection of life and property during research and operational activities. [1973 c 64 § 3; 1965 c 8 § 43.37.040. Prior: 1957 c 245 § 4.]

43.37.050 Hearing procedure. In the case of hearings pursuant to RCW 43.37.180 the department shall, and in other cases may, cause a record of the proceedings to be taken and filed with the department, together with its findings and conclusions. For any hearing, the director of the department or a representative designated by him is authorized to administer oaths and affirmations, examine witnesses, and issue, in the name of the department, notice of the hearing or subpoenas requiring any person to appear and testify, or to appear and produce documents, or both, at any designated place. [1973 c 64 § 4; 1965 c 8 § 43.37.050. Prior: 1957 c 245 § 5.]

43.37.060 Acceptance of gifts, donations, etc. (1) The department may, subject to any limitations otherwise imposed by law, receive and accept for and in the name of the state any funds which may be offered or become available from federal grants or appropriations, private gifts, donations, or bequests, or any other source, and may expend such funds, subject to any limitations otherwise provided by law, for the encouragement of research and development by a state, public, or private agency, either by direct grant, by contract or other cooperative means.

(2) All license and permit fees paid to the department shall be deposited in the state general fund. [1973 c 64 § 5; 1965 c 8 § 43.37.060. Prior: 1957 c 245 § 6.]

43.37.080 License and permit required. Except as provided in RCW 43.37.090, no person shall engage in activities for weather modification and control except under and in accordance with a license and a permit issued by the department authorizing such activities. [1973 c 64 § 6; 1965 c 8 § 43.37.080. Prior: 1957 c 245 § 8.]

43.37.090 Exemptions. The department, to the extent it deems practical, shall provide by regulation for exempting from license, permit, and liability requirements, (1) research and development and experiments by state and federal agencies, institutions of higher learning, and bona fide

nonprofit research organizations; (2) laboratory research and experiments; (3) activities of an emergent character for protection against fire, frost, sleet, or fog; and (4) activities normally engaged in for purposes other than those of inducing, increasing, decreasing, or preventing precipitation or hail. [1973 c 64 § 7; 1965 c 8 § 43.37.090. Prior: 1957 c 245 § 9.]

43.37.100 Licenses—Requirements, duration, renewal, fees. (1) Licenses to engage in activities for weather modification and control shall be issued to applicants therefor who pay the license fee required and who demonstrate competence in the field of meteorology to the satisfaction of the department, reasonably necessary to engage in activities for weather modification and control. If the applicant is an organization, these requirements must be met by the individual or individuals who will be in control and in charge of the operation for the applicant.

(2) The department shall issue licenses in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter. Each license shall be issued for a period to expire at the end of the calendar year in which it is issued and, if the licensee possesses the qualifications necessary for the issuance of a new license, shall upon application be renewed at the expiration of such period. A license shall be issued or renewed only upon the payment to the department of one hundred dollars for the license or renewal thereof. [1973 c 64 § 8; 1965 c 8 § 43.37.100. Prior: 1957 c 245 § 10.]

43.37.110 Permits—Requirements—Hearing as to issuance. The department shall issue permits in accordance with such procedures and subject to such conditions as it may by regulation establish to effectuate the provisions of this chapter only:

(1) If the applicant is licensed pursuant to this chapter;

(2) If a sufficient notice of intention is published and proof of publication is filed as required by RCW 43.37.140;

(3) If the applicant furnishes proof of financial responsibility, as provided in RCW 43.37.150, in an amount to be determined by the department but not to exceed twenty thousand dollars;

(4) If the fee for a permit is paid as required by RCW 43.37.160;

(5) If the weather modification and control activities to be conducted under authority of the permit are determined by the department to be for the general welfare and public good;

(6) If the department has held an open public hearing in Olympia as to such issuance. [1973 c 64 § 9; 1965 c 8 § 43.37.110. Prior: 1961 c 154 § 2; 1957 c 245 § 11.]

43.37.120 Separate permit for each operation—Filing and publishing notice of intention—Activities restricted by permit and notice. A separate permit shall be issued for each operation. Prior to undertaking any weather modification and control activities the licensee shall file with the department and also cause to be published a notice of intention. The licensee, if a permit is issued, shall confine his activities for the permitted operation within the time and

area limits set forth in the notice of intention, unless modified by the department; and his activities shall also conform to any conditions imposed by the department upon the issuance of the permit or to the terms of the permit as modified after issuance. [1973 c 64 § 10; 1965 c 8 § 43.37.120. Prior: 1961 c 154 § 3; 1957 c 245 § 12.]

43.37.130 Notice of intention—Contents. The notice of intention shall set forth at least all the following:

- (1) The name and address of the licensee;
- (2) The nature and object of the intended operation and the person or organization on whose behalf it is to be conducted;
- (3) The area in which and the approximate time during which the operation will be conducted;
- (4) The area which is intended to be affected by the operation;
- (5) The materials and methods to be used in conducting the operation. [1965 c 8 § 43.37.130. Prior: 1957 c 245 § 13.]

43.37.140 Notice of intention—Publication. (1) The applicant shall cause the notice of intention, or that portion thereof including the items specified in RCW 43.37.130, to be published at least once a week for three consecutive weeks in a legal newspaper having a general circulation and published within any county in which the operation is to be conducted and in which the affected area is located, or, if the operation is to be conducted in more than one county or if the affected area is located in more than one county or is located in a county other than the one in which the operation is to be conducted, then in a legal newspaper having a general circulation and published within each of such counties. In case there is no legal newspaper published within the appropriate county, publication shall be made in a legal newspaper having a general circulation within the county;

(2) Proof of publication, made in the manner provided by law, shall be filed by the licensee with the department within fifteen days from the date of the last publication of the notice. [1973 c 64 § 11; 1965 c 8 § 43.37.140. Prior: 1961 c 154 § 4; 1957 c 245 § 14.]

43.37.150 Financial responsibility. Proof of financial responsibility may be furnished by an applicant by his showing, to the satisfaction of the department, his ability to respond in damages for liability which might reasonably be attached to or result from his weather modification and control activities in connection with the operation for which he seeks a permit. [1973 c 64 § 12; 1965 c 8 § 43.37.150. Prior: 1957 c 245 § 15.]

43.37.160 Fees—Sanctions for failure to pay. The fee to be paid by each applicant for a permit shall be equivalent to one and one-half percent of the estimated cost of such operation, the estimated cost to be computed by the department from the evidence available to it. The fee is due and payable to the department as of the date of the issuance of the permit; however, if the applicant is able to give to the department satisfactory security for the payment of the balance, he may be permitted to commence the operation, and a permit may be issued therefor, upon the payment of

not less than fifty percent of the fee. The balance due shall be paid within three months from the date of the termination of the operation as prescribed in the permit. Failure to pay a permit fee as required shall be grounds for suspension or revocation of the license of the delinquent permit holder and grounds for refusal to renew his license or to issue any further permits to such person. [1973 c 64 § 13; 1965 c 8 § 43.37.160. Prior: 1957 c 245 § 16.]

43.37.170 Records and reports—Open to public examination. (1) Every licensee shall keep and maintain a record of all operations conducted by him pursuant to his license and each permit, showing the method employed, the type of equipment used, materials and amounts thereof used, the times and places of operation of the equipment, the name and post office address of each individual participating or assisting in the operation other than the licensee, and such other general information as may be required by the department and shall report the same to the department at the time and in the manner required.

(2) The department shall require written reports in such manner as it provides but not inconsistent with the provisions of this chapter, covering each operation for which a permit is issued. Further, the department shall require written reports from such organizations as are exempted from license, permit, and liability requirements as provided in RCW 43.37.090.

(3) The reports and records in the custody of the department shall be open for public examination. [1973 c 64 § 14; 1965 c 8 § 43.37.170. Prior: 1957 c 245 § 17.]

43.37.180 Revocation, suspension, modification of license or permit. (1) The department may suspend or revoke any license or permit issued if it appears that the licensee no longer possesses the qualifications necessary for the issuance of a new license or permit. The department may suspend or revoke any license or permit if it appears that the licensee has violated any of the provisions of this chapter. Such suspension or revocation shall occur only after notice to the licensee and a reasonable opportunity granted such licensee to be heard respecting the grounds of the proposed suspension or revocation. The department may refuse to renew the license of, or to issue another permit to, any applicant who has failed to comply with any provision of this chapter.

(2) The department may modify the terms of a permit after issuance thereof if the licensee is first given notice and a reasonable opportunity for a hearing respecting the grounds for the proposed modification and if it appears to the department that it is necessary for the protection of the health or the property of any person to make the modification proposed. [1973 c 64 § 15; 1965 c 8 § 43.37.180. Prior: 1957 c 245 § 18.]

43.37.190 Liability of state denied—Legal rights of private persons not affected. Nothing in this chapter shall be construed to impose or accept any liability or responsibility on the part of the state, the department, or any state officials or employees for any weather modification and control activities of any private person or group, nor to affect in any way any contractual, tortious, or other legal

rights, duties, or liabilities between any private persons or groups. [1973 c 64 § 16; 1965 c 8 § 43.37.190. Prior: 1957 c 245 § 19.]

43.37.200 Penalty. Any person violating any of the provisions of this chapter or any lawful regulation or order issued pursuant thereto, shall be guilty of a misdemeanor; and a continuing violation is punishable as a separate offense for each day during which it occurs. [1965 c 8 § 43.37.200. Prior: 1957 c 245 § 20.]

43.37.210 Legislative declaration. The legislature finds and declares that when prolonged lack of precipitation or shortages of water supply in the state cause severe hardships affecting the health, safety, and welfare of the people of the state, a program to increase precipitation is occasionally needed for the generation of hydroelectric power, for domestic purposes, and to alleviate hardships created by the threat of forest fires and shortages of water for agriculture. Cloud seeding has been demonstrated to be such a program of weather modification with increasing scientific certainty. [1981 c 278 § 1.]

43.37.215 Program of emergency cloud seeding authorized. The director of ecology may establish by rule under chapter 34.05 RCW a program of emergency cloud seeding. The director may include in these rules standards and guidelines for determining the situations which warrant cloud seeding and the means to be used for cloud seeding. [1981 c 278 § 2.]

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

43.37.220 Exemption of licensee from certain requirements. Upon a proclamation of a state of emergency, related to a lack of precipitation or a shortage of water supply, by the governor under RCW 43.06.210, the department shall exempt a licensee from the requirements of RCW 43.37.110 (2) and (6) and RCW 43.37.140. [1981 c 278 § 3.]

Actions during state of emergency exempt from chapter 43.21C RCW: RCW 43.21C.210.

43.37.910 Effective date—1973 c 64. The effective date of this 1973 amendatory act shall be July 1, 1973. [1973 c 64 § 18.]

Chapter 43.38

TAX ADVISORY COUNCIL

Sections

- 43.38.010 Tax advisory council created—Appointment, travel expenses.
- 43.38.020 Powers and duties.
- 43.38.030 Examination of records.
- 43.38.040 Officers—Meetings—Executive secretary.

43.38.010 Tax advisory council created—Appointment, travel expenses. There is hereby created a tax advisory council to consist of twelve members to be appointed by the governor. Members shall be chosen who

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represent the major segments of the state's economy, and at least one member shall be chosen from each congressional district of the state now or hereafter existing. In addition, the president of the senate and the speaker of the house of representatives shall each appoint two members, one from each caucus of the respective house. Members shall serve without pay at the pleasure of the governor but shall be paid travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended incurred in their travel to and from meetings of the council and while attending all meetings of the council. Legislative members shall be reimbursed for travel expenses as provided in RCW 44.04.120.

The council shall not be deemed to be unlawfully constituted and a member of the council shall not be deemed ineligible to serve on the board solely by reason of the establishment of new or revised boundaries for congressional districts. However, appointments made after the effective date of such establishment shall be from congressional districts which are not represented on the council. [1983 c 2 § 11. Prior: 1982 1st ex.s. c 41 § 1; 1982 1st ex.s. c 30 § 12; 1975-'76 2nd ex.s. c 34 § 113; 1965 c 8 § 43.38.010; prior: 1957 c 291 § 1.]

Severability—1983 c 2: See note following RCW 18.71.030.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.38.020 Powers and duties. The council shall survey and analyze all aspects of state tax statutes and policies, including but not limited to: Improved efficiency in the administration and collection of state taxes, elasticity, equity of burden, adequacy of the state's tax structure, and the desirability of existing tax exemptions. Recommendations of the council shall be submitted to the governor and the committees on ways and means of the senate and house of representatives at least one month prior to the convening of each regular session of the legislature. If the recommendations adopted by the council do not receive the unanimous approval of its members, the dissenting members shall have the privilege of submitting minority recommendations. [1982 1st ex.s. c 41 § 2; 1965 c 8 § 43.38.020. Prior: 1957 c 291 § 2.]

Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor: RCW 43.06.400.

Tax exemption impact report: RCW 82.01.110.

Termination of tax preferences: Chapter 43.136 RCW.

43.38.030 Examination of records. Any member of the council or its staff designated by the chairman shall have the authority to examine, for official purposes, any records maintained by or in the possession of any official or agency which relate to matters of taxation. [1965 c 8 § 43.38.030. Prior: 1957 c 291 § 3.]

43.38.040 Officers—Meetings—Executive secretary. The governor shall designate one member to be chairman of the council. The council at its first meeting shall elect a vice chairman. Meetings shall be held at times and places determined by the chairman. The chairman shall appoint

from the staff of the state department of revenue, an executive secretary, whose salary shall be paid by the department of revenue, who shall attend all meetings of the council and perform such duties as it shall direct. [1975 1st ex.s. c 278 § 24; 1965 c 8 § 43.38.040. Prior: 1957 c 291 § 4.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 43.41

OFFICE OF FINANCIAL MANAGEMENT

Sections

- 43.41.030 Purpose.
 43.41.035 Office of program planning and fiscal management redesignated office of financial management.
 43.41.040 Definitions.
 43.41.050 Office of financial management created—Transfer of powers, duties, and functions.
 43.41.060 Director—Appointment—Salary—Vacancy—Delegation of powers and duties.
 43.41.070 Personnel.
 43.41.080 Deputy and assistant directors.
 43.41.090 State civil service law—Certain personnel of office of financial management exempted.
 43.41.100 Director's powers and duties.
 43.41.102 Director—Contract for collection and tabulation of census block statistics.
 43.41.104 Settlement and payment of accounts—Duty to require.
 43.41.106 Settlement and payment of accounts—Authority to require testimony and evidence.
 43.41.110 Powers and duties of office of financial management.
 43.41.120 Advisory or coordinating councils.
 43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels.
 43.41.140 Employee commuting in state-owned or leased vehicle—Policies and regulations.
 43.41.150 Inventory of state land resources—Developing and maintaining—Summaries.
 43.41.160 State health care cost containment policies.
 43.41.170 Budgeting process—Agencies implementing energy conservation to retain cost savings.
 43.41.175 Energy consumption data—Quarterly reports by facilities or agencies.
 43.41.180 Electronic funds and information transfer—State agency use.
 43.41.190 Community network programs—Recommended legislation.
 43.41.195 Community networks—Fund distribution formula.
 43.41.220 Review of boards and commissions by governor—Report—Termination—Transfers.
 43.41.230 Boards and commissions reviewed—Exceptions.
 43.41.240 Approval of board or commission not established or required by statute.
 43.41.250 Criteria for new board or commission not established or required by statute.
 43.41.940 Central budget agency abolished.
 43.41.950 Saving—1969 ex.s. c 239.
 43.41.970 Federal requirements for receipt of federal funds.
 43.41.980 Severability—1969 ex.s. c 239.

Reviser's note: Throughout this chapter the phrase "this 1969 amendatory act" or "this act" has been changed to "this chapter". The phrase also includes RCW 43.88.020, 43.88.025 and 41.06.075.

Budgeting, accounting, and reporting system, powers and duties: Chapter 43.88 RCW.

Checks and drafts, form prescribed by: RCW 43.88.160.

Classes and number of positions for agencies fixed by: RCW 43.88.160.

Corrective measures by agencies, duties to enforce: RCW 43.88.160.

Development of definitions, criteria, and procedures for the operating cost of instruction—Educational cost study: RCW 28B.15.070.

Efficiency surveys and analyses of agencies: RCW 43.88.160.

Employee training authorized: RCW 43.88.160.

Health care reform evaluation: RCW 43.72.840.

Inventory of state-owned or leased facilities: RCW 43.82.150.

Local and other improvements and assessments against public lands, duties: Chapter 79.44 RCW.

Motor vehicle fund, distribution of amount to counties, office to furnish information: RCW 46.68.124.

Moving expenses of state officers and employees, approval by: RCW 43.03.110.

Pay and classification plans, review of: RCW 43.88.160.

Personal service contracts, filing with office of financial management, duties: Chapter 39.29 RCW.

Public printing, duties concerning: Chapter 43.78 RCW.

Regulations, duty to promulgate: RCW 43.88.160.

Regulatory fairness act, office of financial management participation: Chapter 19.85 RCW.

Reports of agencies, authority to require: RCW 43.88.160.

Reports to governor, duplication of effort or lack of coordination between agencies: RCW 43.88.160.

State employees' retirement system, duties: RCW 41.40.048.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

Substance allowance for officials and employees, director to prescribe: RCW 43.03.050.

Tort claims against state, duties: Chapter 4.92 RCW.

Warrants or checks, form prescribed by: RCW 43.88.160.

43.41.030 Purpose. The legislature finds that the need for long-range state program planning and for the short-range planning carried on through the budget process, complement each other. The biennial budget submitted to the legislature must be considered in the light of the longer-range plans and goals of the state. The effectiveness of the short-range plan presented as budget proposals, cannot be measured without being aware of these longer-range goals. Thus efficient management requires that the planning and fiscal activities of state government be integrated into a unified process. It is the purpose of this chapter to bring these functions together in a new division of the office of the governor to be called the office of financial management. [1979 c 151 § 109; 1969 ex.s. c 239 § 1.]

43.41.035 Office of program planning and fiscal management redesignated office of financial management. From and after September 21, 1977, the office of program planning and fiscal management shall be known and designated as the office of financial management. [1977 ex.s. c 114 § 1.]

43.41.040 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Office" means the office of financial management.
- (2) "Director" means the director of financial management.

- (3) "Agency" means and includes every state agency, office, officer, board, commission, department, state institution, or state institution of higher education, which includes all state universities, regional universities, The Evergreen State College, and community and technical colleges. [1993 c 500 § 4; 1979 c 151 § 110; 1969 ex.s. c 239 § 2.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.41.050 Office of financial management created—Transfer of powers, duties, and functions. There is created in the office of the governor, the office of financial management which shall be composed of the present central budget agency and the state planning, program management, and population and research divisions of the present *planning and community affairs agency. Any powers, duties and functions assigned to the central budget agency, or any state planning, program management, or population and research functions assigned to the present planning and community affairs agency by the 1969 legislature, shall be transferred to the office of financial management. [1979 c 151 § 111; 1969 ex.s. c 239 § 3.]

43.41.060 Director—Appointment—Salary—Vacancy—Delegation of powers and duties. The executive head of the office of financial management shall be the director, who shall be appointed by the governor with the consent of the senate, and who shall serve at the pleasure of the governor. He shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in his position while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when he shall present to that body his nomination for the office. The director may delegate such of his powers, duties and functions to other officers and employees of the department as he may deem necessary to the fulfillment of the purposes of this chapter. [1979 c 151 § 112; 1969 ex.s. c 239 § 4.]

43.41.070 Personnel. The director shall have the power to employ such personnel as may be necessary for the general administration of the office: PROVIDED, That, except as elsewhere specified in this chapter, such employment is in accordance with the rules of the state civil service law, chapter 41.06 RCW. [1969 ex.s. c 239 § 5.]

43.41.080 Deputy and assistant directors. The director may appoint such deputy directors and assistant directors as shall be needed to administer the office of financial management. The officers appointed under this section and exempt from the provisions of the state civil service law by the terms of RCW 41.06.075, shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. [1979 c 151 § 113; 1969 ex.s. c 239 § 6.]

43.41.090 State civil service law—Certain personnel of office of financial management exempted. See RCW 41.06.075.

43.41.100 Director's powers and duties. The director of financial management shall:

- (1) Supervise and administer the activities of the office of financial management.
- (2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of the state budget and accounting system.
- (3) Advise the governor and the legislature with respect to matters affecting program management and planning.

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(4) Make efficiency surveys of all state departments and institutions, and the administrative and business methods pursued therein, examine into the physical needs and industrial activities thereof, and make confidential reports to the governor, recommending necessary betterments, repairs, and the installation of improved and more economical administrative methods, and advising such action as will result in a greater measure of self-support and remedies for inefficient functioning.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; he may act for the state in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter; and he may accept gifts and grants, whether such grants be of federal or other funds. [1979 c 151 § 114; 1969 ex.s. c 239 § 8.]

43.41.102 Director—Contract for collection and tabulation of census block statistics. Subject to a specific appropriation for that purpose, the director of financial management is hereby authorized and directed to contract with the United States bureau of census for collection and tabulation of block statistics in any or all cities and towns. [1979 c 151 § 115; 1977 ex.s. c 128 § 5.]

Severability—1977 ex.s. c 128: See note following RCW 29.04.040.

43.41.104 Settlement and payment of accounts—Duty to require. Upon receipt of information from the state auditor as provided in *RCW 43.09.050(5) as now or hereafter amended, the director of financial management shall require all persons who have received any moneys belonging to the state and have not accounted therefor, to settle their accounts and make payment thereof. [1979 c 151 § 116; 1977 ex.s. c 144 § 10.]

*Reviser's note: RCW 43.09.050 was amended by 1992 c 118 § 6, changing subsection (5) to subsection (6).

43.41.106 Settlement and payment of accounts—Authority to require testimony and evidence. The director of financial management may, in his discretion, require any person presenting an account for settlement to be sworn before him, and to answer, orally or in writing, as to any facts relating to it. [1979 c 151 § 117; 1977 ex.s. c 144 § 11.]

43.41.110 Powers and duties of office of financial management. The office of financial management shall:

- (1) Provide technical assistance to the governor and the legislature in identifying needs and in planning to meet those needs through state programs and a plan for expenditures.
- (2) Perform the comprehensive planning functions and processes necessary or advisable for state program planning and development, preparation of the budget, inter-departmental and inter-governmental coordination and cooperation, and determination of state capital improvement requirements.
- (3) Provide assistance and coordination to state agencies and departments in their preparation of plans and programs.
- (4) Provide general coordination and review of plans in functional areas of state government as may be necessary for receipt of federal or state funds.

(5) Participate with other states or subdivisions thereof in interstate planning.

(6) Encourage educational and research programs that further planning and provide administrative and technical services therefor.

(7) Carry out the provisions of RCW 43.62.010 through 43.62.050 relating to the state census.

(8) Be the official state participant in the federal-state cooperative program for local population estimates and as such certify all city and county special censuses to be considered in the allocation of state and federal revenues.

(9) Be the official state center for processing and dissemination of federal decennial or quinquennial census data in cooperation with other state agencies.

(10) Be the official state agency certifying annexations, incorporations, or disincorporations to the United States bureau of the census.

(11) Review all United States bureau of the census population estimates used for federal revenue sharing purposes and provide a liaison for local governments with the United States bureau of the census in adjusting or correcting revenue sharing population estimates.

(12) Provide fiscal notes depicting the expected fiscal impact of proposed legislation in accordance with chapter 43.88A RCW.

(13) Be the official state agency to estimate and manage the cash flow of all public funds as provided in chapter 43.88 RCW. To this end, the office shall adopt such rules as are necessary to manage the cash flow of public funds. [1981 2nd ex.s. c 4 § 13; 1979 c 10 § 3. Prior: 1977 ex.s. c 110 § 4; 1977 ex.s. c 25 § 6; 1969 ex.s. c 239 § 11.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.41.120 Advisory or coordinating councils. The director or the governor may establish such additional advisory or coordinating councils as may be necessary to carry out the purposes of this chapter. Members of such councils shall serve at the pleasure of the governor. They shall receive no compensation for their services, but shall be reimbursed for travel expenses while engaged in business of the councils in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 114; 1969 ex.s. c 239 § 12.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.41.130 Passenger motor vehicles owned or operated by state agencies—Duty to establish policies as to acquisition, operation, authorized use, etc.—Use of gasohol and alternative fuels. The director of financial management, after consultation with other interested or affected state agencies, shall establish overall policies governing the acquisition, operation, management, maintenance, repair, and disposal of, all passenger motor vehicles owned or operated by any state agency. Such policies shall include but not be limited to a definition of what constitutes authorized use of a state owned or controlled passenger motor vehicle and other motor vehicles on official state business. The definition shall include, but not be limited to, the use of state-owned motor vehicles for commuter ride

sharing so long as the entire capital depreciation and operational expense of the commuter ride-sharing arrangement is paid by the commuters. Any use other than such defined use shall be considered as personal use.

Such policies shall also include the widest possible use of gasohol and cost-effective alternative fuels in all motor vehicles owned or operated by any state agency. As used in this section, "gasohol" means motor vehicle fuel which contains more than nine and one-half percent alcohol by volume. [1982 c 163 § 13; 1980 c 169 § 1; 1979 c 111 § 12; 1975 1st ex.s. c 167 § 5.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

Severability—1979 c 111: See note following RCW 46.74.010.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

Commuter ride sharing: Chapter 46.74 RCW.

Motor vehicle management and transportation: RCW 43.19.500 through 43.19.635.

43.41.140 Employee commuting in state-owned or leased vehicle—Policies and regulations. Pursuant to policies and regulations promulgated by the office of financial management, an elected state officer or delegate or a state agency director or delegate may permit an employee to commute in a state-owned or leased vehicle if such travel is on official business, as determined in accordance with RCW 43.41.130, and is determined to be economical and advantageous to the state, or as part of a commute trip reduction program as required by RCW 70.94.551. [1993 c 394 § 3; 1979 c 151 § 119; 1975 1st ex.s. c 167 § 15.]

Finding—Purpose—1993 c 394: See note following RCW 43.01.220.

Severability—1975 1st ex.s. c 167: See note following RCW 43.19.010.

43.41.150 Inventory of state land resources—Developing and maintaining—Summaries. The office of financial management shall provide by administrative regulation for the maintenance of an inventory of all state owned or controlled land resources by all state agencies owning or controlling land. That office shall cooperate with the state departments and agencies charged with administering state owned or controlled land resources to assist them in developing and maintaining land resources inventories that will permit their respective inventories to be summarized into meaningful reports for the purposes of providing executive agencies with information for planning, budgeting, and managing state owned or administered land resources and to provide the legislature, its members, committees, and staff with data needed for formulation of public policy.

Such departments or agencies shall maintain and make available such summary inventory information as may be prescribed by the rules of the office of financial management. That office shall give each affected department or agency specific written notice of hearings for consideration, adoption, or modification of such rules. All information submitted to that office under this section are a matter of public record and shall be available from said agency upon request. [1981 c 157 § 5.]

43.41.160 State health care cost containment policies. (1) It is the purpose of this section to ensure implementation and coordination of chapter 70.14 RCW as well as other legislative and executive policies designed to contain the cost of health care that is purchased or provided by the state. In order to achieve that purpose, the director may:

(a) Establish within the office of financial management a health care cost containment program in cooperation with all state agencies;

(b) Implement lawful health care cost containment policies that have been adopted by the legislature or the governor, including appropriation provisos;

(c) Coordinate the activities of all state agencies with respect to health care cost containment policies;

(d) Study and make recommendations on health care cost containment policies;

(e) Monitor and report on the implementation of health care cost containment policies;

(f) Appoint a health care cost containment technical advisory committee that represents state agencies that are involved in the direct purchase, funding, or provision of health care; and

(g) Engage in other activities necessary to achieve the purposes of this section.

(2) All state agencies shall cooperate with the director in carrying out the purpose of this section. [1986 c 303 § 11.]

Health care authority: Chapter 41.05 RCW.

43.41.170 Budgeting process—Agencies implementing energy conservation to retain cost savings. The office of financial management shall ensure that to the extent possible the budget process shall allow state agencies implementing energy conservation to retain the resulting cost savings for other purposes, including further energy conservation. [1989 c 11 § 15; 1986 c 325 § 3.]

Severability—1989 c 11: See note following RCW 9A.56.220.

Findings—1986 c 325: "The legislature finds that:

(1) Capital investments in energy conservation in buildings can produce significant reductions in energy use, reducing the need to import or extract fossil fuels and lowering the cost of operating buildings.

(2) The state of Washington has an obligation to operate state buildings efficiently and to implement all cost-effective energy conservation measures so that citizens are assured that public funds are spent wisely and so that citizens have an example of the savings possible from energy conservation.

(3) The state has completed energy consumption and walk-through surveys of its buildings and other facilities and has established a schedule for technical assistance studies which is the basis for implementing energy conservation measure installations to meet the milestones in RCW 43.19.680. However, there is uncertainty that the milestones will be met.

(4) The potential savings from energy conservation can be more readily realized by explicitly considering conservation measures and procedures in the state's budgeting and long-range planning process." [1986 c 325 § 1.]

43.41.175 Energy consumption data—Quarterly reports by facilities or agencies. The state energy office shall provide the office of financial management with energy consumption data necessary to implement RCW 43.41.170. Facilities or the agencies responsible for them shall report accurate monthly energy consumption and cost figures for all fuels to the state energy office quarterly, including any

changes in total space served or facility operations. [1986 c 325 § 4.]

Findings—1986 c 325: See note following RCW 43.41.170.

43.41.180 Electronic funds and information transfer—State agency use. (1) The office of financial management is authorized to approve the use of electronic and other technological means to transfer both funds and information whenever economically feasible, to eliminate paper documentation wherever possible, and to provide greater fiscal responsibility. This authorization includes but is not limited to the authority to approve use of electronic means to transfer payroll, vendor payments, and benefit payments and acceptance of credit cards, debit cards, and other consumer debt instruments for payment of taxes, licenses, and fees. The office of financial management shall adopt rules under RCW 43.41.110(13) to specify the manner in which electronic and other technological means, including credit cards, are available to state agencies.

(2) No state agency may use electronic or other technological means, including credit cards, without specific continuing authorization from the office of financial management. [1993 c 500 § 2.]

Finding—1993 c 500: "The legislature finds that:

(1) Effective and efficient management of the state's cash resources requires expeditious revenue collection, aggregation, and investment of available balances and timely payments;

(2) The use of credit cards, debit cards, and electronic transfers of funds and information are customary and economical business practices to improve cash management that the state should consider and use when appropriate;

(3) Statutory changes are necessary to aid the state in complying with the federal cash management improvement act of 1990; and

(4) The policies, procedures, and practices of cash management should be reviewed and revised as required to ensure that the state achieves the most effective cash management possible." [1993 c 500 § 1.]

Severability—1993 c 500: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 c 500 § 12.]

Effective date—1993 c 500: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 500 § 13.]

43.41.190 Community network programs—Recommended legislation. The office of financial management shall review the administration of funds for programs identified under RCW 70.190.110 and propose legislation to complete interdepartmental transfers of funds or programs as necessary. The office of financial management shall review statutes that authorize the programs identified under RCW 70.190.110 and suggest legislation to eliminate statutory requirements that may interfere with the administration of that policy. [1994 1st sp.s. c 7 § 318.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.41.195 Community networks—Fund distribution formula. (1) The office of financial management, in consultation with affected parties, shall establish a fund distribution formula for determining allocations to the community networks authorized under RCW 70.190.130.

The formula shall reflect the local needs assessment for at-risk children and consider:

(a) The number of arrests and convictions for juvenile violent offenses;

(b) The number of arrests and convictions for crimes relating to juvenile drug offenses and alcohol-related offenses;

(c) The number of teen pregnancies and parents;

(d) The number of child and teenage suicides and attempted suicides; and

(e) The high school graduation rate.

(2) In developing the formula, the office of financial management shall reserve five percent of the funds for the purpose of rewarding community networks.

(3) The reserve fund shall be used by the council to reward community networks that show exceptional reductions in: State-funded out-of-home placements, violent criminal acts by juveniles, substance abuse, teen pregnancy and male parentage, teen suicide attempts, or school dropout rates.

(4) The office of financial management shall submit the distribution formula to the family policy council and to the appropriate committees of the legislature by December 20, 1994. [1994 1st sp.s. c 7 § 319.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.41.220 Review of boards and commissions by governor—Report—Termination—Transfers. (1) The governor shall conduct a review of all of the boards and commissions identified under RCW 43.41.230 and, by January 8th of every odd-numbered year, submit to the legislature a report recommending which boards and commissions should be terminated or consolidated based upon the criteria set forth in subsection (3) of this section. The report must state which of the criteria were relied upon with respect to each recommendation. The governor shall submit an executive request bill by January 8th of every odd-numbered year to implement the recommendations by expressly terminating the appropriate boards and commissions and by providing for the transfer of duties and obligations under this section. The governor shall accept and review with special attention recommendations made, not later than June 1st of each even-numbered year, by the standing committees of the legislature in determining whether to include any board or commission in the report and bill required by this section.

(2) In addition to terminations and consolidations under subsection (1) of this section, the governor may recommend the transfer of duties and obligations from a board or commission to another existing state entity.

(3) In preparing his or her report and legislation, the governor shall make an evaluation based upon answers to the questions set forth in this subsection. The governor shall give these criteria priority in the order listed.

(a) Has the mission of the board or commission been completed or ceased to be critical to effective state government?

(b) Does the work of the board or commission directly affect public safety, welfare, or health?

(c) Can the work of the board or commission be effectively done by another state agency without adverse impact on public safety, welfare, or health?

(d) Will termination of the board or commission have a significant adverse impact on state revenue because of loss of federal funds?

(e) Will termination of the board or commission save revenues, be cost neutral, or result in greater expenditures?

(f) Is the work of the board or commission being done by another board, commission, or state agency?

(g) Could the work of the board or commission be effectively done by a nonpublic entity?

(h) Will termination of the board or commission result in a significant loss of expertise to state government?

(i) Will termination of the board or commission result in operational efficiencies that are other than fiscal in nature?

(j) Could the work of the board or commission be done by an ad hoc committee? [1994 1st sp.s. c 9 § 873.]

Declaration—Purpose—1994 1st sp.s. c 9: "The legislature declares there has been an excessive proliferation of boards and commissions within state government. These boards and commissions are often created without legislative review or input and without an assessment of whether there is a resulting duplication of purpose or process. Once created, they frequently duplicate the duties of existing governmental entities, create additional expense, and obscure responsibility. It has been difficult to control the growth of boards and commissions because of the many special interests involved. Accordingly, the legislature establishes the process in this chapter to eliminate redundant and obsolete boards and commissions and to restrict the establishment of new boards and commissions." [1994 1st sp.s. c 9 § 872.]

Effective date—1994 1st sp.s. c 9 §§ 872-876: "Sections 872 through 876 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994]." [1994 1st sp.s. c 9 § 877.]

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.230 Boards and commissions reviewed—Exceptions. The boards and commissions to be reviewed by the governor must be all entities that are required to be included in the list prepared by the office of financial management under RCW 43.88.505, other than entities established under: (1) Constitutional mandate; (2) court order or rule; (3) requirement of federal law; or (4) requirement as a condition of the state or a local government receiving federal financial assistance if, in the judgment of the governor, no other state agency, board, or commission would satisfy the requirement. [1994 1st sp.s. c 9 § 874.]

Declaration—Purpose—Effective date—1994 1st sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.240 Approval of board or commission not established or required by statute. A new board or commission not established or required in statute that must be included in the report required by RCW 43.88.505 may not be established without the express approval of the director of financial management. The director shall, by January 8th of each year, submit to the legislature a list of those boards and commissions that were requested for approval and those that were approved during the preceding calendar year. [1994 1st sp.s. c 9 § 875.]

Declaration—Purpose—Effective date—1994 1st sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.250 Criteria for new board or commission not established or required by statute. When acting on a request to establish a new board or commission under RCW 43.41.240, the director of the office of financial management shall consider the following criteria giving priority in the order listed:

- (1) If approval is critical to public safety, health, or welfare or to the effectiveness of state government;
- (2) If approval will not result in duplication of the work or responsibilities of another governmental agency;
- (3) If approval will not have a significant impact on state revenues;
- (4) If approval is for a limited duration or on an ad hoc basis;
- (5) If the work of the board or commission could be effectively done by a nonpublic entity;
- (6) If approval will result in significant enhancement of expertise in state government; and
- (7) If approval will result in operational efficiencies other than fiscal savings. [1994 1st sp.s. c 9 § 876.]

Declaration—Purpose—Effective date—1994 1st sp.s. c 9 §§ 872-876: See notes following RCW 43.41.220.

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.41.940 Central budget agency abolished. On August 11, 1969, the central budget agency is abolished. [1969 ex.s. c 239 § 17.]

43.41.950 Saving—1969 ex.s. c 239. Nothing in this chapter shall be construed as affecting any existing rights acquired under the sections amended or repealed herein except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, resolution or order promulgated thereunder, nor any administrative action taken thereunder; nor shall the transfer of powers, duties and functions provided for herein affect the validity of any act performed by such agency or any officer thereof prior to August 11, 1969. [1969 ex.s. c 239 § 18.]

43.41.970 Federal requirements for receipt of federal funds. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. No such ruling shall affect the operation of the remainder of this chapter. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1969 ex.s. c 239 § 20.]

43.41.980 Severability—1969 ex.s. c 239. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of this chapter, or the application of the provision to other persons or circumstances shall not be affected. [1969 ex.s. c 239 § 21.]

Chapter 43.43

WASHINGTON STATE PATROL

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43.43.010 Patrol created. There shall be a department of state government known as the "Washington state patrol." The chief thereof shall be known as the chief of the Washington state patrol, and members thereof shall be known as Washington state patrol officers. [1965 c 8 § 43.43.010. Prior: 1933 c 25 § 1; RRS § 6362-59.]

43.43.015 Affirmative action. For the purposes of this chapter, "affirmative action" means a procedure by which racial minorities, women, persons in the protected age category, persons with disabilities, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system. [1985 c 365 § 4.]

43.43.020 Appointment of personnel. The governor, with the advice and consent of the senate, shall appoint the chief of the Washington state patrol, determine his compensation, and may remove him at will.

The chief shall appoint a sufficient number of competent persons to act as Washington state patrol officers, may remove them for cause, as provided in this chapter, and shall make promotional appointments, determine their compensation, and define their rank and duties, as hereinafter provided.

The chief may appoint employees of the Washington state patrol to serve as special deputies, with such restricted police authority as the chief shall designate as being necessary and consistent with their assignment to duty. Such appointment and conferral of authority shall not qualify said employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol.

The chief may personally appoint, with the consent of the state treasurer, employees of the office of the state treasurer who are qualified under the standards of the criminal justice training commission, or who have comparable training and experience, to serve as special deputies. The law enforcement powers of any special deputies appointed in the office of the state treasurer shall be designated by the chief and shall be restricted to those powers necessary to provide for state-wide security of the holdings or property of or under the custody of the office of the state treasurer. These appointments may be revoked by the chief at any time and shall be revoked upon the written request of the state treasurer or by operation of law upon termination of the special deputy's employment with the office of the state treasurer or thirty days after the chief who made the appointment leaves office. The chief shall be civilly immune for the acts of such special deputies. Such appointment and conferral of authority shall not qualify such employees for membership in the Washington state patrol retirement system, nor shall it grant tenure of office as a regular officer of the Washington state patrol. [1983 c 144 § 1; 1981 c 338 § 4; 1973 1st ex.s. c 80 § 1; 1965 c 8 § 43.43.020. Prior: 1949 c 192 § 1; 1933 c 25 § 3; Rem. Supp. 1949 § 6362-61.]

Civil service exemptions: RCW 41.06.070.

43.43.030 Powers and duties—Peace officers. The chief and other officers of the Washington state patrol shall have and exercise, throughout the state, such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are prescribed by law. [1965 c 8 § 43.43.030. Prior: 1933 c 25 § 2; RRS § 6362-60.]

General authority law enforcement agency: RCW 10.93.020.

43.43.035 Governor, lieutenant governor, and governor-elect—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide security and protection for the governor, the governor's family, and the lieutenant governor to the extent and in the manner the governor and the chief of the Washington state patrol deem adequate and appropriate.

In the same manner the chief of the Washington state patrol is directed to provide security and protection for the governor-elect from the time of the November election. [1991 c 63 § 1; 1965 ex.s. c 96 § 1.]

43.43.037 Legislature—Security and protection—Duty to provide. The chief of the Washington state patrol is directed to provide such security and protection for both houses of the legislative building while in session as in the opinion of the speaker of the house and the president of the senate may be necessary therefor upon the advice of the respective sergeant-at-arms of each legislative body. [1965 ex.s. c 96 § 2.]

43.43.040 Disability of patrol officers. (1) The chief of the Washington state patrol shall relieve from active duty Washington state patrol officers who, while in the performance of their official duties, or while on standby or available for duty, have been or hereafter may be injured or

incapacitated to such an extent as to be mentally or physically incapable of active service: PROVIDED, That:

(a) Any officer disabled while performing line duty who is found by the chief to be physically incapacitated shall be placed on disability leave for a period not to exceed six months from the date of injury or the date incapacitated. During this period, the officer shall be entitled to all pay, benefits, insurance, leave, and retirement contributions awarded to an officer on active status, less any compensation received through the department of labor and industries. No such disability leave shall be approved until an officer has been unavailable for duty for more than five consecutive work days. Prior to the end of the six-month period, the chief shall either place the officer on disability status or return the officer to active status.

For the purposes of this section, "line duty" is active service which encompasses the traffic law enforcement duties and/or other law enforcement responsibilities of the state patrol. These activities encompass all enforcement practices of the laws, accident and criminal investigations, or actions requiring physical exertion or exposure to hazardous elements.

The chief shall define by rule the situations where a disability has occurred during line duty;

(b) Benefits under this section for a disability that is incurred while in other employment will be reduced by any amount the officer receives or is entitled to receive from workers' compensation, social security, group insurance, other pension plan, or any other similar source provided by another employer on account of the same disability;

(c) An officer injured while engaged in wilfully tortious or criminal conduct shall not be entitled to disability benefits under this section; and

(d) Should a disability beneficiary whose disability was not incurred in line of duty, prior to attaining age fifty, engage in a gainful occupation, the chief shall reduce the amount of his retirement allowance to an amount which when added to the compensation earned by him in such occupation shall not exceed the basic salary currently being paid for the rank the retired officer held at the time he was disabled. All such disability beneficiaries under age fifty shall file with the chief every six months a signed and sworn statement of earnings and any person who shall knowingly swear falsely on such statement shall be subject to prosecution for perjury. Should the earning capacity of such beneficiary be further altered, the chief may further alter his disability retirement allowance as indicated above. The failure of any officer to file the required statement of earnings shall be cause for cancellation of retirement benefits.

(2) Officers on disability status shall receive one-half of their compensation at the existing wage, during the time the disability continues in effect, less any compensation received through the department of labor and industries. They shall be subject to mental or physical examination at any state institution or otherwise under the direction of the chief of the patrol at any time during such relief from duty to ascertain whether or not they are able to resume active duty. [1987 c 185 § 17; 1981 c 165 § 1; 1973 2nd ex.s. c 20 § 1; 1965 c 8 § 43.43.040. Prior: 1947 c 174 § 1; 1943 c 215 § 1; RRS § 6362-65.]

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Severability—1981 c 165: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 165 § 2.]

Effective date—1981 c 165: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect January 1, 1981." [1981 c 165 § 3.]

43.43.050 Tenure of patrol officers. Washington state patrol officers shall be entitled to retain their ranks and positions until death or resignation, or until suspended, demoted, or discharged in the manner hereinafter provided. [1965 c 8 § 43.43.050. Prior: 1943 c 205 § 1; Rem. Supp. 1943 § 6362-66.]

43.43.060 Suspension or demotion of probationary officers. The chief of the Washington state patrol may suspend or demote any officer with probationary status, without preferring charges against the officer, and without a hearing. [1984 c 141 § 1; 1965 c 8 § 43.43.060. Prior: 1943 c 205 § 2; Rem. Supp. 1943 § 6362-67.]

43.43.070 Discharge of probationary officers—Discharge, demotion, or suspension of nonprobationary officers—Complaint—Hearing. Discharge of any officer with probationary status and discharge, demotion, or suspension of any officer with nonprobationary status shall be only for cause, which shall be clearly stated in a written complaint, sworn to by the person preferring the charges, and served upon the officer complained of.

Upon being so served, any such officer shall be entitled to a public hearing before a trial board consisting of two Washington state patrol officers of the rank of captain, and one officer of equal rank with the officer complained of, who shall be selected by the chief of the Washington state patrol by lot from the roster of the patrol. In the case of complaint by an officer, such officer shall not be a member of the trial board. [1984 c 141 § 2; 1965 c 8 § 43.43.070. Prior: 1943 c 205 § 3; Rem. Supp. 1943 § 6362-68.]

43.43.080 Criminal complaint—Authority to suspend officer—Hearing. When the complaint served upon an officer is of a criminal nature calling for the discharge of the officer, the chief of the patrol may immediately suspend the officer without pay pending a trial board hearing. The board shall be convened no later than forty-five days from the date of suspension. However, this does not preclude the granting of a mutually agreed upon extension; in such cases the officer shall remain on suspension without pay.

An officer complained of may waive a hearing and accept the proposed discipline by written notice to the chief of the patrol. [1989 c 28 § 1; 1965 c 8 § 43.43.080. Prior: 1943 c 205 § 4; Rem. Supp. 1943 § 6362-69.]

43.43.090 Procedure at hearing. At the hearing, an administrative law judge appointed under chapter 34.12 RCW shall be the presiding officer, and shall make all necessary rulings in the course of the hearing, but shall not be entitled to vote.

The complainant and the officer complained of may submit evidence, and be represented by counsel, and a full and complete record of the proceedings, and all testimony, shall be taken down by a stenographer.

After hearing, the findings of the trial board shall be submitted to the chief. Such findings shall be final if the charges are not sustained. In the event the charges are sustained the chief may determine the proper disciplinary action and declare it by written order served upon the officer complained of. [1989 c 28 § 2; 1984 c 141 § 3; 1965 c 8 § 43.43.090. Prior: 1943 c 205 § 5; Rem. Supp. 1943 § 6362-70.]

43.43.100 Review of order. Any officer subjected to disciplinary action may, within ten days after the service of the order upon the officer, apply to the superior court of Thurston county for a writ of review to have the reasonableness and lawfulness of the order inquired into and determined.

The superior court shall review the determination of the chief of the Washington state patrol in a summary manner, based upon the record of the hearing before the trial board, and shall render its decision within ninety days, either affirming or reversing the order of the chief, or remanding the matter to the chief for further action. A transcript of the trial board hearing shall be provided to the court by the state patrol after being paid for by the officer subjected to disciplinary action. However, if the officer prevails before the court, the state patrol shall reimburse the officer for the cost of the transcript. [1984 c 141 § 4; 1965 c 8 § 43.43.100. Prior: 1943 c 205 § 6; Rem. Supp. 1943 § 6362-71.]

43.43.110 Reinstatement on acquittal. If as a result of any trial board hearing, or review proceeding, an officer complained of is found not guilty of the charges against him, he shall be immediately reinstated to his former position, and be reimbursed for any loss of salary suffered by reason of the previous disciplinary action. [1965 c 8 § 43.43.110. Prior: 1943 c 205 § 7; Rem. Supp. 1943 § 6362-72.]

43.43.115 Real property—Sale of surplus at fair market value—Distribution of proceeds. Whenever real property owned by the state of Washington and under the jurisdiction of the Washington state patrol is no longer required, it may be sold at fair market value. All proceeds received from the sale of real property, less any real estate broker commissions, shall be deposited into the state patrol highway account: PROVIDED, That if accounts or funds other than the state patrol highway account have contributed to the purchase or improvement of the real property, the office of financial management shall determine the proportional equity of each account or fund in the property and improvements, and shall direct the proceeds to be deposited proportionally therein. [1993 c 438 § 1.]

43.43.120 Patrol retirement system—Definitions. As used in the following sections, unless a different meaning is plainly required by the context:

(1) "Retirement system" means the Washington state patrol retirement system.

(2) "Retirement fund" means the Washington state patrol retirement fund.

(3) "State treasurer" means the treasurer of the state of Washington.

(4) "Member" means any person included in the membership of the retirement fund.

(5) "Employee" means any commissioned employee of the Washington state patrol.

(6)(a) "Cadet," for a person who became a member of the retirement system after June 12, 1980, is a person who has passed the Washington state patrol's entry-level oral, written, physical performance, and background examinations and is, thereby, appointed by the chief as a candidate to be a commissioned officer of the Washington state patrol.

(b) "Cadet," for a person who became a member of the retirement system before June 12, 1980, is a trooper cadet, patrol cadet, or employee of like classification, employed for the express purpose of receiving the on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper. "Like classification" includes: Radio operators or dispatchers; persons providing security for the governor or legislature; patrolmen; drivers' license examiners; weighmasters; vehicle safety inspectors; central wireless operators; and warehousemen.

(7) "Beneficiary" means any person in receipt of retirement allowance or any other benefit allowed by this chapter.

(8) "Regular interest" means interest compounded annually at such rates as may be determined by the director.

(9) "Retirement board" means the board provided for in this chapter.

(10) "Insurance commissioner" means the insurance commissioner of the state of Washington.

(11) "Lieutenant governor" means the lieutenant governor of the state of Washington.

(12) "Service" shall mean services rendered to the state of Washington or any political subdivisions thereof for which compensation has been paid. Full time employment for seventy or more hours in any given calendar month shall constitute one month of service. An employee who is reinstated in accordance with RCW 43.43.110 shall suffer no loss of service for the period reinstated subject to the contribution requirements of this chapter. Only months of service shall be counted in the computation of any retirement allowance or other benefit provided for herein. Years of service shall be determined by dividing the total number of months of service by twelve. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(13) "Prior service" shall mean all services rendered by a member to the state of Washington, or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington.

(14) "Current service" shall mean all service as a member rendered on or after August 1, 1947.

(15) "Average final salary" shall mean the average monthly salary received by a member during the member's last two years of service or any consecutive two-year period of service, whichever is the greater, as an employee of the Washington state patrol; or if the member has less than two

years of service, then the average monthly salary received by the member during the member's total years of service.

(16) "Actuarial equivalent" shall mean a benefit of equal value when computed upon the basis of such mortality table as may be adopted and such interest rate as may be determined by the director.

(17) Unless the context expressly indicates otherwise, words importing the masculine gender shall be extended to include the feminine gender and words importing the feminine gender shall be extended to include the masculine gender.

(18) "Director" means the director of the department of retirement systems.

(19) "Department" means the department of retirement systems created in chapter 41.50 RCW.

(20) "State actuary" or "actuary" means the person appointed pursuant to RCW 44.44.010(2).

(21) "Contributions" means the deduction from the compensation of each member in accordance with the contribution rates established under RCW 43.43.300. [1983 c 81 § 1; 1982 1st ex.s. c 52 § 24; 1980 c 77 § 1; 1973 1st ex.s. c 180 § 1; 1969 c 12 § 1; 1965 c 8 § 43.43.120. Prior: 1955 c 244 § 1; 1953 c 262 § 1; 1951 c 140 § 1; 1947 c 250 § 1; Rem. Supp. 1947 § 6362-81.]

Effective date—1983 c 81: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1983." [1983 c 81 § 4.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: "The provisions of this 1969 amendatory act are intended to be remedial and procedural and any benefits heretofore paid to recipients hereunder pursuant to any previous act are retroactively included and authorized as a part of this act." [1969 c 12 § 8.]

43.43.130 Retirement fund created—Membership. (Effective until January 1, 1995.) (1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he shall be treated in all respects as a new employee: PROVIDED, That a member who reenters or has reentered service within ten years from the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus interest as determined by the director, which restoration must be completed within five years after resumption of service, be returned to the status of membership he earned at the time of termination.

(3)(a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in subsection (3)(b) of this section.

(b) Within sixty days of notification of a member's cadet service transfer as provided in subsection (3)(a) of this section, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(4) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: PROVIDED, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(5) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(6) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(7) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsection (5) of this section or establish additional credit as provided in subsection (6) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system. [1987 c 215 § 1; 1986 c 154 § 1; 1983 c 81 § 2; 1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

Effective date—1987 c 215: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 215 § 3.]

Effective date—1983 c 81: See note following RCW 43.43.120.

43.43.130 Retirement fund created—Membership. (Effective January 1, 1995.) (1) A Washington state patrol retirement fund is hereby established for members of the Washington state patrol which shall include funds created and placed under the management of a retirement board for the payment of retirement allowances and other benefits under the provisions hereof.

(2) Any employee of the Washington state patrol, upon date of commissioning, shall be eligible to participate in the retirement plan and shall start contributing to the fund immediately. Any employee of the Washington state patrol employed by the state of Washington or any of its political subdivisions prior to August 1, 1947, unless such service has been credited in another public retirement or pension system operating in the state of Washington shall receive full credit for such prior service but after that date each new commissioned employee must automatically participate in the fund. If a member shall terminate service in the patrol and later reenter, he shall be treated in all respects as a new employee.

(3)(a) A member who reenters or has reentered service within ten years from the date of his termination, shall upon completion of six months of continuous service and upon the restoration of all withdrawn contributions, plus interest as determined by the director, which restoration must be completed within five years after resumption of service, be returned to the status of membership he earned at the time of termination.

(b) A member who does not meet the time limitations for restoration under (a) of this subsection, may restore the service credit destroyed by the withdrawn contributions by paying the amount required under RCW 41.50.165(2) prior to retirement.

(4)(a) An employee of the Washington state patrol who becomes a member of the retirement system after June 12, 1980, and who has service as a cadet in the patrol training program may make an irrevocable election to transfer the service to the retirement system. Any member upon making such election shall have transferred all existing service credited in a prior public retirement system in this state for periods of employment as a cadet. Transfer of credit under this subsection is contingent on completion of the transfer of funds specified in (b) of this subsection.

(b) Within sixty days of notification of a member's cadet service transfer as provided in (a) of this subsection, the department of retirement systems shall transfer the employee's accumulated contributions attributable to the periods of service as a cadet, including accumulated interest.

(5) A member of the retirement system who has served or shall serve on active federal service in the armed forces of the United States pursuant to and by reason of orders by competent federal authority, who left or shall leave the Washington state patrol to enter such service, and who within one year from termination of such active federal service, resumes employment as a state employee, shall have his service in such armed forces credited to him as a member of the retirement system: **PROVIDED**, That no such service in excess of five years shall be credited unless such service was actually rendered during time of war or emergency.

(6) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, and who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system within a period ending June 30, 1985, or, if not an active employee on July 1, 1983, within one year of returning to commissioned service, whichever date is later. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system which constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in this subsection for making the elective transfer.

(7) An active employee of the Washington state patrol who either became a member of the retirement system prior to June 12, 1980, or who has prior service as a cadet in the public employees' retirement system may make an irrevocable election to transfer such service to the retirement system if they have not met the time limitations of subsection (6) of this section by paying the amount required under RCW 41.50.165(2) less the contributions transferred. Any member upon making such election shall have transferred all existing service credited in the public employees' retirement system that constituted service as a cadet together with the employee's contributions plus credited interest. If the employee has withdrawn the employee's contributions, the contributions must be restored to the public employees' retirement system before the transfer of credit can occur and such restoration must be completed within the time limits specified in subsection (6) of this section for making the elective transfer.

(8) An active employee of the Washington state patrol may establish up to six months' retirement service credit in the state patrol retirement system for any period of employment by the Washington state patrol as a cadet if service credit for such employment was not previously established in the public employees' retirement system, subject to the following:

(a) Certification by the patrol that such employment as a cadet was for the express purpose of receiving on-the-job

training required for attendance at the state patrol academy and for becoming a commissioned trooper.

(b) Payment by the member of employee contributions in the amount of seven percent of the total salary paid for each month of service to be established, plus interest at seven percent from the date of the probationary service to the date of payment. This payment shall be made by the member no later than July 1, 1988.

(c) If the payment required under (b) of this subsection was not made by July 1, 1988, the member may establish the probationary service by paying the amount required under RCW 41.50.165(2).

(d) A written waiver by the member of the member's right to ever establish the same service in the public employees' retirement system at any time in the future.

(9) The department of retirement systems shall make the requested transfer subject to the conditions specified in subsections (6) and (7) of this section or establish additional credit as provided in subsection (8) of this section. Employee contributions and credited interest transferred shall be credited to the employee's account in the Washington state patrol retirement system. [1994 c 197 § 33; 1987 c 215 § 1; 1986 c 154 § 1; 1983 c 81 § 2; 1980 c 77 § 2; 1965 c 8 § 43.43.130. Prior: 1953 c 262 § 2; 1951 c 140 § 2; 1947 c 250 § 2; Rem. Supp. 1947 § 6362-82.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective date—1987 c 215: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 215 § 3.]

Effective date—1983 c 81: See note following RCW 43.43.120.

43.43.135 Membership in more than one retirement system. In any case where the Washington state patrol retirement system has in existence an agreement with another retirement system in connection with exchange of service credit or an agreement whereby members can retain service credit in more than one system, an employee holding membership in, or receiving pension benefits under, any retirement plan operated wholly or in part by an agency of the state or political subdivision thereof, or who is by reason of his current employment contributing to or otherwise establishing the right to receive benefits from any such retirement plan, shall be allowed membership rights should the agreement so provide. [1965 c 8 § 43.43.135. Prior: 1951 c 140 § 10.]

43.43.137 Reestablishment of service credit by former members who are members of the public employees' retirement system—Conditions. Former members of the retirement system established under this chapter who are currently members of the retirement system governed by chapter 41.40 RCW are permitted to reestablish service credit with the system subject to the following:

(1) The former member must have separated and withdrawn contributions from the system prior to January 1, 1966, and not returned to membership since that date;

(2) The former member must have been employed by the department of licensing, or its predecessor agency, in a capacity related to drivers' license examining within thirty

days after leaving commissioned status with the state patrol; and

(3) The former member must make payment to the system of the contributions withdrawn with interest at the rate set by the director from the date of withdrawal to the date of repayment. Such payment must be made no later than June 30, 1986. [1986 c 154 § 2.]

43.43.142 Retirement board abolished—Transfer of powers, duties, and functions. The retirement board established by this chapter is abolished. All powers, duties, and functions of the board are transferred to the director of retirement systems. [1982 c 163 § 18.]

Severability—Effective date—1982 c 163: See notes following RCW 2.10.052.

43.43.165 Board may receive contributions from any source. Contributions may be received by the Washington state patrol retirement board from any public or private source for deposit into the Washington state patrol retirement fund, and said contributions shall be dealt with in the same manner as other state patrol retirement funds and subject to the terms of the contribution. [1965 c 8 § 43.43.165. Prior: 1955 c 244 § 4.]

43.43.220 Retirement fund—Expenses. The Washington state patrol retirement fund shall be the fund from which shall be paid all retirement allowances or benefits in lieu thereof which are payable as provided herein. The expenses of operating the retirement system shall be paid from appropriations made for the operation of the Washington state patrol. [1989 c 273 § 25; 1973 1st ex.s. c 180 § 2; 1965 c 8 § 43.43.220. Prior: 1961 c 93 § 1; 1957 c 162 § 2; 1951 c 140 § 3; 1947 c 250 § 11; Rem. Supp. 1947 § 6362-91.]

Severability—Effective dates—1989 c 273: See RCW 41.45.900 and 41.45.901.

43.43.230 Total service credit. Subject to the provisions of RCW 43.43.260, at retirement, the total service credited to a member shall consist of all the member's current service and accredited prior service. [1982 1st ex.s. c 52 § 25; 1965 c 8 § 43.43.230. Prior: 1953 c 262 § 3; 1947 c 250 § 12; Rem. Supp. 1947 § 6362-92.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

43.43.240 Legal adviser. The attorney general shall be the legal adviser of the retirement board. [1965 c 8 § 43.43.240. Prior: 1947 c 250 § 13; Rem. Supp. 1947 § 6362-93.]

43.43.250 Retirement of members. (1) Any member who has attained the age of sixty years shall be retired on the first day of the calendar month next succeeding that in which said member shall have attained the age of sixty: **PROVIDED,** That the requirement to retire at age sixty shall not apply to a member serving as chief of the Washington state patrol.

(2) Any member who has completed twenty-five years of credited service or has attained the age of fifty-five may

apply to retire as provided in RCW 43.43.260, by completing and submitting an application form to the department, setting forth at what time the member desires to be retired. [1982 1st ex.s. c 52 § 26; 1975-'76 2nd ex.s. c 116 § 1; 1969 c 12 § 3; 1965 c 8 § 43.43.250. Prior: 1963 c 175 § 1; 1957 c 162 § 3; 1951 c 140 § 4; 1947 c 250 § 14; Rem. Supp. 1947 § 6362-94.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.260 Benefits. (Effective until January 1, 1995.) Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3) Any member with twenty-five years service in the Washington state patrol may have the member's service in the armed forces credited as a member whether or not the individual left the employ of the Washington state patrol to enter such armed forces: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or within five years of membership service following the member's first resumption of employment, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code, as now or hereafter amended.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) A yearly increase in retirement allowance which shall amount to two percent of the retirement allowance computed at the time of retirement. This yearly increase shall be added to the retirement allowance on July 1st of each calendar year.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future. [1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12 § 4; 1965 c 8 § 43.43.260. Prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362-95.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date—1971 ex.s. c 278: "This 1971 amendatory act shall have an effective date of July 1, 1971." [1971 ex.s. c 278 § 2.]

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.260 Benefits. (Effective January 1, 1995.)

Upon retirement from service as provided in RCW 43.43.250, a member shall be granted a retirement allowance which shall consist of:

(1) A prior service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of prior service rendered by the member.

(2) A current service allowance which shall be equal to two percent of the member's average final salary multiplied by the number of years of service rendered while a member of the retirement system.

(3) Any member with twenty-five years service in the Washington state patrol may have the member's service in the armed forces credited as a member whether or not the individual left the employ of the Washington state patrol to enter such armed forces: PROVIDED, That in no instance shall military service in excess of five years be credited: AND PROVIDED FURTHER, That in each instance, a member must restore all withdrawn accumulated contributions, which restoration must be completed on the date of the member's retirement, or as provided under RCW 43.43.130, whichever occurs first: AND PROVIDED FURTHER, That this section shall not apply to any individual, not a veteran within the meaning of RCW 41.06.150, as now or hereafter amended: AND PROVIDED FURTHER, That in no instance shall military service be credited to any member who is receiving full military retirement benefits pursuant to Title 10 United States Code, as now or hereafter amended.

(4) In no event shall the total retirement benefits from subsections (1), (2), and (3) of this section, of any member exceed seventy-five percent of the member's average final salary.

(5) A yearly increase in retirement allowance which shall amount to two percent of the retirement allowance computed at the time of retirement. This yearly increase shall be added to the retirement allowance on July 1st of each calendar year.

The provisions of this section shall apply to all members presently retired and to all members who shall retire in the future. [1994 c 197 § 34; 1982 1st ex.s. c 52 § 27; 1973 1st ex.s. c 180 § 3; 1971 ex.s. c 278 § 1; 1969 c 12 § 4; 1965 c 8 § 43.43.260. Prior: 1963 c 175 § 2; 1957 c 162 § 4; 1955 c 244 § 2; 1951 c 140 § 5; 1947 c 250 § 15; Rem. Supp. 1947 § 6362-95.]

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Effective date—1971 ex.s. c 278: "This 1971 amendatory act shall have an effective date of July 1, 1971." [1971 ex.s. c 278 § 2.]

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.263 Effect of certain accumulated vacation leave on retirement benefits. RCW 43.01.044 shall not result in any increase in retirement benefits. The rights extended to state officers and employees under RCW 43.01.044 are not intended to and shall not have any effect on retirement benefits under this chapter. [1983 c 283 § 5.]

43.43.270 Retirement allowances. (1) The normal form of retirement allowance shall be an allowance which shall continue as long as the member lives.

(2) If a member should die while in service the member's lawful spouse shall be paid an allowance which shall be equal to fifty percent of the average final salary of the member. If the member should die after retirement the member's lawful spouse shall be paid an allowance which shall be equal to the retirement allowance then payable to the member or fifty percent of the final average salary used in computing the member's retirement allowance, whichever is less. The allowance paid to the lawful spouse shall continue as long as the spouse lives: **PROVIDED**, That if a surviving spouse who is receiving benefits under this subsection marries another member of this retirement system who subsequently predeceases such spouse, the spouse shall then be entitled to receive the higher of the two survivors' allowances for which eligibility requirements were met, but a surviving spouse shall not receive more than one survivor's allowance from this system at the same time under this subsection. To be eligible for an allowance the lawful surviving spouse of a retired member shall have been married to the member prior to the member's retirement and continuously thereafter until the date of the member's death or shall have been married to the retired member at least two years prior to the member's death.

(3) If a member should die, either while in service or after retirement, the member's surviving unmarried children under the age of eighteen years shall be provided for in the following manner:

(a) If there is a surviving spouse, each child shall be entitled to a benefit equal to five percent of the final average salary of the member or retired member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member or retired member; and

(b) If there is no surviving spouse or the spouse should die, the child or children shall be entitled to a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The combined benefits to the children under this subsection shall not exceed sixty percent of the final average salary of the member or retired member. Payments under this subsection shall be prorated equally among the children, if more than one.

(4) If a member should die in the line of duty while employed by the Washington state patrol, the member's surviving children under the age of twenty years and eleven months if attending any high school, college, university, or vocational or other educational institution accredited or approved by the state of Washington shall be provided for in the following manner:

(a) If there is a surviving spouse, each child shall be entitled to a benefit equal to five percent of the final average salary of the member. The combined benefits to the surviving spouse and all children shall not exceed sixty percent of the final average salary of the member;

(b) If there is no surviving spouse or the spouse should die, the unmarried child or children shall be entitled to receive a benefit equal to thirty percent of the final average salary of the member or retired member for one child and an additional ten percent for each additional child. The com-

bined benefits to the children under this subsection shall not exceed sixty percent of the final average salary. Payments under this subsection shall be prorated equally among the children, if more than one; and

(c) If a beneficiary under this subsection reaches the age of twenty-one years during the middle of a term of enrollment the benefit shall continue until the end of that term.

(5) The provisions of this section shall apply to members who have been retired on disability as provided in RCW 43.43.040 if the officer was a member of the Washington state patrol retirement system at the time of such disability retirement. [1989 c 108 § 1; 1984 c 206 § 1; 1982 1st ex.s. c 52 § 28; 1973 2nd ex.s. c 14 § 3; 1973 1st ex.s. c 180 § 4. Prior: 1969 c 12 § 6; 1965 c 8 § 43.43.270; prior: 1963 c 175 § 3; 1961 c 93 § 2; 1951 c 140 § 6; 1947 c 250 § 16; Rem. Supp. 1947 § 6362-96.]

Effective date—1989 c 108: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1989." [1989 c 108 § 2.]

Applicability—1984 c 206: "This act shall apply only to surviving spouses receiving benefits under RCW 43.43.270(2) on or after March 27, 1984. No surviving spouse whose benefits under RCW 43.43.270(2) were terminated before March 27, 1984, due to remarriage shall be governed by this act, and this act shall neither retroactively nor prospectively restore such terminated benefits. This act shall apply only to surviving unmarried children receiving benefits under RCW 43.43.270 (3) or (4) on or after March 27, 1984. No benefits shall be paid under RCW 43.43.270 (3)(b) or (4)(b) for any period before March 27, 1984." [1984 c 206 § 2.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.275 Minimum retirement allowance—Post-retirement adjustment—Computation. (1) Notwithstanding any provision of law to the contrary, effective July 1, 1987, no beneficiary receiving a retirement allowance pursuant to this chapter shall receive less than thirteen dollars per month for each year of service creditable to the person whose service is the basis of the retirement allowance. Portions of a year shall be treated as fractions of a year and the decimal equivalent shall be multiplied by thirteen dollars. Where the retirement allowance was adjusted at the time benefit payments to the beneficiary commenced, the minimum retirement allowance provided in this subsection shall be adjusted in a manner consistent with that adjustment. The minimum retirement allowance provided in this subsection shall not be applicable to those receiving benefits pursuant to RCW 43.43.040 or 43.43.270 (3) or (4).

(2) Notwithstanding any provision of law to the contrary, effective July 1, 1979, the retirement allowance of each beneficiary who either is receiving benefits pursuant to RCW 43.43.270 as of December 31, 1978, or commenced receiving a monthly retirement allowance under this chapter as of a date no later than July 1, 1974, shall be permanently increased by a post-retirement adjustment. This adjustment shall be in lieu of any adjustments provided under RCW 43.43.260(5) as of July 1, 1979, or July 1, 1980, for the affected beneficiaries, except that in no case shall such adjustment be less than the total of those which would be provided under RCW 43.43.260(5) as of July 1, 1979, and

July 1, 1980. Such adjustment shall be calculated as follows:

(a) Retirement allowances to which this subsection and subsection (1) of this section are both applicable shall be determined by first applying subsection (1) and then applying this subsection. The department shall determine the total years of creditable service and the total dollar benefit base accrued as of December 31, 1978, except that this determination shall take into account only those beneficiaries to whom this subsection applies;

(b) The department shall multiply the total benefits determined in (a) of this subsection by six percent and divide the dollar value thus determined by the total service determined in (a) of this subsection. The resultant figure shall then be a post-retirement increase factor which shall be applied as specified in (c) of this subsection;

(c) Each beneficiary to whom this subsection applies shall receive an increase which is the product of the factor determined in (b) of this subsection multiplied by the years of creditable service. [1987 c 173 § 1; 1979 ex.s. c 96 § 3.]

Effective date—1987 c 173: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 173 § 4.]

43.43.276 Retirement and beneficiary allowances—Post-retirement adjustment—Minimum adjustment. Notwithstanding any provision of law to the contrary, effective July 1, 1983, all retirement allowances that commenced on a date no later than July 1, 1978, and all beneficiary allowances that commenced on a date no later than December 31, 1982, shall be permanently increased by a post-retirement adjustment of \$.74 per month for each year of creditable service the member established with the retirement system. This adjustment shall be in lieu of any adjustment provided under RCW 43.43.260(5) as of July 1, 1983, and July 1, 1984, for the affected persons, except that in no case shall such adjustment be less than the total of those which would be provided under RCW 43.43.260(5) as of July 1, 1983, and July 1, 1984. [1983 1st ex.s. c 56 § 5.]

Effective date—1983 1st ex.s. c 56: See note following RCW 2.12.046.

43.43.277 Minimum retirement allowance for surviving spouses not eligible for federal benefits. (1) The benefits provided under subsection (2) of this section shall be available only to surviving spouses whose allowances commenced before January 1, 1970, and who are not receiving and are not eligible for federal old age, survivors, or disability benefits.

(2) Effective July 1, 1987, the minimum retirement benefit provided pursuant to RCW 43.43.275(1) to surviving spouses who meet the qualifications in subsection (1) of this section shall be twenty-three dollars per month per year of service. However, the minimum benefit for the surviving spouse of a member who died in service who meets the qualifications in subsection (1) of this section shall be calculated using twenty years of service or the member's actual years of service, whichever is greater. [1987 c 173 § 2.]

Effective date—1987 c 173: See note following RCW 43.43.275.

43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five. (Effective until January 1, 1995.) (1) If a member dies before retirement, and has no surviving spouse or children under the age of eighteen years, all contributions made by the member with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to be a member except as provided under RCW 43.43.130 (2) and (3) and, the individual may withdraw the member's contributions to the retirement fund, with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply. [1991 c 365 § 32; 1987 c 215 § 2; 1982 1st ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

Severability—1991 c 365: See note following RCW 41.50.500.

Effective date—1987 c 215: See note following RCW 43.43.130.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.280 Repayment of contributions on death or termination of employment—Election to receive reduced retirement allowance at age fifty-five. (Effective January 1, 1995.) (1) If a member dies before retirement, and has no surviving spouse or children under the age of eighteen years, all contributions made by the member, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, less any amount identified as owing to an obligee upon withdrawal of accumulated contributions pursuant to a court order filed under RCW 41.50.670, shall be paid to such person or persons as the member shall have nominated by written designation duly executed and filed with the department, or if there be no such designated person or persons, then to the member's legal representative.

(2) If a member should cease to be an employee before attaining age sixty for reasons other than the member's death, or retirement, the individual shall thereupon cease to

be a member except as provided under *RCW 43.43.130 (2) and (3) and, the individual may withdraw the member's contributions to the retirement fund, including any amount paid under RCW 41.50.165(2), with interest as determined by the director, by making application therefor to the department, except that: A member who ceases to be an employee after having completed at least five years of service shall remain a member during the period of the member's absence from employment for the exclusive purpose only of receiving a retirement allowance to begin at attainment of age sixty, however such a member may upon written notice to the department elect to receive a reduced retirement allowance on or after age fifty-five which allowance shall be the actuarial equivalent of the sum necessary to pay regular retirement benefits as of age sixty: PROVIDED, That if such member should withdraw all or part of the member's accumulated contributions, the individual shall thereupon cease to be a member and this subsection shall not apply. [1994 c 197 § 35; 1991 c 365 § 32; 1987 c 215 § 2; 1982 1st ex.s. c 52 § 29; 1973 1st ex.s. c 180 § 5; 1969 c 12 § 7; 1965 c 8 § 43.43.280. Prior: 1961 c 93 § 3; 1951 c 140 § 7; 1947 c 250 § 17; Rem. Supp. 1947 § 6363-97.]

*Reviser's note: RCW 43.43.130 was amended by 1994 c 197 § 33 changing subsections (2) and (3) to subsections (2), (3), and (4).

Intent—Severability—Effective date—1994 c 197: See notes following RCW 41.50.165.

Severability—1991 c 365: See note following RCW 41.50.500.

Effective date—1987 c 215: See note following RCW 43.43.130.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

Construction—1969 c 12: See note following RCW 43.43.120.

43.43.290 Status in case of disablement. A person receiving benefits under RCW 43.43.040 will be a nonactive member. If any person who is or has been receiving benefits under RCW 43.43.040 returns or has returned to active duty with the Washington state patrol, the person shall become an active member of the retirement system on the first day of reemployment. The person may acquire service credit for the period of disablement by paying into the retirement fund all contributions required based on the compensation which would have been received had the person not been disabled. To acquire service credit, the person shall complete the required payment within five years of return to active service or prior to retirement, whichever occurs first. Persons who return to active service prior to July 1, 1982, shall complete the required payment within five years of July 1, 1982, or prior to retirement, whichever occurs first. No service credit for the disability period may be allowed unless full payment is made. Interest shall be charged at the rate set by the director of retirement systems from the date of return to active duty or from July 1, 1982, whichever is later, until the date of payment. The Washington state patrol shall pay into the retirement system the amount which it would have contributed had the person not been disabled. The payment shall become due and payable, in total, when the person makes the first payment. If the person fails to complete the full payment required within the time period specified, any payments made to the retirement fund under this section shall be refunded with interest and any payment by the Washington state patrol to the retirement fund for this purpose shall be refunded. [1982 1st ex.s. c 52

§ 30; 1965 c 8 § 43.43.290. Prior: 1947 c 250 § 18; Rem. Supp. 1947 § 6362-98.]

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

43.43.300 Contributions by members—State contributions remain in fund if member leaves patrol. Beginning on July 1, 1963, every Washington state patrol employee who is a member of the retirement fund shall contribute seven percent of his monthly salary, which shall be deducted from the compensation of each member on each and every payroll.

In event a member severs his connection with the Washington state patrol or is dismissed, the amount paid by the state of Washington shall remain in the retirement fund. [1965 c 8 § 43.43.300. Prior: 1963 c 175 § 4; 1961 c 93 § 4; 1955 c 244 § 3; 1951 c 140 § 9; 1947 c 250 § 19; Rem. Supp. 1947 § 6362-99.]

Members' retirement contributions—Payment by employer: RCW 41.04.445.

43.43.310 Benefits exempt from taxation and legal process—Assignability—Exceptions—Deductions for group insurance premiums or for state patrol memorial foundation contributions. (1) Except as provided in subsections (2) and (3) of this section, the right of any person to a retirement allowance or optional retirement allowance under the provisions hereof and all moneys and investments and income thereof are exempt from any state, county, municipal, or other local tax and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency laws, or other processes of law whatsoever and shall be unassignable except as herein specifically provided.

(2) Subsection (1) of this section shall not prohibit the department of retirement systems from complying with (a) a wage assignment order for child support issued pursuant to chapter 26.18 RCW, (b) an order to withhold and deliver issued pursuant to chapter 74.20A RCW, (c) a notice of payroll deduction issued pursuant to RCW 26.23.060, (d) a mandatory benefits assignment order issued pursuant to chapter 41.50 RCW, (e) a court order directing the department of retirement systems to pay benefits directly to an obligee under a dissolution order as defined in RCW 41.50.500(3) which fully complies with RCW 41.50.670 and 41.50.700, or (f) any administrative or court order expressly authorized by federal law.

(3) Subsection (1) of this section shall not be deemed to prohibit a beneficiary of a retirement allowance from authorizing deductions therefrom for payment of premiums due on any group insurance policy or plan issued for the benefit of a group comprised of members of the Washington state patrol or other public employees of the state of Washington, or for contributions to the Washington state patrol memorial foundation. [1991 c 365 § 23; 1989 c 360 § 29. Prior: 1987 c 326 § 25; 1987 c 63 § 1; 1982 1st ex.s. c 52 § 31; 1979 ex.s. c 205 § 8; 1977 ex.s. c 256 § 1; 1965 c 8 § 43.43.310; prior: 1951 c 140 § 8; 1947 c 250 § 20; Rem. Supp. 1947 § 6362-100.]

Severability—1991 c 365: See note following RCW 41.50.500.

Effective date—1987 c 326: See RCW 41.50.901.

Effective dates—1982 1st ex.s. c 52: See note following RCW 2.10.180.

43.43.320 Penalty for falsification. Any person who knowingly makes any false statement or falsifies or permits to be falsified any record or records of the Washington state patrol retirement fund in any attempt to defraud such fund shall be guilty of a gross misdemeanor. [1965 c 8 § 43.43.320. Prior: 1947 c 250 § 21; Rem. Supp. 1947 § 6362-101.]

43.43.330 Examinations for promotion. Appropriate examinations shall be conducted for the promotion of commissioned patrol officers to the rank of sergeant and lieutenant. The examinations shall be prepared and conducted under the supervision of the chief of the Washington state patrol, who shall cause at least thirty days written notice thereof to be given to all patrol officers eligible for such examinations. The written notice shall specify the expected type of examination and relative weights to be assigned if a combination of tests is to be used. Examinations shall be given once every two years, or whenever the eligible list becomes exhausted as the case may be. After the giving of each such examination a new eligible list shall be compiled replacing any existing eligible list for such rank. Only grades attained in the last examination given for a particular rank shall be used in compiling each eligible list therefor. The chief, or in his discretion a committee of three individuals appointed by him, shall prepare and conduct the examinations, and thereafter grade and evaluate them in accordance with the following provisions, or factors: For promotion to the rank of sergeant or lieutenant, the examination shall consist of one or more of the following components: (1) Oral examination; (2) written examination; (3) service rating; (4) personnel record; (5) assessment center or other valid tests that measures the skills, knowledge, and qualities needed to perform these jobs. A cutoff score may be set for each testing component that allows only those scoring above the cutoff on one component to proceed to take a subsequent component. [1993 c 155 § 1; 1985 c 4 § 1; 1969 ex.s. c 20 § 1; 1965 c 8 § 43.43.330. Prior: 1959 c 115 § 1; 1949 c 192 § 2; Rem. Supp. 1949 § 6362-61a.]

43.43.340 Eligible list, and promotions therefrom—Affirmative action. (1) The names of all officers who have passed examinations satisfactorily shall be placed on an eligible list in the order of the grade attained in the examinations. The chief, or the committee mentioned in RCW 43.43.330 at the chief's request, may determine the lowest examination grade which will qualify an officer for inclusion of his or her name on an eligible list. Examination papers shall be graded promptly and an eligible list shall be made up immediately thereafter. All officers taking an examination shall be informed of the grade earned.

(2) After an eligible list is made up all promotions shall be made from the five top names on the applicable list, and if needed to comply with affirmative action goals three additional names referred under subsection (3) of this section. Not all three additional names need be promoted at the time they are referred and they may be referred more than once. Each officer shall be informed in writing as his

or her name is included in the top five on an eligible list or referred under subsection (3) of this section. No officer whose name appears within the top five on any eligible list shall be passed over for promotion more than three times.

(3) If the vacancy to be filled is identified as part of the state patrol's affirmative action goals as established under its affirmative action plan, the chief may refer for consideration up to three additional names per vacancy of individuals who are on the eligible list and who are members of one or more of the protected groups under Title VII of the 1964 Civil Rights Act and chapter 49.60 RCW, or for federal contract compliance purposes, veterans and disabled veterans as defined in the Vietnam Era Veterans Readjustment Act of 1974, Title 41 C.F.R., chapter 60, part 60-250.

The three additional names referred for each vacancy shall be the top three members of the protected groups designated by the chief for referral for that vacancy in accordance with the state patrol's affirmative action goals. These names shall be drawn in rank order from the remaining names of protected group members on the eligible list, after ranking by examination grade. For each vacancy, a total of three supplementary names may be referred.

(4) After having qualified for promotion hereunder an officer must pass a medical examination and must be certified as to physical fitness to perform the duties of the advanced position by one of three doctors designated by the chief of the Washington state patrol.

(5) The state patrol shall consult with the human rights commission in the development of rules pertaining to affirmative action. The state patrol shall transmit a report annually to the human rights commission which states the progress the state patrol has made in meeting affirmative action goals and timetables. [1985 c 365 § 6; 1965 c 8 § 43.43.340. Prior: 1949 c 192 § 3; Rem. Supp. 1949 § 6362-61b.]

43.43.350 Determination of eligibility for examination or promotion. Eligibility for examination or promotion shall be determined as follows:

Patrol officers with one year of probationary experience, in addition to three years experience as a regular patrolman, shall be eligible for examination for the rank of sergeant; patrol officers with one year of probationary experience in the rank of sergeant, in addition to two years as a regular sergeant, shall be eligible for examination for the rank of lieutenant. [1969 ex.s. c 20 § 2; 1965 c 8 § 43.43.350. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.360 Probationary period. All newly appointed or promoted officers shall serve a probationary period of one year after appointment or promotion, whereupon their probationary status shall terminate, and they shall acquire regular status in the particular grade, unless given notice in writing to the contrary by the chief prior to the expiration of the probationary period. [1984 c 141 § 5; 1965 c 8 § 43.43.360. Prior: 1949 c 192 § 4, part; Rem. Supp. 1949 § 6362-61c, part.]

43.43.370 Staff or technical officers. The chief of the Washington state patrol may appoint such staff or

technical officers as he deems necessary for the efficient operation of the patrol, and he may assign whatever rank he deems necessary to such staff or technical officers for the duration of their service as such.

Staff or technical officers may be returned to their line rank or position whenever the chief so desires. Staff or technical officers without line command assignment and whose duties are of a special or technical nature shall hold their staff or technical rank on a continuing probationary basis; however, such staff or technical officers, if otherwise eligible, shall not be prevented from taking the line promotion examinations, and qualifying for promotion whenever the examinations may be held.

If a staff or technical officer returns to line operations he shall return in the rank that he holds in the line command, unless promoted to a higher rank through examination and appointment as herein provided: PROVIDED, Nothing contained herein shall be construed as giving the chief the right to demote or to reduce the rank of any officer of the patrol who was holding such office on April 1, 1949. [1965 c 8 § 43.43.370. Prior: 1949 c 192 § 5; Rem. Supp. 1949 § 6362-61d.]

43.43.380 Minimum salaries. The minimum monthly salary paid to state patrol officers shall be as follows: Officers, three hundred dollars; staff or technical sergeants, three hundred twenty-five dollars; line sergeants, three hundred fifty dollars; lieutenants, three hundred seventy-five dollars; captains, four hundred twenty-five dollars. [1965 c 8 § 43.43.380. Prior: 1949 c 192 § 6; Rem. Supp. 1949 § 6362-61e.]

43.43.390 Bicycle awareness program—Generally. Bicycling is increasing in popularity as a form of recreation and as an alternative mode of transportation. To make bicycling safer, the various law enforcement agencies should enforce traffic regulations for bicyclists. By enforcing bicycle regulations, law enforcement officers are reinforcing educational programs. Bicycling takes more skill than most people realize. Since bicyclists have a low profile in traffic and are unprotected, they need more defensive riding skills than motorists do.

A bicycle awareness program is created within the Washington state patrol. In developing the curriculum for the bicycle awareness program the patrol shall consult with the traffic safety commission and with bicycling groups providing bicycle safety education. The patrol shall conduct the program in conjunction with the safety education officer program and may use other law enforcement personnel and volunteers to implement the program for children in grades kindergarten through six. The patrol shall ensure that each safety educator presenting the bicycle awareness program has received specialized training in bicycle safety education and has been trained in effective defensive bicycle riding skills. [1991 c 214 § 1.]

Bicycle transportation management program: RCW 47.04.190.

43.43.500 Crime information center—Established—Purpose—Functions. There is established the Washington state crime information center to be located in the records division of the Washington state patrol and to function under

the direction of the chief of the Washington state patrol. The center shall serve to coordinate crime information, by means of data processing, for all law enforcement agencies in the state. It shall make such use of the facilities of the law enforcement teletype system as is practical. It shall provide access to the national crime information center, to motor vehicle and driver license information and to such other public records as may be accessed by data processing and which are pertinent to law enforcement. [1967 ex.s. c 27 § 1.]

43.43.510 Crime information center—Files listing stolen vehicles, outstanding warrants, etc., to be established. As soon as is practical and feasible there shall be established, by means of data processing, files listing stolen and wanted vehicles, outstanding warrants, identifiable stolen property and such other files as may be of general assistance to law enforcement agencies. [1967 ex.s. c 27 § 2.]

43.43.530 Crime information center—Cost of terminal facilities. The cost of additional terminal facilities necessary to gain access to the Washington state crime information center shall be borne by the respective agencies operating the terminal facilities. [1967 ex.s. c 27 § 4.]

43.43.540 Sex offenders—Central registry—Reimbursement to counties. The county sheriff shall forward the information and fingerprints obtained pursuant to RCW 9A.44.130 to the Washington state patrol within five working days. The state patrol shall maintain a central registry of sex offenders required to register under RCW 9A.44.130 and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of RCW 9A.44.130, 9A.44.140, 10.01.200, 43.43.540, 46.20.187, 70.48.470, and 72.09.330. The Washington state patrol shall reimburse the counties for the costs of processing the sex offender registration, including taking the fingerprints and the photographs. [1990 c 3 § 403.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.
Sex offense defined: RCW 9A.44.130.

43.43.550 Traffic safety education officers—Powers—Pay and reimbursement. (1) The chief of the Washington state patrol shall designate twenty-four or more officers as traffic safety education officers. The chief of the Washington state patrol shall make the designations in a manner designed to ensure that the programs under subsection (2) of this section are reasonably available in all areas of the state.

(2) The chief of the Washington state patrol may permit these traffic safety education officers to appear in their off-duty hours in uniform to give programs in schools or the community on the duties of the state patrol, traffic safety, or crime prevention.

(3) The traffic safety education officers may accept such pay and reimbursement of expenses as are approved by the state patrol from the sponsoring organization.

(4) The state patrol is encouraged to work with community organizations to set up these programs state-wide. [1984 c 217 § 1.]

43.43.560 Automatic fingerprint information system—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol shall develop a plan for and implement an automatic fingerprint information system. In implementing the automatic fingerprint information system, the state patrol shall either purchase or lease the appropriate computer systems. If the state patrol leases a system, the lease agreement shall include purchase options. The state patrol shall procure the most efficient system available.

(2) The state patrol shall report on the automatic fingerprint information system to the legislature no later than January 1, 1987. The report shall include a time line for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1986 c 196 § 1.]

43.43.565 Automatic fingerprint information system account. (1) The automatic fingerprint information system account is established in the custody of the state treasurer. Moneys in the account may be spent only for the purposes of purchasing or leasing automatic fingerprint information systems after appropriation by the legislature.

(2) Any moneys received by the state from bureau of justice assistance grants shall be deposited in the automatic fingerprint information system account if not inconsistent with the terms of the grant. [1986 c 196 § 2.]

43.43.570 Automatic fingerprint identification system—Conditions for local establishment or operation—Exemption—Rules. (1) No local law enforcement agency may establish or operate an automatic fingerprint identification system unless:

(a) Both the hardware and software of the local system are compatible with the state system under RCW 43.43.560; and

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol automatic fingerprint identification system and transmit data to the Washington state patrol automatic fingerprint identification system.

(2) A local law enforcement agency operating an automatic fingerprint identification system shall transmit data on fingerprint entries to the Washington state patrol electronically by computer. This requirement shall be in addition to those under RCW 10.98.050 and 43.43.740.

(3) Counties or local agencies that purchased or signed a contract to purchase an automatic fingerprint identification system prior to January 1, 1987, are exempt from the requirements of this section. The Washington state patrol shall charge fees for processing latent fingerprints submitted to the patrol by counties or local jurisdictions exempted from the requirements of this section. The fees shall cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such fingerprints.

(4) The Washington state patrol shall adopt rules to implement this section. [1987 c 450 § 1.]

43.43.600 Drug control assistance unit—Created. There is hereby created in the Washington state patrol a drug control assistance unit. [1970 ex.s. c 63 § 1.]

43.43.610 Drug control assistance unit—Duties. The drug control assistance unit shall provide investigative assistance for the purpose of enforcement of the provisions of chapter 69.40 RCW. [1983 c 3 § 107; 1980 c 69 § 1; 1970 ex.s. c 63 § 2.]

43.43.620 Drug control assistance unit—Additional duties—Information system on violations—Inter-unit communications network. The drug control assistance unit shall:

(1) Establish a record system to coordinate with all law enforcement agencies in the state a comprehensive system of information concerning violations of the narcotic and drug laws.

(2) Provide a communications network capable of interconnecting all offices and investigators of the unit. [1970 ex.s. c 63 § 3.]

43.43.630 Drug control assistance unit—Use of existing facilities and systems. In order to maximize the efficiency and effectiveness of state resources, the drug control assistance unit shall, where feasible, use existing facilities and systems. [1970 ex.s. c 63 § 4.]

43.43.640 Drug control assistance unit—Certain investigators exempt from state civil service act. Any investigators employed pursuant to RCW 43.43.610 shall be exempt from the state civil service act, chapter 41.06 RCW. [1980 c 69 § 3; 1970 ex.s. c 63 § 5.]

43.43.650 Drug control assistance unit—Employment of necessary personnel. The chief of the Washington state patrol may employ such criminalists, chemists, clerical and other personnel as are necessary for the conduct of the affairs of the drug control assistance unit. [1970 ex.s. c 63 § 6.]

43.43.655 Drug control assistance unit—Special narcotics enforcement unit. A special narcotics enforcement unit is established within the Washington state patrol drug control assistance unit. The unit shall be coordinated between the Washington state patrol, the attorney general, and the Washington association of sheriffs and police chiefs. The initial unit shall consist of attorneys, investigators, and the necessary accountants and support staff. It is the responsibility of the unit to: (1) Conduct criminal narcotic profiteering investigations and assist with prosecutions, (2) train local undercover narcotic agents, and (3) coordinate federal, state, and local interjurisdictional narcotic investigations. [1989 c 271 § 235.]

Reviser's note: 1989 c 271 § 235 directed that this section be added to chapter 9A.82 RCW. Since this placement appears inappropriate, this section has been codified in chapter 43.43 RCW.

Severability—1989 c 271: See note following RCW 9.94A.310.

43.43.670 Crime laboratory created—Powers—Priorities. There is created in the Washington state patrol a crime laboratory system which is authorized to:

(1) Provide laboratory services for the purpose of analyzing and scientifically handling any physical evidence relating to any crime.

(2) Provide training assistance for local law enforcement personnel.

The crime laboratory system shall assign priority to a request for services with due regard to whether the case involves criminal activity against persons. The Washington state advisory council on criminal justice services shall assist the crime laboratory system in devising policies to promote the most efficient use of laboratory resources consistent with this section. [1980 c 69 § 2.]

43.43.680 Controlled substance, simulator solution analysis—Prima facie evidence. (1) In all prosecutions involving the analysis of a controlled substance or a sample of a controlled substance by the crime laboratory system of the state patrol, a certified copy of the analytical report signed by the supervisor of the state patrol's crime laboratory or the forensic scientist conducting the analysis is prima facie evidence of the results of the analytical findings.

(2) The defendant or a prosecutor may subpoena the forensic scientist who conducted the analysis of the substance to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if the subpoena is issued at least ten days prior to the trial date.

(3) In all prosecutions involving the analysis of a certified simulator solution by the Washington state toxicology laboratory of the University of Washington, a certified copy of the analytical report signed by the state toxicologist or the toxicologist conducting the analysis is prima facie evidence of the results of the analytical findings, and of certification of the simulator solution used in the BAC verifier datamaster or any other alcohol/breath-testing equipment subsequently adopted by rule.

(4) The defendant of a prosecution may subpoena the toxicologist who conducted the analysis of the simulator solution to testify at the preliminary hearing and trial of the issue at no cost to the defendant, if thirty days prior to issuing the subpoena the defendant gives the state toxicologist notice of the defendant's intention to require the toxicologist's appearance. [1994 c 271 § 501; 1992 c 129 § 1.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

43.43.690 Crime laboratory analysis—Guilty persons to pay fee. (1) When a person has been adjudged guilty of violating any criminal statute of this state and a crime laboratory analysis was performed by a state crime laboratory, in addition to any other disposition, penalty, or fine imposed, the court shall levy a crime laboratory analysis fee of one hundred dollars for each offense for which the person was convicted. Upon a verified petition by the person assessed the fee, the court may suspend payment of

all or part of the fee if it finds that the person does not have the ability to pay the fee.

(2) When a minor has been adjudicated a juvenile offender for an offense which, if committed by an adult, would constitute a violation of any criminal statute of this state and a crime laboratory analysis was performed, in addition to any other disposition imposed, the court shall assess a crime laboratory analysis fee of one hundred dollars for each adjudication. Upon a verified petition by a minor assessed the fee, the court may suspend payment of all or part of the fee [if] it finds that the minor does not have the ability to pay the fee.

(3) All crime laboratory analysis fees assessed under this section shall be collected by the clerk of the court and forwarded to the state general fund, to be used only for crime laboratories. The clerk may retain five dollars to defray the costs of collecting the fees. [1992 c 129 § 2.]

43.43.700 Identification, child abuse, vulnerable adult abuse, and criminal history section—Generally. There is hereby established within the Washington state patrol a section on identification, child abuse, vulnerable adult abuse, and criminal history hereafter referred to as the section.

In order to aid the administration of justice the section shall install systems for the identification of individuals, including the fingerprint system and such other systems as the chief deems necessary. The section shall keep a complete record and index of all information received in convenient form for consultation and comparison.

The section shall obtain from whatever source available and file for record the fingerprints, palmprints, photographs, or such other identification data as it deems necessary, of persons who have been or shall hereafter be lawfully arrested and charged with, or convicted of any criminal offense. The section may obtain like information concerning persons arrested for or convicted of crimes under the laws of another state or government.

The section shall also contain like information concerning persons, over the age of eighteen years, who have been found, pursuant to a dependency proceeding under *RCW 13.34.030(2)(b) to have physically abused or sexually abused or exploited a child or, pursuant to a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult. [1989 c 334 § 6; 1987 c 486 § 9; 1985 c 201 § 7; 1984 c 17 § 17; 1972 ex.s. c 152 § 1.]

*Reviser's note: RCW 13.34.030 was amended by 1994 c 288 § 1, changing subsection (2)(b) to subsection (4)(b).

43.43.705 Identification data—Processing procedure—Definitions. Upon the receipt of identification data from criminal justice agencies within this state, the section shall immediately cause the files to be examined and upon request shall promptly return to the contributor of such data a transcript of the record of previous arrests and dispositions of the persons described in the data submitted.

Upon application, the section shall furnish to criminal justice agencies, or to the department of social and health services, hereinafter referred to as the "department", a transcript of the criminal offender record information, dependency record information, or protection proceeding record

information available pertaining to any person of whom the section has a record.

For the purposes of RCW 43.43.700 through 43.43.800 the following words and phrases shall have the following meanings:

"Criminal offender record information" includes, and shall be restricted to identifying data and public record information recorded as the result of an arrest or other initiation of criminal proceedings and the consequent proceedings related thereto. "Criminal offender record information" shall not include intelligence, analytical, or investigative reports and files.

"Criminal justice agencies" are those public agencies within or outside the state which perform, as a principal function, activities directly relating to the apprehension, prosecution, adjudication or rehabilitation of criminal offenders.

"Dependency record information" includes and shall be restricted to identifying data regarding a person, over the age of eighteen, who was a party to a dependency proceeding brought under chapter 13.34 RCW and who has been found, pursuant to such dependency proceeding, to have sexually abused or exploited or physically abused a child.

"Protection proceeding record information" includes and shall be restricted to identifying data regarding a person, over eighteen, who was a respondent to a protection proceeding brought under chapter 74.34 RCW and who has been found pursuant to such a proceeding to have abused or financially exploited a vulnerable adult.

The section may refuse to furnish any information pertaining to the identification or history of any person or persons of whom it has a record, or other information in its files and records, to any applicant if the chief determines that the applicant has previously misused information furnished to such applicant by the section or the chief believes that the applicant will not use the information requested solely for the purpose of due administration of the criminal laws or for the purposes enumerated in RCW 43.43.760(3). The applicant may appeal such determination and denial of information to the advisory council created in *RCW 43.43.785 and the council may direct that the section furnish such information to the applicant. [1989 c 334 § 7; 1987 c 486 § 10; 1985 c 201 § 8; 1977 ex.s. c 314 § 14; 1972 ex.s. c 152 § 2.]

*Reviser's note: RCW 43.43.790 created the advisory council on criminal justice services.

43.43.710 Availability of information. Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed for any personal purpose or in any civil court proceedings except upon a written order of the judge of a court wherein such civil proceedings are had. All information contained in the files of the section relative to criminal records and personal histories of persons arrested for the commission of a crime shall be available to all criminal justice agencies and, for the sole purpose of investigating the cause of fires under RCW 48.48.060(2) where the cause is suspected to be arson, to the *director of community development, through the director of fire protection, upon the filing of an application as provided in RCW 43.43.705.

Although no application for information has been made to the section as provided in RCW 43.43.705, the section may transmit such information in the chief's discretion, to such agencies as are authorized by RCW 43.43.705 to make application for it. [1987 c 486 § 11; 1986 c 266 § 87; 1985 c 201 § 9; 1979 ex.s. c 36 § 7. Prior: 1977 ex.s. c 314 § 15; 1977 ex.s. c 30 § 1; 1972 ex.s. c 152 § 3.]

*Reviser's note: Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability—1986 c 266: See note following RCW 38.52.005.

43.43.715 Identification—Cooperation with other criminal justice agencies. The section shall, consistent with the procedures set forth in *this 1972 act, cooperate with all other criminal justice agencies, and the department, within or without the state, in an exchange of information regarding convicted criminals and those suspected of or wanted for the commission of crimes, and persons who are the subject of dependency record information or protection proceeding record information, to the end that proper identification may rapidly be made and the ends of justice served. [1989 c 334 § 8; 1985 c 201 § 10; 1972 ex.s. c 152 § 4.]

*Reviser's note: For "this 1972 act" [1972 ex.s. c 152], see note following RCW 43.43.810.

43.43.720 Local identification and records systems—Assistance. At the request of any criminal justice agency within this state, the section may assist such agency in the establishment of local identification and records systems. [1972 ex.s. c 152 § 5.]

43.43.725 Records as evidence. Any copy of a criminal offender record, photograph, fingerprint, or other paper or document in the files of the section, including dependency record information, certified by the chief or his designee to be a true and complete copy of the original or of information on file with the section, shall be admissible in evidence in any court of this state pursuant to the provisions of RCW 5.44.040. [1985 c 201 § 11; 1972 ex.s. c 152 § 6.]

43.43.730 Records—Inspection—Requests for purge or modification—Appeals. (1) Any individual shall have the right to inspect criminal offender record information, or dependency record information, on file with the section which refers to him. If an individual believes such information to be inaccurate or incomplete, he may request the section to purge, modify or supplement it and to advise such persons or agencies who have received his record and whom the individual designates to modify it accordingly. Should the section decline to so act, or should the individual believe the section's decision to be otherwise unsatisfactory, the individual may appeal such decision to the superior court in the county in which he is resident, or the county from which the disputed record emanated or Thurston county. The court shall in such case conduct a de novo hearing, and may order such relief as it finds to be just and equitable.

(2) The section may prescribe reasonable hours and a place for inspection, and may impose such additional restrictions, including fingerprinting, as are reasonably

necessary both to assure the record's security and to verify the identities of those who seek to inspect them: PROVIDED, That the section may charge a reasonable fee for fingerprinting. [1985 c 201 § 12; 1977 ex.s. c 314 § 16; 1972 ex.s. c 152 § 7.]

43.43.735 Photographing and fingerprinting—Powers and duties of law enforcement agencies, department of licensing, and courts—Other data. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state, to cause the photographing and fingerprinting of all adults and juveniles lawfully arrested for the commission of any criminal offense constituting a felony or gross misdemeanor. (a) When such juveniles are brought directly to a juvenile detention facility, the juvenile court administrator is also authorized, but not required, to cause the photographing, fingerprinting, and record transmittal to the appropriate law enforcement agency; and (b) a further exception may be made when the arrest is for a violation punishable as a gross misdemeanor and the arrested person is not taken into custody.

(2) It shall be the right, but not the duty, of the sheriff or director of public safety of every county, and the chief of police of every city or town, and every chief officer of other law enforcement agencies operating within this state to photograph and record the fingerprints of all adults lawfully arrested, all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information.

(3) Such sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may record, in addition to photographs and fingerprints, the palmprints, soleprints, toeprints, or any other identification data of all persons whose photograph and fingerprints are required or allowed to be taken under this section, all persons who are the subject of dependency record information, or all persons who are the subject of protection proceeding record information, when in the discretion of such law enforcement officers it is necessary for proper identification of the arrested person or the investigation of the crime with which he is charged.

(4) It shall be the duty of the department of health or the court having jurisdiction over the dependency action and protection proceedings under chapter 74.34 RCW to cause the fingerprinting of all persons who are the subject of a disciplinary board final decision, dependency record information, protection proceeding record information, or to obtain other necessary identifying information, as specified by the section in rules adopted under chapter 34.05 RCW to carry out the provisions of this subsection.

(5) The court having jurisdiction over the dependency or protection proceeding action may obtain and record, in addition to fingerprints, the photographs, palmprints, soleprints, toeprints, or any other identification data of all persons who are the subject of dependency record information or protection proceeding record information, when in the discretion of the court it is necessary for proper identification of the person. [1991 c 3 § 297. Prior: 1989 c 334 § 9; 1989 c 6 § 2; prior: 1987 c 486 § 12; 1987 c 450 § 2; 1985 c 201 § 13; 1972 ex.s. c 152 § 8.]

43.43.740 Photographing and fingerprinting—Transmittal of data—Compliance audits. (1) It shall be the duty of the sheriff or director of public safety of every county, and the chief of police of every city or town, and of every chief officer of other law enforcement agencies duly operating within this state to furnish within seventy-two hours from the time of arrest to the section the required sets of fingerprints together with other identifying data as may be prescribed by the chief, of any person lawfully arrested, fingerprinted, and photographed pursuant to RCW 43.43.735.

(2) Law enforcement agencies may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. Said records shall remain in the possession of the law enforcement agency as part of the identification record and are not returnable to the subjects thereof.

(3) It shall be the duty of the court having jurisdiction over the dependency action to furnish dependency record information, obtained pursuant to RCW 43.43.735, to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a finding, pursuant to a dependency action brought under chapter 13.34 RCW, that a person over the age of eighteen, who is a party to the dependency action, has sexually abused or exploited or physically abused a child.

(4) The court having jurisdiction over the dependency or protection proceeding action may retain and file copies of the fingerprints, photographs, and other identifying data and information obtained pursuant to RCW 43.43.735. These records shall remain in the possession of the court as part of the identification record and are not returnable to the subjects thereof.

(5) It shall be the duty of a court having jurisdiction over the protection proceeding to furnish protection proceeding record information, obtained under RCW 43.43.735 to the section within seven days, excluding Saturdays, Sundays, and holidays, from the date that the court enters a final order pursuant to a protection proceeding brought under chapter 74.34 RCW, that a person over the age of eighteen, who is the respondent to the protection proceeding, has abused or financially exploited a vulnerable adult as that term is defined in RCW 43.43.830.

(6) The section shall administer periodic compliance audits for the department of licensing and each court having jurisdiction over dependency and protection proceeding actions as defined in chapters 13.34 and 74.34 RCW, respectively. Such audits shall ensure that all dependency record information regarding persons over the age of eighteen years has been furnished to the section as required in subsection (3) of this section. [1989 c 334 § 10. Prior: 1987 c 486 § 13; 1987 c 450 § 3; 1985 c 201 § 14; 1972 ex.s. c 152 § 9.]

43.43.742 Submission of fingerprints taken from persons for noncriminal purposes—Fees. The Washington state patrol shall adopt rules concerning submission of fingerprints taken by local agencies after July 26, 1987, from persons for license application or other noncriminal purposes. The Washington state patrol may charge fees for submission of fingerprints which will cover as nearly as practicable the direct and indirect costs to the Washington

state patrol of processing such submission. [1987 c 450 § 4.]

43.43.745 Convicted persons, fingerprinting required, records—Furloughs, information to section, notice to local agencies—Arrests, disposition information—Convicts, information to section, notice to local agencies—Registration of sex offenders. (1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, thirty days prior to the beginning of such furlough, the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest Washington state patrol district facility in the county wherein the furloughed prisoner is to be residing, and other similar criminal justice agencies that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In the case of an emergency furlough the thirty-day time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board, or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the sheriff or director of public safety, the nearest Washington state patrol district facility, and other similar criminal justice agencies that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his or her release or discharge.

Local law enforcement agencies shall require persons convicted of sex offenses to register pursuant to RCW 9A.44.130. In addition, nothing in this section shall be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from registration pursuant to RCW 9A.44.130 which source may include any officer or other agency or subdivision of the state.

(5) The existence of the notice requirement in subsection (2) of this section will not require any extension of the release date in the event the release plan changes after notification. [1994 c 129 § 7; 1993 c 24 § 1; 1990 c 3 § 409; 1985 c 346 § 6; 1973 c 20 § 1; 1972 ex.s. c 152 § 10.]

Findings—Intent—1994 c 129: See note following RCW 4.24.550.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

Construction—Prior rules and regulations—1973 c 20: See note following RCW 72.66.010.

43.43.750 Use of force to obtain identification information—Liability. In exercising their duties and authority under RCW 43.43.735 and 43.43.740, the sheriffs, directors of public safety, chiefs of police, and other chief law enforcement officers, may, consistent with constitutional and legal requirements, use such reasonable force as is necessary to compel an unwilling person to submit to being photographed, or fingerprinted, or to submit to any other identification procedure, except interrogation, which will result in obtaining physical evidence serving to identify such person. No one having the custody of any person subject to the identification procedures provided for in *this act, and no one acting in his aid or under his direction, and no one concerned in such publication as is provided for in RCW 43.43.740, shall incur any liability, civil or criminal, for anything lawfully done in the exercise of the provisions of *this act. [1972 ex.s. c 152 § 11.]

***Reviser's note:** For "this act" [1972 ex.s. c 152], see note following RCW 43.43.810.

43.43.752 DNA identification system—Plan—Report. (1) To support criminal justice services in the local communities throughout this state, the state patrol in consultation with the University of Washington school of medicine shall develop a plan for and establish a DNA identification system. In implementing the plan, the state patrol shall purchase the appropriate equipment and supplies. The state patrol shall procure the most efficient equipment available.

(2) The DNA identification system as established shall be compatible with that utilized by the federal bureau of investigation.

(3) The state patrol and the University of Washington school of medicine shall report on the DNA identification system to the legislature no later than November 1, 1989. The report shall include a timeline for implementing each stage, a local agency financial participation analysis, a system analysis, a full cost/purchase analysis, a vendor bid evaluation, and a space location analysis that includes a site determination. The state patrol shall coordinate the preparation of this report with the office of financial management. [1989 c 350 § 2.]

Finding—1989 c 350: "The legislature finds that recent developments in molecular biology and genetics have important applications for forensic science. It has been scientifically established that there is a unique pattern to the chemical structure of the deoxyribonucleic acid (DNA) contained in each cell of the human body. The process for identifying this pattern is called "DNA identification."

The legislature further finds that the accuracy of identification provided by this method is superior to that of any presently existing technique and recognizes the importance of this scientific breakthrough in providing a reliable and accurate tool for the investigation and prosecution of sex offenses as defined in *RCW 9.94A.030(26) and violent offenses as defined in **RCW 9.94A.030(29)." [1989 c 350 § 1.]

Reviser's note: *(1) RCW 9.94A.030 was amended by 1989 c 252 § 2, changing subsection (26) to subsection (29); and subsequently was amended by 1994 c 1 § 3, changing subsection (29) to subsection (31).

** (2) RCW 9.94A.030 was amended by 1989 c 252 § 2, changing subsection (29) to subsection (32); and subsequently was amended by 1993 c 338 § 2 and 1994 c 1 § 3, changing subsection (32) to subsection (36).

Funding limitations—1989 c 350: "Any moneys received by the state from the federal bureau of justice assistance shall be used to conserve state funds if not inconsistent with the terms of the grant. To the extent that federal funds are available for the purposes of this act, state funds appropriated in this section shall lapse and revert to the general fund." [1989 c 350 § 8.] For codification of "this act" [1989 c 350], see Codification Tables, Volume 0.

43.43.754 DNA identification system—Sex offenders, blood analysis. Every adult or juvenile individual convicted of a felony or adjudicated guilty of an equivalent juvenile offense defined as a sex offense under RCW 9.94A.030(31)(a) or a violent offense as defined in RCW 9.94A.030 shall have a blood sample drawn for purposes of DNA identification analysis. For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense who are serving a term of confinement in a county jail or detention facility, the county shall be responsible for obtaining blood samples prior to release from the county jail or detention facility. For persons convicted of such offenses or adjudicated guilty of an equivalent juvenile offense, who are serving a term of confinement in a department of corrections facility or a division of juvenile rehabilitation facility, the facility holding the person shall be responsible for obtaining blood samples prior to release from such facility. Any blood sample taken pursuant to RCW 43.43.752 through 43.43.758 shall be used solely for the purpose of providing DNA or other blood grouping tests for identification analysis and prosecution of a sex offense or a violent offense.

This section applies to all adults who are convicted after July 1, 1990. This section applies to all juveniles who are adjudicated guilty after July 1, 1994. [1994 c 271 § 402; 1990 c 230 § 3; 1989 c 350 § 4.]

Finding—1994 c 271: "The legislature finds that DNA identification analysis is an accurate and useful law enforcement tool for identifying and prosecuting sexual and violent offenders. The legislature further finds no compelling reason to exclude juvenile sexual and juvenile violent offenders from DNA identification analysis." [1994 c 271 § 401.]

Purpose—Severability—1994 c 271: See notes following RCW 9A.28.020.

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.756 DNA identification system—Analysis, assistance, and testimony services. The state patrol in consultation with the University of Washington school of medicine may:

(1) Provide DNA analysis services to law enforcement agencies throughout the state after July 1, 1990;

(2) Provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court; and

(3) Provide expert testimony in court on DNA evidentiary issues. [1989 c 350 § 5.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.758 DNA identification system—Local law enforcement systems—Limitations. (1) Except as provided in subsection (2) of this section, no local law enforcement agency may establish or operate a DNA identification system before July 1, 1990, and unless:

(a) The equipment of the local system is compatible with that of the state system under RCW 43.43.752;

(b) The local system is equipped to receive and answer inquiries from the Washington state patrol DNA identification system and transmit data to the Washington state patrol DNA identification system; and

(c) The procedure and rules for the collection, analysis, storage, expungement, and use of DNA identification data do not conflict with procedures and rules applicable to the state patrol DNA identification system.

(2) Nothing in this section shall prohibit a local law enforcement agency from performing DNA identification analysis in individual cases to assist law enforcement officials and prosecutors in the preparation and use of DNA evidence for presentation in court. [1990 c 230 § 2; 1989 c 350 § 6.]

Finding—Funding limitations—1989 c 350: See notes following RCW 43.43.752.

43.43.759 DNA identification system—Rule-making requirements. The Washington state patrol shall adopt rules to implement RCW 43.43.752 through 43.43.758. The rules shall prohibit the use of DNA identification data for any research or other purpose that is not related to a criminal investigation or to improving the operation of the system authorized by RCW 43.43.752 through 43.43.758. [1990 c 230 § 1.]

43.43.760 Personal identification—Requests—Purpose—Applicants—Fee. (1) Whenever a resident of this state appears before any law enforcement agency and requests an impression of his fingerprints to be made, such agency may comply with his request and make the required copies of the impressions on forms marked "Personal Identification". The required copies shall be forwarded to the section and marked "for personal identification only".

The section shall accept and file such fingerprints submitted voluntarily by such resident, for the purpose of securing a more certain and easy identification in case of death, injury, loss of memory, or other similar circumstances. Upon the request of such person, the section shall return his identification data.

(2) Whenever any person is an applicant for appointment to any position or is an applicant for employment or is an applicant for a license to be issued by any governmental agency, and the law or a regulation of such governmental agency requires that the applicant be of good moral character or not have been convicted of a crime, or is an applicant for appointment to or employment with a criminal justice agency, or the department, the applicant may request any law enforcement agency to make an impression of his fingerprints to be submitted to the section. The law enforcement agency may comply with such request and make copies of the impressions on forms marked "applicant", and submit such copies to the section.

The section shall accept such fingerprints and shall cause its files to be examined and shall promptly send to the appointing authority, employer, or licensing authority indicated on the form of application, a transcript of the record of previous crimes committed by the person described on the data submitted, or a transcript of the dependency record information regarding the person described on the data submitted, or if there is no record of his commission of any crimes, or if there is no dependency record information, a statement to that effect.

(3) The Washington state patrol shall charge fees for processing of noncriminal justice system requests for criminal history record information pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the patrol of processing such requests.

Any law enforcement agency may charge a fee not to exceed five dollars for the purpose of taking fingerprint impressions or searching its files of identification for noncriminal purposes. [1985 c 201 § 15; 1983 c 184 § 1; 1972 ex.s. c 152 § 13.]

Dissemination of information—Limitations—Disclaimer of liability: RCW 43.43.815.

43.43.765 Reports of transfer, release or changes as to committed or imprisoned persons—Records. The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW for treatment or under a sentence of imprisonment for any crime as provided for in RCW 43.43.735 shall within seventy-two hours, report to the section, any interinstitutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under chapter 10.77 RCW, chapter 71.06 RCW, or chapter 71.09 RCW shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency. [1990 c 3 § 131; 1983 c 3 § 108; 1972 ex.s. c 152 § 14.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.770 Unidentified deceased persons. It shall be the duty of the sheriff or director of public safety of every county, or the chief of police of every city or town, or the chief officer of other law enforcement agencies operating within this state, coroners or medical examiners, to record whenever possible the fingerprints and such other identification data as may be useful to establish identity, of all unidentified dead bodies found within their respective jurisdictions, and to furnish to the section all data so obtained. The section shall search its files and otherwise make a reasonable effort to determine the identity of the deceased and notify the contributing agency of the finding.

In all cases where there is found to exist a criminal record for the deceased, the section shall notify the federal bureau of investigation and each criminal justice agency, within or outside the state in whose jurisdiction the decedent

has been arrested, of the date and place of death of decedent. [1972 ex.s. c 152 § 15.]

43.43.775 Interagency contracts. The legislative authority of any county, city or town may authorize its sheriff, director of public safety or chief of police to enter into any contract with another public agency which is necessary to carry out the provisions of *this act. [1972 ex.s. c 152 § 16.]

**Reviser's note: For "this act" [1972 ex.s. c 152], see note following RCW 43.43.810.*

43.43.780 Transfer of records, data, equipment to section. All fingerprint cards, photographs, file cabinets, equipment, and other records collected and filed by the bureau of criminal identification, and now in the department of social and health services shall be transferred to the Washington state patrol for use by the section on identification created by *this act. [1972 ex.s. c 152 § 17.]

**Reviser's note: For "this act" [1972 ex.s. c 152], see note following RCW 43.43.810.*

43.43.785 Criminal justice services—Consolidation—Establishment of program. The legislature finds that there is a need for the Washington state patrol to establish a program which will consolidate existing programs of criminal justice services within its jurisdiction so that such services may be more effectively utilized by the criminal justice agencies of this state. The chief, with the advice of the state advisory council on criminal justice services created in RCW 43.43.790, shall establish such a program which shall include but not be limited to the identification section, all auxiliary systems including the Washington crime information center and the teletypewriter communications network, the drug control assistance unit, and any other services the chief deems necessary which are not directly related to traffic control. [1972 ex.s. c 152 § 18.]

43.43.790 Criminal justice services—Advisory council—Created—Membership—Terms—Vacancies. There is hereby created the Washington state advisory council on criminal justice services. The advisory council shall consist of eleven members, nine to be appointed by the governor. The chief of the Washington state patrol shall be a member and shall act as chairman and the secretary of the department of social and health services or his designee shall be an ex officio member.

The members of the initial council shall be appointed within thirty days of the *effective date of this act. Of the members of the initial council, three shall be appointed for terms ending June 30, 1976, three shall be appointed for terms ending June 30, 1975 and three shall be appointed for terms ending June 30, 1973. Thereafter, each member of the council shall be appointed for a term of four years. Vacancies shall be filled within ninety days for the remainder of the unexpired term by appointment of the governor in the same manner as the original appointments. Each member of the council shall continue in office until his successor is appointed. [1972 ex.s. c 152 § 19.]

***Reviser's note:** The "effective date of this act" [1972 ex.s. c 152] was February 25, 1972.

43.43.795 Criminal justice services—Advisory council—Meetings. The council shall meet not less than quarterly at a date and place of its choice, and at such other times as shall be designated by the chairman or upon the written request of a majority of the council. [1972 ex.s. c 152 § 20.]

43.43.800 Criminal justice services—Advisory council—Duties—Technical advisory committees. The advisory council shall review the provisions of RCW 43.43.700 through 43.43.785 and the administration thereof and shall consult with and advise the chief of the state patrol on matters pertaining to the policies of criminal justice services program.

The council shall appoint technical advisory committees comprised of members of criminal justice agencies having demonstrated technical expertise in the various fields of specialty within the program. [1972 ex.s. c 152 § 21.]

43.43.810 Obtaining information by false pretenses—Unauthorized use of information—Falsifying records—Penalty. Any person who wilfully requests, obtains or seeks to obtain criminal offender record information under false pretenses, or who wilfully communicates or seeks to communicate criminal offender record information to any agency or person except in accordance with *this act, or any member, officer, employee or agent of the section, the council or any participating agency, who wilfully falsifies criminal offender record information, or any records relating thereto, shall for each such offense be guilty of a misdemeanor. [1977 ex.s. c 314 § 17; 1972 ex.s. c 152 § 23.]

***Reviser's note:** "This act" [1972 ex.s. c 152] consists of the enactment of RCW 43.43.700 through 43.43.820 and 43.43.910 and the repeal of RCW 43.43.520, 43.43.660, 43.89.020, and 72.50.120 through 72.50.170.

43.43.815 Transcript of conviction record to be furnished to employer—Request—Purposes—Notification to subject of record—Fees—Limitations—Injunctive relief, damages, attorneys' fees—Disclaimer of liability—Rules. (1) Notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the Washington state patrol shall furnish a transcript of the conviction record, as defined in RCW 10.97.030, pertaining to any person of whom the Washington state patrol has a record upon the written request of any employer for the purpose of:

(a) Securing a bond required for any employment;

(b) Conducting preemployment and postemployment evaluations of employees and prospective employees who, in the course of employment, may have access to information affecting national security, trade secrets, confidential or proprietary business information, money, or items of value; or

(c) Assisting an investigation of suspected employee misconduct where such misconduct may also constitute a penal offense under the laws of the United States or any state.

(2) When an employer has received a conviction record under subsection (1) of this section, the employer shall

notify the subject of the record of such receipt within thirty days after receipt of the record, or upon completion of an investigation under subsection (1)(c) of this section. The employer shall make the record available for examination by its subject and shall notify the subject of such availability.

(3) The Washington state patrol shall charge fees for disseminating records pursuant to this section which will cover, as nearly as practicable, the direct and indirect costs to the Washington state patrol of disseminating such records.

(4) Information disseminated pursuant to this section or RCW 43.43.760 shall be available only to persons involved in the hiring, background investigation, or job assignment of the person whose record is disseminated and shall be used only as necessary for those purposes enumerated in subsection (1) of this section.

(5) Any person may maintain an action to enjoin a continuance of any act or acts in violation of any of the provisions of this section, and if injured thereby, for the recovery of damages and for the recovery of reasonable attorneys' fees. If, in such action, the court finds that the defendant is violating or has violated any of the provisions of this section, it shall enjoin the defendant from a continuance thereof, and it shall not be necessary that actual damages to the plaintiff be alleged or proved. In addition to such injunctive relief, the plaintiff in the action is entitled to recover from the defendant the amount of the actual damages, if any, sustained by him if actual damages to the plaintiff are alleged and proved. In any suit brought to enjoin a violation of this chapter, the prevailing party may be awarded reasonable attorneys' fees, including fees incurred upon appeal. Commencement, pendency, or conclusion of a civil action for injunction or damages shall not affect the liability of a person or agency to criminal prosecution for a violation of chapter 10.97 RCW.

(6) Neither the section, its employees, nor any other agency or employee of the state is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any dissemination of information pursuant to this section or RCW 43.43.760.

(7) The Washington state patrol may adopt rules and forms to implement this section and to provide for security and privacy of information disseminated pursuant hereto, giving first priority to the criminal justice requirements of chapter 43.43 RCW. Such rules may include requirements for users, audits of users, and other procedures to prevent use of criminal history record information inconsistent with this section.

(8) Nothing in this section shall authorize an employer to make an inquiry not otherwise authorized by law, or be construed to affect the policy of the state declared in RCW 9.96A.010, encouraging the employment of ex-offenders. [1982 c 202 § 1.]

43.43.820 Stale records. Stale records shall be destroyed in a manner to be prescribed by the chief. [1972 ex.s. c 152 § 25.]

43.43.830 Background checks—Access to children or vulnerable persons—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization;

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults; or

(c) Any prospective adoptive parent, as defined in RCW 26.33.020.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including but not limited to public housing authorities, school districts, and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030(3) relating to a crime against children or other persons committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree assault of a child; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication

with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; first or second degree rape of a child; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; or any of these crimes as they may be renamed in the future.

(6) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(7) "Disciplinary board final decision" means any final decision issued by the disciplinary board or the director of the department of licensing for the following businesses or professions:

- (a) Chiropractic;
- (b) Dentistry;
- (c) Dental hygiene;
- (d) Massage;
- (e) Midwifery;
- (f) Naturopathy;
- (g) Osteopathy;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing;
- (l) Psychology; and
- (m) Real estate brokers and salesmen.

(8) "Unsupervised" means not in the presence of:

- (a) Another employee or volunteer from the same business or organization as the applicant; or
- (b) Any relative or guardian of any of the children or developmentally disabled persons to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself or a patient in a state hospital as defined in chapter 72.23 RCW.

(10) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults. [1994 c 108 § 1; 1992 c 145 § 16. Prior: 1990 c 146 § 8; 1990 c 3 § 1101; prior: 1989 c 334 § 1; 1989 c 90 § 1; 1987 c 486 § 1.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

At-risk children volunteer program: RCW 43.150.080.

Developmentally disabled persons: RCW 41.06.475.

State hospitals: RCW 72.23.035.

43.43.832 Background checks—Disclosure of child abuse or financial exploitation activity. (1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision. When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services, when considering persons for state positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults or when licensing or authorizing such persons or agencies pursuant to its authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section. However, when necessary, persons may be employed on a conditional basis pending completion of the background investigation. The Washington personnel resources board shall adopt rules to accomplish the purposes of this subsection as it applies to state employees. [1993 c 281 § 51; 1990 c 3 § 1102. Prior: 1989 c 334 § 2; 1989 c 90 § 2; 1987 c 486 § 2.]

Effective date—1993 c 281: See note following RCW 41.06.022.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.834 Background checks by business, organization, or insurance company—Limitations—Civil liability.

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant has been:

(a) Convicted of any crime against children or other persons;

(b) Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;

(c) Found in any dependency action under RCW 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;

(d) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;

(e) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult; or

(f) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on an applicant unless the failure to do so constitutes gross negligence. [1990 c 3 § 1103. Prior: 1989 c 334 § 3; 1989 c 90 § 3; 1987 c 486 § 3.]

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.836 Disclosure to individual of own record—

Fee. An individual may contact the state patrol to ascertain whether that same individual has a civil adjudication, disciplinary board final decision, or conviction record. The state patrol shall disclose such information, subject to the fee established under RCW 43.43.838. [1987 c 486 § 4.]

43.43.838 Record checks—Transcript of conviction record, disciplinary board decision, criminal charges, or civil adjudication—Finding of no evidence, identification document—Immunity—Rules. (1) After January 1, 1988,

and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

- (a) The subject of the inquiry;
- (b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;
- (c) The department of social and health services;
- (d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or
- (e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol and shall be issued within fourteen working days of the request. Possession of such identification shall satisfy future record check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization for the records check: PROVIDED FURTHER, That in the case of record checks using fingerprints requested by school districts and educational service districts, the state patrol shall charge only for the incremental costs associated with checking fingerprints in addition to name and date of birth. Record checks requested by school districts and educational service districts using only name and date of birth shall continue to be provided free of charge.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW. [1992 c 159 § 7; 1990 c 3 § 1104. Prior: 1989 c 334 § 4; 1989 c 90 § 4; 1987 c 486 § 5.]

Findings—1992 c 159: See note following RCW 28A.400.303.

Index, part headings not law—Severability—Effective dates—Application—1990 c 3: See RCW 18.155.900 through 18.155.902.

43.43.839 Fingerprint identification account. The fingerprint identification account is created in the custody of the state treasurer. All receipts from incremental charges of fingerprint checks requested by school districts shall be deposited in the account. Receipts for fingerprint checks by the federal bureau of investigation may also be deposited in the account. Expenditures from the account may be used only for the cost of record checks. Only the chief of the state patrol or the chief's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW. No appropriation is required for expenditures prior to July 1, 1995. After June 30, 1995, the account shall be subject to appropriation. [1992 c 159 § 8.]

Findings—1992 c 159: See note following RCW 28A.400.303.

43.43.840 Notification of physical or sexual abuse or exploitation of child or vulnerable adult—Notification of employment termination because of crimes against persons. (1) The supreme court shall by rule require the courts of the state to notify the state patrol of any dependency action under *RCW 13.34.030(2)(b), domestic relations action under Title 26 RCW, or protection action under chapter 74.34 RCW, in which the court makes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(2) The department of licensing shall notify the state patrol of any disciplinary board final decision that includes specific findings of physical abuse or sexual abuse or exploitation of a child or abuse or financial exploitation of a vulnerable adult.

(3) When a business or an organization terminates, fires, dismisses, fails to renew the contract, or permits the resignation of an employee because of crimes against children or other persons or because of crimes relating to the financial exploitation of a vulnerable adult, and if that employee is employed in a position requiring a certificate or license issued by a licensing agency such as the state board of education, the business or organization shall notify the licensing agency of such termination of employment. [1989 c 334 § 5; 1989 c 90 § 5; 1987 c 486 § 6.]

Reviser's note: (1) This section was amended by 1989 c 90 § 5 and by 1989 c 334 § 5, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

* (2) Dependency actions are undertaken pursuant to RCW 13.34.040.

43.43.842 Vulnerable adults—Additional licensing requirements for agencies providing services. (1) The secretary of social and health services and the secretary of health shall adopt additional requirements for the licensure or relicensure of agencies or facilities which provide care and treatment to vulnerable adults. These additional requirements shall ensure that any person associated with a licensed agency or facility having direct contact with a vulnerable adult shall not have been: (a) Convicted of a crime against persons as defined in RCW 43.43.830, except as provided in this section; (b) convicted of crimes relating to financial exploitation as defined in RCW 43.43.830, except as provided in this section; (c) found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830; or (d) the subject in a protective proceeding under chapter 74.34 RCW.

(2) The rules adopted under this section shall permit the licensee to consider the criminal history of an applicant for employment in a licensed facility when the applicant has one or more convictions for a past offense and:

(a) The offense was simple assault, assault in the fourth degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(b) The offense was prostitution, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(c) The offense was theft in the third degree, or the same offense as it may be renamed, and three or more years have passed between the most recent conviction and the date of application for employment;

(d) The offense was theft in the second degree, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment;

(e) The offense was forgery, or the same offense as it may be renamed, and five or more years have passed between the most recent conviction and the date of application for employment.

The offenses set forth in (a) through (e) of this subsection do not automatically disqualify an applicant from employment by a licensee. Nothing in this section may be construed to require the employment of any person against a licensee's judgment.

In consultation with law enforcement personnel, the secretary of social and health services and the secretary of health shall investigate the conviction record and the protection proceeding record information under chapter 43.43 RCW of each agency or facility and its staff under their respective jurisdictions seeking licensure or relicensure. The secretaries shall use the information solely for the purpose of determining eligibility for licensure or relicensure. Criminal justice agencies shall provide the secretaries such information as they may have and that the secretaries may require for such purpose. [1992 c 104 § 1; 1989 c 334 § 11.]

43.43.845 Crimes against children—Notification of conviction or guilty plea of school employee. (1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapters 28A.405 and 28A.410 RCW, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person who has a certificate or permit issued under chapters 28A.405 and 28A.410 RCW or is employed by a school district has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall immediately transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to provide this information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section. [1990 c 33 § 577; 1989 c 320 § 6.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1989 c 320: See note following RCW 28A.410.090.

43.43.850 Organized crime intelligence unit—Created. There is hereby created in the Washington state patrol an organized crime intelligence unit which shall be under the direction of the chief of the Washington state patrol. [1973 1st ex.s. c 202 § 1.]

43.43.852 "Organized crime" defined. For the purposes of RCW 43.43.850 through 43.43.864 "organized crime" means those activities which are conducted and carried on by members of an organized, disciplined association, engaged in supplying illegal goods and services and/or engaged in criminal activities in contravention of the laws of this state or of the United States. [1973 1st ex.s. c 202 § 2.]

43.43.854 Powers and duties of organized crime intelligence unit. The organized crime intelligence unit shall collect, evaluate, collate, and analyze data and specific investigative information concerning the existence, structure, activities and operations of organized crime and the participants involved therein; coordinate such intelligence data into a centralized system of intelligence information; furnish and exchange pertinent intelligence data with law enforcement agencies and prosecutors with such security and confidentiality as the chief of the Washington state patrol may determine; develop intelligence data concerning the infiltration of organized crime into legitimate businesses within the state of Washington and furnish pertinent intelligence information

thereon to law enforcement agencies and prosecutors in affected jurisdictions; and may assist law enforcement agencies and prosecutors in developing evidence for purposes of criminal prosecution of organized crime activities upon request. [1973 1st ex.s. c 202 § 3.]

43.43.856 Divulging investigative information prohibited—Confidentiality—Security of records and files. (1) On and after April 26, 1973 it shall be unlawful for any person to divulge specific investigative information pertaining to activities related to organized crime which he has obtained by reason of public employment with the state of Washington or its political subdivisions unless such person is authorized or required to do so by operation of state or federal law. Any person violating this subsection shall be guilty of a felony.

(2) Except as provided in RCW 43.43.854, or pursuant to the rules of the supreme court of Washington, all of the information and data collected and processed by the organized crime intelligence unit shall be confidential and not subject to examination or publication pursuant to chapter 42.17 RCW (Initiative Measure No. 276).

(3) The chief of the Washington state patrol shall prescribe such standards and procedures relating to the security of the records and files of the organized crime intelligence unit, as he deems to be in the public interest with the advice of the governor and the board. [1973 1st ex.s. c 202 § 4.]

43.43.858 Organized crime advisory board—Created—Membership—Meetings—Travel expenses. There is hereby created the organized crime advisory board of the state of Washington. The board shall consist of thirteen voting and two nonvoting members.

The lieutenant governor shall appoint four members of the senate to the board, no more than two of whom shall be from the same political party.

The governor shall appoint five members to the board. Two members shall be county prosecuting attorneys and shall be appointed from a list of four county prosecutors agreed upon and submitted to the governor by the elected county prosecutors. One member shall be a municipal police chief, and one member shall be a county sheriff, both of whom shall be appointed from a list of three police chiefs and three sheriffs agreed upon and submitted to the governor by the association of sheriffs and police chiefs (RCW 36.28A.010). One member shall be a retired judge of a court of record.

The United States attorneys for the western and eastern districts of Washington shall be requested to serve on the board as nonvoting members and shall not be eligible to serve as chairperson.

The speaker of the house shall appoint four members of the house of representatives to the board, no more than two of whom shall be from the same political party.

The members of the board shall be qualified on the basis of knowledge and experience in matters relating to crime prevention and security or with such other abilities as may be expected to contribute to the effective performance of the board's duties. The members of the board shall meet with the chief of the Washington state patrol at least four

times a year to perform the duties enumerated in RCW 43.43.862 and to discuss any other matters related to organized crime. Additional meetings of the board may be convened at the call of the chairperson or by a majority of the members. The board shall elect its own chairperson from among its members. Legislative members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 44.04.120 as now existing or hereafter amended, and the other members in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended. [1987 c 65 § 1; 1980 c 146 § 14; 1975-'76 2nd ex.s. c 34 § 115; 1973 1st ex.s. c 202 § 5.]

Severability—1980 c 146: See RCW 10.29.900.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

State-wide special inquiry judge act: Chapter 10.29 RCW.

43.43.860 Organized crime advisory board—Terms of members. The term of each legislative member shall be two years and shall be conditioned upon such member retaining membership in the legislature and in the same political party of which he was a member at the time of appointment.

The term of each nonlegislative member shall be two years and shall be conditioned upon such member retaining the official position from which he was appointed. [1987 c 65 § 2; 1980 c 146 § 15; 1973 1st ex.s. c 202 § 6.]

Severability—1980 c 146: See RCW 10.29.900.

43.43.862 Organized crime advisory board—Powers and duties. The board shall:

(1) Advise the governor on the objectives, conduct, management, and coordination of the various activities encompassing the overall state-wide organized crime intelligence effort;

(2) Conduct a continuing review and assessment of organized crime and related activities in which the organized crime intelligence unit of the Washington state patrol is engaged;

(3) Receive, consider and take appropriate action with respect to matters related to the board by the organized crime intelligence unit of the Washington state patrol in which the support of the board will further the effectiveness of the state-wide organized crime intelligence effort; and

(4) Report to the governor concerning the board's findings and appraisals, and make appropriate recommendations for actions to achieve increased effectiveness of the state's organized crime intelligence effort in meeting state and national organized crime intelligence needs. [1973 1st ex.s. c 202 § 7.]

43.43.864 Information to be furnished board—Security—Confidentiality. In order to facilitate performance of the board's functions, the chief of the Washington state patrol shall make available to the board all information with respect to organized crime and related matters which the board may require for the purpose of carrying out its responsibilities to the governor in accordance with the provisions of RCW 43.43.850 through 43.43.864. Such information made available to the board shall be given all

necessary security protection in accordance with the terms and provisions of applicable laws and regulations and shall not be revealed or divulged publicly or privately by members of the board. [1973 1st ex.s. c 202 § 8.]

43.43.866 Organized crime prosecution revolving fund. There shall be a fund known as the organized crime prosecution revolving fund which shall consist of such moneys as may be appropriated by law. The state treasurer shall be custodian of the revolving fund. Disbursements from the revolving fund shall be subject to budget approval given by the organized crime advisory board pursuant to RCW 10.29.090, and may be made either on authorization of the governor or the governor's designee, or upon request of a majority of the members of the organized crime advisory board. In order to maintain an effective expenditure and revenue control, the organized crime prosecution revolving fund shall be subject in all respects to chapter 43.88 RCW but no appropriation shall be required to permit expenditures and payment of obligations from the fund. [1980 c 146 § 16.]

Severability—1980 c 146: See RCW 10.29.900.

43.43.870 Missing children clearinghouse and hot line, duties of state patrol. See chapter 13.60 RCW.

43.43.880 Agreements with contiguous states—Jointly occupied ports of entry—Collection of fees and taxes. The Washington state patrol may negotiate and enter into bilateral agreements with designated representatives of contiguous states. Agreements may provide for the manning and operation of jointly occupied ports of entry, for the collection of highway user fees, registration fees, and taxes that may be required by statute or rule. Agreements may further provide for the collection of these fees and taxes by either party state at jointly occupied ports of entry before authorization is given for vehicles to legally operate within that state or jurisdiction, and for the enforcement of safety, size, and weight statutes or rules of the respective states. [1988 c 21 § 1.]

43.43.900 Severability—1969 c 12. If any provision of this chapter or its application to any person or circumstance is held invalid the remainder of the chapter, or its application of the provision to any other person or circumstances is not affected. [1969 c 12 § 9.]

43.43.910 Severability—1972 ex.s. c 152. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1972 ex.s. c 152 § 22.]

43.43.911 Severability—1973 1st ex.s. c 202. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 202 § 9.]

Chapter 43.46 ARTS COMMISSION

Sections

- 43.46.005 Purpose.
- 43.46.015 Washington state arts commission established—Composition.
- 43.46.030 Terms—Vacancies.
- 43.46.040 Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum.
- 43.46.045 Executive director—Employees.
- 43.46.050 Powers and duties generally.
- 43.46.055 Development of arts and humanities.
- 43.46.060 Gifts and grants.
- 43.46.070 Biennial report.
- 43.46.090 Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established.
- 43.46.095 State art collection.
- 43.46.900 Effective date—1985 c 317.

43.46.005 Purpose. The conservation and development of the state's artistic resources is essential to the social, educational, and economic growth of the state of Washington. Artists, works of art, and artistic institutions contribute to the quality of life and the general welfare of the citizens of the state, and are an appropriate matter of concern to the government of the state of Washington. [1985 c 317 § 1.]

43.46.015 Washington state arts commission established—Composition. There is established a Washington state arts commission. The commission consists of nineteen members appointed by the governor and two members of the legislature, one appointed by the president of the senate and one appointed by the speaker of the house of representatives. The legislative members shall be from opposite major political parties. The governor shall appoint citizens representing the various disciplines within the visual, performing and literary arts, and other citizens active in the arts community. The governor shall consider nominations for membership from individuals actively involved in cultural, state or community organizations. The governor shall also consider geographical distribution of the membership in the appointment of new members. [1985 c 317 § 2.]

43.46.030 Terms—Vacancies. Members shall serve three year terms. A legislative member shall serve as long as he or she is a member of the legislative body from which he or she was appointed. Each member will continue to serve until a successor is appointed. Vacancies shall be filled by appointment for the remainder of the unexpired term. [1985 c 317 § 3; 1967 ex.s. c 125 § 4; 1965 c 8 § 43.46.030. Prior: 1961 c 301 § 3.]

43.46.040 Compensation—Travel expenses—Organization—Chairperson—Rules—Quorum. Members of the commission shall serve without compensation. However, nonlegislative members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 and legislative members shall be reimbursed as provided in RCW 44.04.120. The commission shall organize, elect a chairperson annually, and adopt rules pursuant to chapter 34.05 RCW. A majority of its members constitute a quorum. Any action as defined in RCW 42.30.020(3) shall

be taken only at a meeting at which a quorum is present. [1985 c 317 § 4; 1965 c 8 § 43.46.040. Prior: 1961 c 301 § 4.]

43.46.045 Executive director—Employees. The governor shall select a full time executive director from a list of three names submitted by the commission by September 1, 1988, and anytime thereafter that a vacancy occurs. The executive director shall receive no other salary and shall not be otherwise gainfully employed. Subject to the provisions of chapter 41.06 RCW, the executive director may also employ such clerical and other assistants as may be reasonably required to carry out commission functions. The executive director shall serve at the pleasure of the governor. [1988 c 81 § 23; 1985 c 317 § 5; 1967 ex.s. c 125 § 2.]

43.46.050 Powers and duties generally. The commission shall meet, study, plan, and advise the governor, the various departments of the state and the state legislature and shall make such recommendations as it deems proper for the cultural development of the state of Washington. [1985 c 317 § 6; 1965 c 8 § 43.46.050. Prior: 1961 c 301 § 5.]

43.46.055 Development of arts and humanities. The commission may develop, sponsor, promote and administer any activity, project, or program within or without this state which is related to the growth and development of the arts and humanities in the state of Washington and may assist any person or public or private agency to this end. [1985 c 317 § 7; 1967 ex.s. c 125 § 1.]

43.46.060 Gifts and grants. The commission may accept gifts and grants upon such terms as the commission shall deem proper. [1965 c 8 § 43.46.060. Prior: 1961 c 301 § 6.]

43.46.070 Biennial report. The commission shall make a biennial report of its proceedings and recommendations to the governor, which shall contain a full description of program and project activity, including fund sources and expenditures for the biennium covered by the report. [1985 c 317 § 8; 1965 c 8 § 43.46.070. Prior: 1961 c 301 § 7.]

43.46.090 Commission as reflecting state's responsibility—Acquisition of works of art for public buildings and lands—Visual arts program established. The legislature recognizes this state's responsibility to foster culture and the arts and its interest in the viable development of her artists and craftsmen by the establishment of the Washington state arts commission. The legislature declares it to be a policy of this state that a portion of appropriations for capital expenditures be set aside for the acquisition of works of art to be placed in public buildings or lands. There is hereby established a visual arts program to be administered by the Washington state arts commission. [1983 c 204 § 1; 1974 ex.s. c 176 § 1.]

Severability—1983 c 204: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1983 c 204 § 11.]

Allocation of moneys for acquisition of works of art—Expenditure by arts commission—Conditions: RCW 43.17.200.

Colleges and universities, purchases of works of art—Procedure: RCW 28B.10.025.

Purchase of works of art—Procedure: RCW 43.19.455.

School districts, purchases of works of art—Procedure: RCW 28A.335.210.

43.46.095 State art collection. All works of art purchased and commissioned under the visual arts program shall become a part of a state art collection developed, administered, and operated by the Washington state arts commission. All works of art previously purchased or commissioned under RCW 43.46.090, 43.17.200, 43.19.455, 28B.10.025, or 28A.335.210 shall be considered a part of the state art collection to be administered by the Washington state arts commission. [1990 c 33 § 578; 1983 c 204 § 2.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1983 c 204: See note following RCW 43.46.090.

43.46.900 Effective date—1985 c 317. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1985. [1985 c 317 § 10.]

Chapter 43.51

PARKS AND RECREATION COMMISSION

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Scenic rivers system: Chapter 79.72 RCW.

Snowmobile advisory committee: RCW 46.10.220.

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Wildlife and recreation lands; funding of maintenance and operation: Chapter 43.98B RCW.

43.51.010 Definitions. For purposes of this chapter, "recreation" means those activities of a voluntary and leisure time nature which aid in promoting entertainment, pleasure, play, relaxation, or instruction.

"Commission" means state parks and recreation commission. [1965 c 8 § 43.51.010. Prior: 1947 c 271 § 2; RRS § 10768-1.]

43.51.020 Commission created—Composition—Compensation and expenses. There is hereby created a "state parks and recreation commission" consisting of seven electors of the state. The members of the commission shall be appointed by the governor by and with the advice and consent of the senate and shall serve for a term of six years, expiring on December 31st of even-numbered years, and until their successors are appointed. In case of a vacancy, the governor shall fill the vacancy for the unexpired term of the commissioner whose office has become vacant.

The commissioners incumbent as of August 11, 1969, shall serve as follows: Those commissioners whose terms expire December 31, 1970, shall serve until December 31, 1970; the elector appointed to succeed to the office, the term for which expired December 31, 1968, shall serve until December 31, 1974; the terms of three of the four remaining commissioners shall each expire on December 31, 1972.

To assure that no more than the terms of three members will expire simultaneously on December 31st in any one even-numbered year, the term of not more than one commissioner incumbent on August 11, 1969, as designated by

the governor, who was either appointed or reappointed to serve until December 31, 1972, shall be increased by the governor by two years, and said term shall expire December 31, 1974.

In making the appointments to the commission, the governor shall choose electors who understand park and recreation needs and interests. No person shall serve if he holds any elective or full-time appointive state, county, or municipal office. Members of the commission shall be compensated in accordance with RCW 43.03.240 and in addition shall be allowed their travel expenses incurred while absent from their usual places of residence in accordance with RCW 43.03.050 and 43.03.060.

Payment of expenses pertaining to the operation of the commission shall be made upon vouchers certified to by such persons as shall be designated by the commission. [1984 c 287 § 82; 1975-'76 2nd ex.s. c 34 § 116; 1969 ex.s. c 31 § 1; 1965 ex.s. c 132 § 1; 1965 c 8 § 43.51.020. Prior: 1947 c 271 § 1; 1945 c 36 § 1; 1921 c 7 § 10; RRS § 10768.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.51.030 Chairman—Meetings—Quorum. The commission shall elect one of its members as chairman. The commission may be convened at such times as the chairman deems necessary, and a majority shall constitute a quorum for the transaction of business. [1965 c 8 § 43.51.030. Prior: 1947 c 271 § 3; RRS § 10768-2.]

43.51.040 Powers and duties—Mandatory. The commission shall:

(1) Have the care, charge, control, and supervision of all parks and parkways acquired or set aside by the state for park or parkway purposes.

(2) Adopt, promulgate, issue, and enforce rules pertaining to the use, care, and administration of state parks and parkways. The commission shall cause a copy of the rules to be kept posted in a conspicuous place in every state park to which they are applicable, but failure to post or keep any rule posted shall be no defense to any prosecution for the violation thereof.

(3) Permit the use of state parks and parkways by the public under such rules as shall be adopted.

(4) Clear, drain, grade, seed, and otherwise improve or beautify parks and parkways, and erect structures, buildings, fireplaces, and comfort stations and build and maintain paths, trails, and roadways through or on parks and parkways.

(5) Grant concessions or leases in state parks and parkways, upon such rentals, fees, or percentage of income or profits and for such terms, in no event longer than forty years, and upon such conditions as shall be approved by the commission: PROVIDED, That leases exceeding a twenty-year term shall require a unanimous vote of the commission: PROVIDED FURTHER, That if, during the term of any concession or lease, it is the opinion of the commission that it would be in the best interest of the state, the commission may, with the consent of the concessionaire or lessee, alter and amend the terms and conditions of such concession or

lease: PROVIDED FURTHER, That television station leases shall be subject to the provisions of RCW 43.51.063, only: PROVIDED FURTHER, That the rates of such concessions or leases shall be renegotiated at five-year intervals. No concession shall be granted which will prevent the public from having free access to the scenic attractions of any park or parkway.

(6) Employ such assistance as it deems necessary.

(7) By majority vote of its authorized membership select and purchase or obtain options upon, lease, or otherwise acquire for and in the name of the state such tracts of land, including shore and tide lands, for park and parkway purposes as it deems proper. If the commission cannot acquire any tract at a price it deems reasonable, it may, by majority vote of its authorized membership, obtain title thereto, or any part thereof, by condemnation proceedings conducted by the attorney general as provided for the condemnation of rights of way for state highways. Option agreements executed under authority of this subdivision shall be valid only if:

(a) The cost of the option agreement does not exceed one dollar; and

(b) Moneys used for the purchase of the option agreement are from (i) funds appropriated therefor, or (ii) funds appropriated for undesignated land acquisitions, or (iii) funds deemed by the commission to be in excess of the amount necessary for the purposes for which they were appropriated; and

(c) The maximum amount payable for the property upon exercise of the option does not exceed the appraised value of the property.

(8) Cooperate with the United States, or any county or city of this state, in any matter pertaining to the acquisition, development, redevelopment, renovation, care, control, or supervision of any park or parkway, and enter into contracts in writing to that end. All parks or parkways, to which the state contributed or in whose care, control, or supervision the state participated pursuant to the provisions of this section, shall be governed by the provisions hereof. [1989 c 175 § 106; 1980 c 89 § 1; 1979 c 10 § 4. Prior: 1977 ex.s. c 123 § 1; 1977 c 75 § 57; 1967 ex.s. c 90 § 1; 1965 c 8 § 43.51.040; prior: 1959 c 317 § 1; 1955 c 391 § 1; 1929 c 148 § 1; 1923 c 157 § 1; 1921 c 149 § 2; RRS § 10942.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Inspection of recreational devices: Chapter 70.88 RCW.

Parks and recreation commission authorized to establish small works roster of public works contractors: RCW 39.04.150.

43.51.045 Additional powers and duties. (1) The commission shall:

(a) Manage timber and land under its jurisdiction to maintain and enhance aesthetic and recreational values;

(b) Apply modern conservation practices to maintain and enhance aesthetic, recreational, and ecological resources; and

(c) Designate and preserve certain forest areas throughout the state as natural forests or natural areas for interpretation, study, and preservation purposes.

(2) Trees may be removed from state parks:

(a) When hazardous to persons, property, or facilities;

(b) As part of a park maintenance or development project, or conservation practice;

(c) As part of a road or utility easement; or

(d) When damaged by a catastrophic forest event.

(3) Tree removal under subsection (2) of this section shall be done by commission personnel, unless the personnel lack necessary expertise. Except in emergencies and when feasible, significant trees shall be removed only after they have been marked or appraised by a professional forester. The removal of significant trees from a natural forest may take place only after a public hearing has been held, except in emergencies.

(4) When feasible, felled timber shall be left on the ground for natural purposes or used for park purposes including, but not limited to, building projects, trail mulching, and firewood. In natural forest areas, first consideration shall be given to leaving timber on the ground for natural purposes.

(5) The commission may issue permits to individuals under RCW 4.24.210 and 43.51.065 for the removal of wood debris from state parks for personal firewood use. [1984 c 82 § 1; 1981 c 271 § 3.]

43.51.046 Waste reduction and recycling. (1) By July 1, 1992, the state parks and recreation commission shall provide waste reduction and recycling information in each state park campground and day-use area.

(2) By July 1, 1993, the commission shall provide recycling receptacles in the day-use and campground areas of at least fifteen state parks. The receptacles shall be clearly marked for the disposal of at least two of the following recyclable materials: Aluminum, glass, newspaper, plastic, and tin. The commission shall endeavor to provide recycling receptacles in parks that are near urban centers or in heavily used parks.

(3) The commission shall provide daily maintenance of such receptacles from April through September of each year.

(4) Beginning July 1, 1993, the commission shall provide recycling receptacles in at least five additional state parks per biennium until the total number of state parks having recycling receptacles reaches forty.

(5) The commission is authorized to enter into agreements with any person, company, or nonprofit organization to provide for the collection and transport of recyclable materials and related activities under this section. [1991 c 11 § 1.]

Reviser's note: 1991 c 11 directed that this section be added to chapter 70.93 RCW. The placement appears inappropriate and the section has been codified as part of chapter 43.51 RCW.

Marinas and airports: RCW 70.93.095.

43.51.047 Sale of timber. Only timber which qualifies for cutting or removal under RCW 43.51.045(2) may be sold. Timber shall be sold only when surplus to the needs of the park.

Net revenue derived from timber sales shall be deposited in the trust land account. [1984 c 82 § 3.]

43.51.050 Additional powers and duties. The commission may: (1) Study and appraise parks and recre-

ational needs of the state and assemble and disseminate information relative to parks and recreation;

(2) Make provisions for the publication and sale in state parks facilities of interpretive, recreational, and historical materials and literature. Proceeds from such sales shall be directed to the parks improvement account; and

(3) Coordinate the parks and recreational functions of the various state departments, and cooperate with state and federal agencies in the promotion of parks and recreational opportunities. [1987 c 225 § 1; 1965 c 8 § 43.51.050. Prior: 1955 c 391 § 2; 1947 c 271 § 4; RRS § 10768-3.]

43.51.052 Parks improvement account. The parks improvement account is hereby established in the state treasury. The parks and recreation commission shall deposit all moneys received from the sale of interpretive, recreational, and historical literature and materials in this account. Moneys in the account may be spent only for development, production, and distribution costs associated with literature and materials, and for enhancements to park facilities that are supplementary to those improvements approved through the appropriation process. Disbursements from the account shall be on the authority of the director of the parks and recreation commission, or the director's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW. No appropriation is required for disbursement of moneys to be used for support of further production of materials provided for in RCW 43.51.050(2) but any moneys to be used for other capital or operating purposes must be appropriated. [1987 c 225 § 2.]

43.51.055 Park passes—Eligibility. (1) The commission shall grant to any person who meets the eligibility requirements specified in this section a senior citizen's pass which shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(2) The commission shall grant a senior citizen's pass to any person who applies for the same and who meets the following requirements:

(a) The person is at least sixty-two years of age; and

(b) The person is a domiciliary of the state of Washington and meets reasonable residency requirements prescribed by the commission; and

(c) The person and his or her spouse have a combined income which would qualify the person for a property tax exemption pursuant to RCW 84.36.381, as now law or hereafter amended. The financial eligibility requirements of this subparagraph (c) shall apply regardless of whether the applicant for a senior citizen's pass owns taxable property or has obtained or applied for such property tax exemption.

(3) Each senior citizen's pass granted pursuant to this section is valid so long as the senior citizen meets the requirements of subsection (2)(b) of this section. Notwithstanding, any senior citizen meeting the eligibility requirements of this section may make a voluntary donation for the upkeep and maintenance of state parks.

(4) A holder of a senior citizen's pass shall surrender the pass upon request of a commission employee when the employee has reason to believe the holder fails to meet the

criteria in subsection (2)(a), (b), or (c) of this section. The holder shall have the pass returned upon providing proof to the satisfaction of the director of the parks and recreation commission that the holder does meet the eligibility criteria for obtaining the senior citizen's pass.

(5) Any resident of Washington who is disabled as defined by the social security administration and who receives social security benefits for that disability, or any other benefits for that disability from any other governmental or nongovernmental source, or who is entitled to benefits for permanent disability under RCW 71A.10.020(2) due to unemployability full time at the minimum wage, or who is legally blind or profoundly deaf, or who has been issued a card, decal, or special license plate for a permanent disability under RCW 46.16.381 shall be entitled to receive, regardless of age and upon making application therefor, a disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to a fifty percent reduction in the campsite rental fee prescribed by the commission, and (b) entitle such person to free admission to any state park.

(6) A card, decal, or special license plate issued for a permanent disability under RCW 46.16.381 may serve as a pass for the holder to entitle that person and members of the person's camping unit to a fifty percent reduction in the campsite rental fee prescribed by the commission, and to allow the holder free admission to state parks.

(7) Any resident of Washington who is a veteran and has a service-connected disability of at least thirty percent shall be entitled to receive a lifetime veteran's disability pass at no cost to the holder. The pass shall (a) entitle such person, and members of his camping unit, to free use of any campsite within any state park, and (b) entitle such person to free admission to any state park.

(8) All passes issued pursuant to this section shall be valid at all parks any time during the year: PROVIDED, That the pass shall not be valid for admission to concessionaire operated facilities.

(9) This section shall not affect or otherwise impair the power of the commission to continue or discontinue any other programs it has adopted for senior citizens.

(10) The commission shall adopt such rules and regulations as it finds appropriate for the administration of this section. Among other things, such rules and regulations shall prescribe a definition of "camping unit" which will authorize a reasonable number of persons traveling with the person having a pass to stay at the campsite rented by such person, a minimum Washington residency requirement for applicants for a senior citizen's pass and an application form to be completed by applicants for a senior citizen's pass. [1989 c 135 § 1; 1988 c 176 § 909; 1986 c 6 § 1; 1985 c 182 § 1; 1979 ex.s. c 131 § 1; 1977 ex.s. c 330 § 1.]

Severability—1988 c 176: See RCW 71A.10.900.

43.51.060 Further powers—Director of parks and recreation—Salaries. The commission may:

(1) Make rules and regulations for the proper administration of its duties;

(2) Accept any grants of funds made with or without a matching requirement by the United States, or any agency thereof, for purposes in keeping with the purposes of this

chapter; accept gifts, bequests, devises and endowments for purposes in keeping with such purposes; enter into cooperative agreements with and provide for private nonprofit groups to use state park property and facilities to raise money to contribute gifts, grants, and support to the commission for the purposes of this chapter. The commission may assist the nonprofit group in a cooperative effort by providing necessary agency personnel and services, if available. However, none of the moneys raised may inure to the benefit of the nonprofit group, except in furtherance of its purposes to benefit the commission as provided in this chapter. The agency and the private nonprofit group shall agree on the nature of any project to be supported by such gift or grant prior to the use of any agency property or facilities for raising money. Any such gifts may be in the form of recreational facilities developed or built in part or in whole for public use on agency property, provided that the facility is consistent with the purposes of the agency;

(3) Require certification by the commission of all parks and recreation workers employed in state aided or state controlled programs;

(4) Act jointly, when advisable, with the United States, any other state agencies, institutions, departments, boards, or commissions in order to carry out the objectives and responsibilities of this chapter;

(5) Grant franchises and easements for any legitimate purpose on parks or parkways, for such terms and subject to such conditions and considerations as the commission shall specify;

(6) Charge such fees for services, utilities, and use of facilities as the commission shall deem proper. All fees received by the commission shall be deposited with the state treasurer in the state general fund;

(7) Enter into agreements whereby individuals or companies may rent undeveloped parks or parkway land for grazing, agricultural, or mineral development purposes upon such terms and conditions as the commission shall deem proper, for a term not to exceed ten years;

(8) Determine the qualifications of and employ a director of parks and recreation who shall receive a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040, and upon his recommendation, a supervisor of recreation, and determine the qualifications and salary of and employ such other persons as may be needed to carry out the provisions hereof; and

(9) Without being limited to the powers hereinbefore enumerated, the commission shall have such other powers as in the judgment of a majority of its members are deemed necessary to effectuate the purposes of this chapter: PROVIDED, That the commission shall not have power to supervise directly any local park or recreation district, and no funds shall be made available for such purpose. [1993 c 156 § 1; 1987 c 225 § 3; 1980 c 89 § 2; 1969 c 99 § 1; 1965 c 8 § 43.51.060. Prior: 1961 c 307 § 12; 1955 c 391 § 3; 1947 c 271 § 5; RRS § 10768-4.]

Effective date—1969 c 99: "This 1969 amendatory act shall take effect July 1, 1969." [1969 c 99 § 12.] For codification of 1969 c 99, see Codification Tables, Volume 0.

43.51.061 Delegation of commission's powers and duties to director. Notwithstanding any other provisions of this chapter or of other laws relating to the commission, the

commission may delegate to the director of parks and recreation such powers and duties of the commission as they may deem proper. [1969 ex.s. c 31 § 2.]

43.51.062 Lease of park lands for television stations. The state parks and recreation commission is hereby authorized to lease the use of such areas in Mount Spokane state park, Steptoe Butte state park, Kamiak Butte state park or any other state park for television stations as the commission may decide are suitable for that purpose: PROVIDED, That this authority shall not extend to school lands or lands held by the state of Washington for educational purposes. [1965 c 8 § 43.51.062. Prior: 1953 c 39 § 1.]

Validating—1953 c 39: "Any lease authorizing the use of any portion of Mount Spokane state park for a television station which the state parks and recreation commission has already made is hereby validated and confirmed, and the parties thereto are bound by the terms thereof." [1953 c 39 § 2.]

Construction—1953 c 39: "The authority conferred by this act is in addition to the powers and authority now conferred upon the state parks and recreation commission, and this act shall not be construed to repeal or limit, by implication or otherwise, any authority or power now conferred by law upon the state parks and recreation commission." [1953 c 39 § 3.]

43.51.063 Lease of park lands for television stations—Lease rental rates, terms—Attachment of antennae. The commission shall determine the fair market value for television station leases based upon independent appraisals and existing leases for television stations shall be extended at said fair market rental for at least one period of not more than twenty years: PROVIDED, That the rates in said leases shall be renegotiated at five year intervals: PROVIDED FURTHER, That said stations shall permit the attachment of antennae of publicly operated broadcast and microwave stations where electronically practical to combine the towers: PROVIDED FURTHER, That notwithstanding any term to the contrary in any lease, this section shall not preclude the commission from prescribing new and reasonable lease terms relating to the modification, placement or design of facilities operated by or for a station, and any extension of a lease granted under this section shall be subject to this proviso: PROVIDED FURTHER, That notwithstanding any other provision of law the director in his discretion may waive any requirement that any environmental impact statement or environmental assessment be submitted as to any lease negotiated and signed between January 1, 1974 and December 31, 1974. [1974 ex.s. c 151 § 1.]

43.51.065 Exemption of persons over sixty-five from fees for collection in state parks of wood debris for personal use. Persons over the age of sixty-five are exempt from any permit or other administrative fee imposed by the commission for the collection of wood debris in state parks, if such wood is for personal use. [1983 c 193 § 1.]

43.51.070 Donations of land for park purposes. The commission may receive and accept donations of lands for state park purposes, and shall have the management and control of all lands so acquired. It may from time to time recommend to the legislature the acquisition of lands for park purposes by purchase or condemnation. [1965 c 8 § 43.51.070. Prior: 1913 c 113 § 2; RRS § 10940.]

43.51.080 Parks in island counties. Whenever any tract of land not exceeding one hundred acres in area considered as a whole regardless of ownership, situated in a county composed entirely of islands and bounded on two or more sides by an established state park, shall in the judgment of the commission be desirable for state park purposes, the commission may lease, purchase, or condemn said tract for park purposes and incorporate it within the adjoining established park: PROVIDED, That nothing in this act [1925 ex.s. c 92] shall in any manner abridge the full effect of any existing powers heretofore granted to the state parks and recreation commission. [1965 c 8 § 43.51.080. Prior: 1925 ex.s. c 92 § 1; RRS § 10942-1.]

43.51.090 Bequests and donations of money. The commission may receive in trust any money donated or bequeathed to it, and carry out the terms of such donation or bequest, or, in the absence of such terms, expend the same as it may deem advisable for park or parkway purposes.

Money so received shall be deposited in the state general fund. [1969 c 99 § 2; 1965 c 8 § 43.51.090. Prior: 1923 c 157 § 2; 1921 c 149 § 3; RRS § 10943.]

43.51.100 Withdrawal of granted lands on public highways. Inasmuch as the value of land with standing timber is increasing and will continue to increase from year to year and no loss will be caused to the common school fund or other fund into which the proceeds of the sale of any land held by the state would be paid by postponing the sale thereof, the commissioner of public lands may, upon his own motion, and shall, when directed so to do by the state parks and recreation commission, withdraw from sale any land held by the state abutting on any public highway and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

Such lands shall not be sold until directed by the legislature, and shall in the meantime be under the care, charge, control, and supervision of the commission. [1965 c 8 § 43.51.100. Prior: 1921 c 149 § 4; RRS § 10944.]

43.51.110 Withdrawal of other lands—Exchange for lands on highway. The commissioner of public lands may, upon his own motion, and shall, when directed so to do by the state parks and recreation commission, withdraw from sale any land held by the state and not acquired directly from the United States with reservations as to the manner of sale thereof and the purposes for which it may be sold, and certify to the commission that such land is withheld from sale pursuant to the terms of this section.

All such land shall be under the care, charge, control, and supervision of the state parks and recreation commission, and after appraisal in such manner as the commission directs may be exchanged for land of equal value abutting upon a public highway, and to this end the chairman and secretary of the commission may execute deeds of conveyance in the name of the state. [1965 c 8 § 43.51.110. Prior: 1921 c 149 § 5; RRS § 10945.]

43.51.120 Dedication as parks and parkways. All state parks and parkways, subject to the provisions of this chapter are set apart and dedicated as public parks and

parkways for the benefit and enjoyment of all the people of this state. [1965 c 8 § 43.51.120. Prior: 1921 c 149 § 6; RRS § 10946.]

43.51.130 Permits for improvement of parks—Limitations. The state parks and recreation commission may grant permits to individuals, groups, churches, charities, organizations, agencies, clubs, or associations to improve any state park or parkway, or any lands belonging to the state and withdrawn from sale under the provisions of this chapter. Any expenses borne by the state shall be limited to premiums or assessments for the insurance of volunteers by the department of labor and industries, compensation of staff who assist volunteers, minimal use of natural resources contained within such public lands, paint, incidental materials, and equipment used to assist volunteers. These improvements shall not interfere with access to or use of such public lands or facilities by the general public and shall benefit the public in terms of safety, recreation, aesthetics, or wildlife or natural area preservation. These improvements on public lands and facilities shall be for the use of all members of the general public. [1982 c 156 § 1; 1965 c 8 § 43.51.130. Prior: 1929 c 83 § 1; RRS § 10946-1.]

43.51.140 Application for permit. Any such individual, group, organization, agency, club, or association desiring to obtain such permit shall make application therefor in writing to the commission, describing the lands proposed to be improved and stating the nature of the proposed improvement. Prior to granting a permit, the commission shall determine that the applicants are persons of good standing in the community in which they reside. [1982 c 156 § 2; 1965 c 8 § 43.51.140. Prior: 1929 c 83 § 2; RRS § 10946-2.]

43.51.150 Plans and specifications. If the state parks and recreation commission determines that the proposed improvement will substantially alter a park, parkway, or park land, it shall require the applicant to submit detailed plans and specifications of the proposed improvement, which, as submitted, or as modified by the state parks and recreation commission, shall be incorporated in the permit when granted. [1982 c 156 § 3; 1965 c 8 § 43.51.150. Prior: 1929 c 83 § 3; RRS § 10946-3.]

43.51.160 Surety bond. If the commission determines it necessary, the applicant shall execute and file with the secretary of state a bond payable to the state, in such penal sum as the commission shall require, with good and sufficient sureties to be approved by the commission, conditioned that the grantee of the permit will make the improvement in accordance with the plans and specifications contained in the permit, and, in case the improvement is made upon lands withdrawn from sale under the provisions of RCW 43.51.100, will pay into the state treasury to the credit of the fund to which the proceeds of the sale of such lands would belong, the appraised value of all merchantable timber and material on the land, destroyed, or used in making such improvement. [1982 c 156 § 4; 1965 c 8 § 43.51.160. Prior: 1929 c 83 § 4; RRS § 10946-4.]

43.51.170 Police powers vested in commission and employees. The members of the state parks and recreation commission and such of its employees as the commission may designate shall be vested with police powers to enforce the laws of this state. [1965 c 8 § 43.51.170. Prior: 1921 c 149 § 7; RRS § 10947.]

43.51.180 Penalties. Every person who:

(1) Cuts, breaks, injures, destroys, takes or removes any tree, shrub, timber, plant, or natural object in any park or parkway; or

(2) Kills, or pursues with intent to kill, any bird or animal in any park or parkway; or

(3) Takes any fish from the waters of any park or parkway, except in conformity with such general rules as the commission may prescribe; or

(4) Wilfully mutilates, injures, defaces, or destroys any guidepost, notice, tablet, fence, inclosure, or work for the protection or ornamentation of any park or parkway; or

(5) Lights any fire upon any park or parkway, except in such places as the commission has authorized, or wilfully or carelessly permits any fire which he has lighted or which is under his charge, to spread or extend to or burn any of the shrubbery, trees, timber, ornaments, or improvements upon any park or parkway, or leaves any campfire which he has lighted or which has been left in his charge, unattended by a competent person, without extinguishing it; or

(6) Places within any park or parkway or affixes to any object therein contained, without a written license from the commission, any word, character, or device designed to advertise any business, profession, article, thing, exhibition, matter, or event; or

(7) Violates any rule adopted, promulgated, or issued by the commission pursuant to the provisions of this chapter; shall be guilty of a misdemeanor unless the commission has specified by rule, when not inconsistent with applicable statutes, that violation of the rule is an infraction under chapter 7.84 RCW. [1987 c 380 § 15; 1965 c 8 § 43.51.180. Prior: 1921 c 149 § 8; RRS § 10948.]

Effective date—Severability—1987 c 380: See RCW 7.84.900 and 7.84.901.

43.51.200 Transfer of surplus land—Reversionary clause required—Release—Parkland acquisition account.

(1) Any lands owned by the state parks and recreation commission, which are determined to be surplus to the needs of the state for development for state park purposes and which the commission proposes to deed to a local government or other entity, shall be accompanied by a clause requiring that if the land is not used for outdoor recreation purposes, ownership of the land shall revert to the state parks and recreation commission.

(2) The state parks and recreation commission, in cases where land subject to such a reversionary clause is proposed for use or disposal for purposes other than recreation, shall require that, if the land is surplus to the needs of the commission for park purposes at the time the commission becomes aware of its proposed use for nonrecreation purposes, the holder of the land or property shall reimburse the commission for the release of the reversionary interest in the land. The reimbursement shall be in the amount of the

fair market value of the reversionary interest as determined by a qualified appraiser agreeable to the commission. Appraisal costs shall be borne by the local entity which holds title to the land.

(3) Any funds generated under a reimbursement under this section shall be deposited in the parkland acquisition account which is hereby created in the state treasury. Moneys in this account are to be used solely for the purchase or acquisition of property for use as state park property by the commission, as directed by the legislature; all such funds shall be subject to legislative appropriation. [1991 sp.s. c 13 § 23; 1985 c 57 § 33; 1984 c 87 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.51.210 Disposal of land not needed for park purposes. Whenever the state parks and recreation commission finds that any land under its control cannot advantageously be used for park purposes, it is authorized to dispose of such land. If such lands are school or other grant lands, control thereof shall be relinquished by resolution of the commission to the proper state officials. If such lands were acquired under restrictive conveyances by which the state may hold them only so long as they are used for park purposes, they may be returned to the donor or grantors by the commission. All other such lands may be either sold by the commission to the highest bidder or exchanged for other lands of equal value by the commission, and all conveyance documents shall be executed by the governor. All such exchanges shall be accompanied by a transfer fee, to be set by the commission and paid by the other party to the transfer; such fee shall be paid into the parkland acquisition account established under RCW 43.51.200. Sealed bids on all sales shall be solicited at least twenty days in advance of the sale date by an advertisement appearing at least in three consecutive issues of a newspaper of general circulation in the county in which the land to be sold is located. If the commission feels that no bid received adequately reflects the fair value of the land to be sold, it may reject all bids, and may call for new bids. All proceeds derived from the sale of such park property shall be paid into the state general fund. All land considered for exchange shall be evaluated by the commission to determine its adaptability to park usage. The equal value of all lands exchanged shall first be determined by the appraisals to the satisfaction of the commission: PROVIDED, That no sale or exchange of state park lands shall be made without the unanimous consent of the commission. [1984 c 87 § 2; 1971 ex.s. c 246 § 1; 1969 c 99 § 3; 1965 c 8 § 43.51.210. Prior: 1953 c 64 § 1; 1947 c 261 § 1; RRS § 10951a.]

Exchange of lands to secure state park lands: RCW 79.08.108.

43.51.215 Exchange of state land by commission—Public notice—News release—Hearing—Procedure. At least ten days but not more than twenty-five days before the director of parks and recreation presents a proposed exchange to the parks and recreation commission involving an exchange of state land pursuant to this chapter, the director shall hold a public hearing on the proposal in the county where the state lands or the greatest proportion thereof is

located. Ten days but not more than twenty-five days prior to such hearing, the director shall publish a paid public notice of reasonable size in display advertising form, setting forth the date, time, and place of the hearing, at least once in one or more daily newspapers of general circulation in the county and at least once in one or more weekly newspapers circulated in the area where the state owned land is located. A news release pertaining to the hearing shall be disseminated among printed and electronic media in the area where the state land is located. The public notice and news release also shall identify lands involved in the proposed exchange and describe the purposes of the exchange and proposed use of the lands involved. A summary of the testimony presented at the hearings shall be prepared for the commission's consideration when reviewing the director's exchange proposal. If there is a failure to substantially comply with the procedures set forth in this section, then the exchange agreement shall be subject to being declared invalid by a court. Any such suit must be brought within one year from the date of the exchange agreement. [1975 1st ex.s. c 107 § 1.]

Exchange of land under control of department of natural resources, procedure: RCW 79.08.015.

43.51.220 Small boat facilities for Puget Sound authorized. To encourage the development of the Puget Sound country as a recreational boating area, the commission is authorized to establish landing and other facilities for small pleasure boats at places on Puget Sound frequented by such boats and where the commission shall find such facilities will be of greatest advantage to the users of pleasure boats. The commission is authorized to acquire land or to make use of lands belonging to the state for such purposes, and to construct the necessary floats and other desirable structures and to make such further development of any area used in connection therewith as in the judgment of the commission is best calculated to facilitate the public enjoyment thereof. [1965 c 8 § 43.51.220. Prior: 1949 c 154 § 1; RRS § 10768-4d.]

43.51.230 Lease with option to purchase parental school facilities. The commission may execute leases with options to purchase and then subsequently purchase but not before July 1, 1961, the parental school facilities now or hereafter owned or operated by school districts. Leases with options to purchase shall include such terms and conditions as the commission deems reasonable and necessary to acquire the facilities. Notwithstanding any provisions of law to the contrary, the board of directors of each school district now or hereafter owning or operating parental school facilities may, without submission for approval to the voters of the school district, sell or execute leases with options to purchase such parental school facilities. Leases with options to purchase shall include such terms and conditions as the board of directors deems reasonable and necessary to dispose of the facilities in a manner beneficial to the school district. The commission, if it enters into a lease with option to purchase parental school facilities, may exercise its option and purchase such parental school facilities; and a school district may, if it enters into a lease with an option to purchase parental school facilities, upon exercise of the

option to purchase by the commission, sell such parental school facilities and such sale may be accomplished without first obtaining a vote of approval from the electorate of the school district. [1965 c 8 § 43.51.230. Prior: 1959 c 215 § 1.]

Parental schools—Leases, purchases—Powers of school districts: RCW 72.05.300.

43.51.240 Certain tidelands transferred to commission. The powers, functions, and duties heretofore exercised by the *department of fisheries, or its director, respecting the management, control, and operation of the following enumerated tidelands, which are presently suitable for public recreational use, are hereby transferred to the parks and recreation commission which shall also have respecting such tidelands all the powers conferred by chapter 43.51 RCW, as now or hereafter amended, respecting parks and parkways:

Parcel No. 1. (Toandos Peninsula) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3, section 4, and lot 1, section 3, all in township 25 north, range 1 west, W.M., with a frontage of 158.41 lineal chains, more or less.

Parcel No. 2. (Shine) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 2, 3 and that portion of lot 4 lying north of the south 8.35 chains thereof as measured along the government meander line, all in section 35, township 28 north, range 1 east, W.M., with a frontage of 76.70 lineal chains, more or less.

Subject to an easement for right of way for county road granted to Jefferson county December 8, 1941 under application No. 1731, records of department of public lands.

Parcel No. 3. (Mud Bay - Lopez Island) The tidelands of the second class, owned by the state of Washington situate in front of, adjacent to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and lots 3, 4, and 5, section 8, all in township 34 north, range 1 west, W.M., with a frontage of 172.11 lineal chains, more or less.

Excepting, however, any tideland of the second class in front of said lot 3, section 8 conveyed through deeds issued April 14, 1909 pursuant to the provisions of chapter 24, Laws of 1895 under application No. 4985, records of department of public lands.

Parcel No. 4. (Spencer Spit) The tidelands of the second class, owned by the state of Washington, situate in front of, adjacent to, or abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal chains, more or less.

Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned by the state of Washington, lying easterly of the east line of vacated state oyster reserve plat No. 133 produced southerly and situate in front of, adjacent to or abutting upon lot 9, section 30, lot 8, section 19 and lot 5 and the south 20 acres of lot 4, section 20, all in township 23 north, range 3 west, W.M., with a frontage of 62.46 lineal chains, more or less. [1967 ex.s. c 96 § 1.]

*Reviser's note: Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Severability—1967 ex.s. c 96: "If any provision of this 1967 act, or its application to any person or circumstance is held invalid, the remainder of this 1967 act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 96 § 3.]

Certain tidelands reserved for recreational use: RCW 79.94.390.

43.51.250 Certain tidelands transferred to commission—Access to and from tidelands. The state parks and recreation commission may take appropriate action to provide public and private access, including roads and docks, to and from the tidelands described in RCW 43.51.240. [1967 ex.s. c 96 § 2.]

43.51.260 Acquisition of Wallace Falls property authorized. In addition to all other powers and duties provided by law, the state parks and recreation commission is hereby directed to acquire such real property upon which Wallace Falls on the Wallace River in Snohomish county is located together with such real property in the vicinity thereof as it deems necessary for park purposes.

The state parks and recreation commission shall acquire such property in any manner authorized by law for the acquisition of lands for park and parkway purposes. [1969 c 41 § 1; 1965 c 146 § 2.]

43.51.270 Purchase of withdrawn state trust lands—Renovation and redevelopment of state park structures and facilities—Authorized—Terms and conditions—Transfer of certain property—Park land trust revolving fund created. (1) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission, for park and outdoor recreation purposes, of the trust lands withdrawn as of August 9, 1971, pursuant to law for park purposes and included within the state parks listed in subsection (2) of this section: PROVIDED, That the sale shall be by contract with a pay-off period of not less than ten years, a price of eleven million twenty-four thousand seven hundred forty dollars or the fair market value, whichever is higher, for the land value, and interest not to exceed six percent. All fees collected by the commission beginning in the 1973-1975 biennium shall be applied to the purchase price of the trust lands listed in subsection (2) of this section; the acquisition of the property described in subsections (3) and (4) of this section, and all reasonable costs of acquisition, described in subsection (5) of this section; the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state parks; the maintenance and operation of state parks; and any cost of collection pursuant to appropriations from the trust land purchase account created in RCW 43.51.280. The department of natural resources shall not receive any management fee pursuant to the sale of the trust lands listed in subsections (2) and (4) of this section. Timber on the trust lands which are the subject of subsections (2), (3), and (4) of this section shall continue to be under the management of the department of natural resources until such time as the legislature appropriates funds to the parks and recreation commission for purchase of said timber. The state parks which include trust lands which shall be the subject of this sale pursuant to this section are:

- (2)(a) Penrose Point
- (b) Kopachuck
- (c) Long Beach
- (d) Leadbetter Point
- (e) Nason Creek
- (f) South Whidbey
- (g) Blake Island
- (h) Rockport
- (i) Mt. Pilchuck
- (j) Ginkgo
- (k) Lewis & Clark
- (l) Rainbow Falls
- (m) Bogachiel
- (n) Sequim Bay
- (o) Federation Forest
- (p) Moran
- (q) Camano Island
- (r) Beacon Rock
- (s) Bridle Trails
- (t) Chief Kamiakin (formerly Kamiak Butte)
- (u) Lake Wenatchee
- (v) Fields Springs
- (w) Sun Lakes
- (x) Scenic Beach.

(3) The board of natural resources and the state parks and recreation commission shall negotiate a mutually acceptable transfer for adequate consideration to the state parks and recreation commission to be used for park and recreation purposes:

(a) All the state-owned Heart Lake property, including the timber therein, located in section 36, township 35 north, range 1E, W.M. in Skagit county;

(b) The Moran Park Additions, including the timber thereon, located in sections 16, 17, 19, 26, and 30, township 37 north, range 1W, W.M.;

(c) The Fort Ebey Addition (Partridge Point), including the timber thereon, located in section 36, township 32 north, range 1W, W.M. and section 6, township 31 north, range 1E, W.M.;

(d) The South Whidbey Addition (Classic U), including the timber thereon, located in section 29, township 30 north, range 2E, W.M.; and

(e) The Larrabee Addition, including the timber thereon, located in section 29, township 37 north, range 3E, W.M.

(4) The board of natural resources and the state parks and recreation commission shall negotiate a sale to the state parks and recreation commission of the lands and timber thereon identified in the joint study under section 4, chapter 163, Laws of 1985, and commonly referred to as:

(a) The Packwood trust property, Lewis county — located on the Cowlitz river at Packwood;

(b) The Iron Horse (Bullfrog) trust property — adjoining the John Wayne Pioneer Trail at Iron Horse State Park;

(c) The Soleduck Corridor trust property, Clallam county — on the Soleduck river at Sappho;

(d) The Lake Sammamish (Providence Heights) trust property, King county — adjacent to Hans Jensen Youth Camp area at Lake Sammamish State Park;

(e) The Kinney Point trust property, Jefferson county — on the extreme southern tip of Marrowstone Island;

(f) The Hartstene Island trust property, Mason county — near Fudge Point on the east side of Hartstene Island approximately two miles south of Jarrell Cove State Park;

(g) The Wallace Falls trust property addition, Snohomish county — located adjacent to Wallace Falls State Park;

(h) The Diamond Point trust property, Clallam county — on the Strait of Juan de Fuca; provided, however, to the extent authorized by the commission by its action of December 7, 1990, as now or hereafter amended, the acreage and boundaries of the Diamond Point trust property acquired by the commission may vary from the acreage and boundaries described in the joint study. The commission may not authorize acquisition of any portion of the Diamond Point trust property by a private party prior to approval by the Clallam county board of commissioners of a preliminary master site plan for a resort development on the property;

(i) The Twin Falls trust property addition, King county — three parcels adjacent to the Twin Falls natural area, King county;

(j) The Skating Lake trust property, Pacific county — one and one-half miles north of Ocean Park and two miles south of Leadbetter State Park on the Long Beach Peninsula;

(k) The Kopachuck trust property addition, Pierce county — adjoining Kopachuck State Park;

(l) The Point Lawrence trust property, San Juan county — on the extreme east point of Orcas Island;

(m) The Huckleberry Island trust property, Skagit county — between Guemes Island and Saddlebag Island State Park;

(n) The Steamboat Rock (Osborn Bay) trust property, Grant county — southwest of Electric City on Osborn Bay;

(o) The Lord Hill trust property, Snohomish county — west of Monroe;

(p) The Larrabee trust property addition, Whatcom county — northeast of Larrabee State Park and Chuckanut Mountain;

(q) The Beacon Rock trust property, Skamania county — at Beacon Rock State Park;

(r) The Loomis Lake trust property, Pacific county — on the east shore of Loomis Lake and Lost Lake;

(s) The Lake Easton trust property addition, Kittitas county — one-quarter mile west of Lake Easton State Park near the town of Easton;

(t) The Fields Spring trust property addition, Asotin county — adjacent to the west and north boundaries of Fields Spring State Park;

(u) The Hoypus Hill trust property, Island county — south of the Hoypus Point natural forest area at Deception Pass State Park;

(v) The Cascade Island trust property, Skagit county — on the Cascade river about one and one-half miles east of Marblemount off of the South Cascade county road and ten and one-half miles east of Rockport State Park.

Payment for the property described in this subsection shall be derived from the trust land purchase account established pursuant to RCW 43.51.280. Timber conservation and management practices provided for in RCW 43.51.045 and 43.51.395 shall govern the management of land and timber transferred under this subsection as of the effective date of the transfer, upon payment for the property, and nothing in this chapter shall be construed as restricting

or otherwise modifying the department of natural resources' management, control, or use of such land and timber until such date.

(5) The funds from the trust land purchase account designated for the acquisition of the property described in subsections (3) and (4) of this section, and the reasonable costs of acquisition, shall be deposited in the park land trust revolving fund, hereby created, to be utilized by the department of natural resources for the exclusive purpose of acquiring real property as a replacement for the property described in subsections (3) and (4) of this section to maintain the land base of the several trusts and for the reimbursement of the department of natural resources for all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the property described in subsections (3) and (4) of this section. Disbursements from the park land trust revolving fund to acquire replacement property, and pay for all reasonable costs of acquisition, for the property described in subsections (3) and (4) of this section shall be on the authorization of the board of natural resources. In order to maintain an effective expenditure and revenue control, the park land trust revolving fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditures and payment of obligations from the fund. The state treasurer shall be custodian of the revolving fund.

The department of natural resources shall pay all reasonable costs, to include, but not exclusively, the appraisal and cruising of the timber on the property for the acquisition of the property described in subsection (3) of this section from funds provided in the trust land purchase account. Any agreement for the transfer of the property described in subsection (3) of this section shall not have an interest rate exceeding ten percent.

The parks and recreation commission is authorized to accept, receive, disburse, and administer grants or funds or gifts from any source including private individuals, public entities, and the federal government to supplement the funds from the trust land purchase account for the purchase of the property described in subsection (3) of this section. [1992 c 185 § 1; 1988 c 79 § 1; 1987 c 466 § 1; 1985 c 163 § 1; 1981 c 271 § 1; 1980 c 4 § 1; 1971 ex.s. c 210 § 1.]

Withdrawal of state trust lands for park and recreational purpose: RCW 79.08.1072 through 79.08.1078.

43.51.280 Trust land purchase account. There is hereby created the trust land purchase account in the state treasury. Any revenues accruing to this account shall be used for the purchase of the property described in RCW 43.51.270(3)(a), to include all reasonable costs of acquisition, and a fee interest or such other interest in state trust lands presently used for park purposes as the state parks and recreation commission shall determine and to reimburse the state parks and recreation commission for the cost of collecting such fees beginning with the 1973-75 fiscal biennium. Any funds remaining in the account shall be used for the renovation and redevelopment of state park structures and facilities to extend the original life expectancy or correct damage to the environment of state parks and for the administration, maintenance, and operation of state parks and other state parks programs in the 1991-93 biennium.

Thereafter, the funds shall not be used for such purposes until the money in the account satisfies the payment required to be made in the contract for sale of lands in RCW 43.51.270(2), the acquisition of the property described in RCW 43.51.270(3)(a), those amounts necessary to pay for the remaining trust assets of timber situated on the lands described in RCW 43.51.270(2), and for the acquisition of the property described in RCW 43.51.270(3) (b), (c), (d), and (e) and 43.51.270(4) on a schedule satisfactory to the board of natural resources. Payments may be delayed for property described in RCW 43.51.270(3) (b), (c), (d), and (e) until the existing contract for purchase of lands in RCW 43.51.270(2) has been paid off. Payments for the property in RCW 43.51.270(4) may be delayed until contracts for purchase of lands and timber described in RCW 43.51.270(2) and (3) have been paid off. Payments from the account for those parcels included in RCW 43.51.270(4) shall be established on a schedule which is mutually acceptable to the board of natural resources and the parks and recreation commission. [1991 sp.s. c 16 § 922; 1991 sp.s. c 13 § 4; 1987 c 466 § 2. Prior: 1985 c 163 § 2; 1985 c 57 § 34; 1981 c 271 § 2; 1980 c 4 § 2; 1971 ex.s. c 210 § 2.]

Reviser's note: This section was amended by 1991 sp.s. c 13 § 4 and by 1991 sp.s. c 16 § 922, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective date—1991 sp.s. c 16: See notes following RCW 9.46.100.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.51.285 Trust lands—Periodic review to identify parcels appropriate for transfer to commission. The parks and recreation commission and the department of natural resources may periodically conduct a joint review of trust lands managed by the department to identify those parcels which may be appropriate for transfer to the commission for public recreation purposes. [1987 c 466 § 3.]

Escheat land suitable for park purposes: RCW 79.01.612.

43.51.290 Winter recreational facilities—Commission duties—Liability. In addition to its other powers, duties, and functions the state parks and recreation commission may:

(1) Plan, construct, and maintain suitable facilities for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies or private landowners by agreement;

(2) Provide and issue upon payment of the proper fee, with the assistance of such authorized agents as may be necessary for the convenience of the public, special permits to park in designated winter recreational area parking spaces;

(3) Administer the snow removal operations for all designated winter recreational area parking spaces; and

(4) Compile, publish, and distribute maps indicating such parking spaces, adjacent trails, and areas and facilities suitable for winter recreational activities.

The commission may contract with any public or private agency for the actual conduct of such duties, but shall remain responsible for the proper administration thereof.

The commission is not liable for unintentional injuries to users of lands administered for winter recreation purposes under this section or under RCW 46.10.210, whether the lands are administered by the commission, by other public agencies, or by private landowners through agreement with the commission. Nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. A road covered with snow and groomed for the purposes of winter recreation consistent with this chapter and chapter 46.10 RCW shall not be presumed to be a known dangerous artificial latent condition for the purposes of this chapter. [1990 c 136 § 2; 1990 c 49 § 2; 1982 c 11 § 1; 1975 1st ex.s. c 209 § 1.]

Reviser's note: This section was amended by 1990 c 49 § 2 and by 1990 c 136 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1975 1st ex.s. c 209: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 209 § 9.]

43.51.300 Winter recreational area parking permits—Fee—Expiration. The fee for the issuance of special winter recreational area parking permits shall be determined by the commission after consultation with the winter recreation advisory committee. If the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, there shall be no fee for the issuance of an annual permit. All special winter recreational area parking permits shall commence and expire on the dates established by the commission. [1990 c 49 § 3; 1986 c 47 § 1; 1982 c 11 § 2; 1975 1st ex.s. c 209 § 2.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.310 Winter recreational program account—Deposit of parking permit fees—Winter recreation programs by public and private agencies. There is hereby created the winter recreational program account in the state treasury. Special winter recreational area parking permit fees collected under this chapter shall be remitted to the state treasurer to be deposited in the winter recreational program account and shall be appropriated only to the commission for nonsnowmobile winter recreation purposes including the administration, acquisition, development, operation, planning, and maintenance of winter recreation facilities and the development and implementation of winter recreation, safety, enforcement, and education programs. The commission may accept gifts, grants, donations, or moneys from any source for deposit in the winter recreational program account.

Any public agency in this state may develop and implement winter recreation programs. The commission may make grants to public agencies and contract with any public or private agency or person to develop and implement winter recreation programs. [1991 sp.s. c 13 § 6; 1985 c 57 § 35; 1982 c 11 § 3; 1975 1st ex.s. c 209 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.320 Winter recreational parking areas—Restriction of overnight parking. The commission may, after consultation with the winter recreation advisory committee, adopt rules and regulations prohibiting or restricting overnight parking at any special state winter recreational parking areas owned or administered by it. Where such special state winter recreational parking areas are administered by the commission pursuant to an agreement with other public agencies, such agreement may provide for prohibition or restriction of overnight parking. [1982 c 11 § 4; 1975 1st ex.s. c 209 § 4.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.321 Penalty for violation of RCW 43.51.320 or 46.61.585. See RCW 46.61.587.

43.51.330 Winter recreational parking areas—Rules. The commission may adopt such rules as are necessary to implement and enforce RCW 43.51.290 through 43.51.320 and 46.61.585 after consultation with the winter recreation advisory committee. [1982 c 11 § 5; 1975 1st ex.s. c 209 § 7.]

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.340 Winter recreation advisory committee—Generally. (1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of fish and wildlife, and one representative of the Washington state association of counties, each of whom shall be appointed by the director of the particular department or association.

(3) The terms of the members appointed under subsection (2) (a) and (b) of this section shall begin on October 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee shall be reimbursed from the winter recreational program account created by RCW

43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) The committee shall meet at times and places it determines not less than twice each year and additionally as required by the committee chairman or by majority vote of the committee. The chairman of the committee shall be chosen under procedures adopted by the committee. The committee shall adopt any other procedures necessary to govern its proceedings.

(6) The director of parks and recreation or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(7) The winter recreation advisory committee and its powers and duties shall terminate on June 30, 2001. [1994 c 264 § 19; 1990 c 49 § 1; 1989 c 175 § 107; 1988 c 36 § 16; 1987 c 330 § 1101; 1986 c 47 § 2; 1982 c 11 § 6; 1975 1st ex.s. c 209 § 8.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Construction—Application of rules—Severability—1987 c 330: See notes following RCW 28B.12.050.

Severability—1975 1st ex.s. c 209: See note following RCW 43.51.290.

43.51.350 Sun Lakes state park—"Vic Meyers Golf Course" designation—"Vic Meyers Lake" designation. The legislature hereby names the golf course located at Sun Lakes State Park the "Vic Meyers Golf Course", and Rainbow Lake shall be re-named "Vic Meyers Lake". The state shall provide and install a proper marker in a suitable location in the main activity area of the park which will set forth the key role Victor Aloysius Meyers had in the development of Sun Lakes State Park and the important part he had for many years in the political and governmental history of the state. In addition, the name hereby established for the golf course shall be prominently displayed at the golf course club house.

The legislature finds it appropriate to so honor Victor Aloysius Meyers for his long and dedicated service to the people of this state. [1977 ex.s. c 266 § 1.]

43.51.355 Authority of commission to implement RCW 43.51.350. The state parks and recreation commission is directed to do all things necessary to carry out the provisions of RCW 43.51.350 and 43.51.355. [1977 ex.s. c 266 § 2.]

43.51.360 Hostels—Legislative declaration of intent. The legislature finds that there is a need for hostels in the state for the safety and welfare of transient persons with limited resources. It is the intent of RCW 43.51.360 through 43.51.370 that such facilities be established using locally donated structures. It is the further intent of RCW 43.51.360 through 43.51.370 that the state dispense any available federal or other moneys for such related projects and provide assistance where possible. [1977 ex.s. c 281 § 1.]

43.51.365 "Hostel" defined. For purposes of *this chapter, "hostel" means a simple basic structure that serves as a safe, low-cost accommodation for mobile people of all ages from this country and abroad. [1977 ex.s. c 281 § 2.]

*Reviser's note: "This chapter" apparently refers to RCW 43.51.360 through 43.51.375.

43.51.370 Hostels—Authority of political subdivisions to establish. Any political subdivision of the state is authorized to establish hostels within its jurisdiction. The facilities and services shall include, but not be limited to:

(1) Short term sleeping accommodations including adequate restroom and bathing facilities; and

(2) Information and referral services, including, but not limited to availability of employment and health services.

Details of operations and regulations, including the establishment of appropriate fees to recover actual operating and maintenance costs, shall be within the discretion of the operating authority: PROVIDED, That the consumption of alcoholic beverages or the possession or use of a controlled substance in violation of chapter 69.50 RCW shall be prohibited. [1977 ex.s. c 281 § 3.]

43.51.375 Hostels—Commission authorized to accept grants or moneys for the support thereof—Rules required. The parks and recreation commission is authorized to accept grants or moneys from any federal or private source for support of hostels. The commission at its discretion is directed to apportion and transfer any such moneys to contracting agencies or political subdivisions which operate hostels: PROVIDED, That the commission shall establish rules and regulations for the operation of hostels which are substantially similar to the operating standards and customs established by the American Youth Hostels Incorporated. [1977 ex.s. c 281 § 4.]

43.51.380 Acquisition, development, etc., of urban area parks by interagency committee for outdoor recreation. Recognizing the fact that the demand for park services is greatest in our urban areas, that parks should be accessible to all Washington citizens, that the urban poor cannot afford to travel to remotely located parks, that few state parks are located in or near urban areas, that a need exists to conserve energy, and that local governments having jurisdiction in urban areas cannot afford the costs of maintaining and operating the extensive park systems needed to service their large populations, the legislature hereby directs the interagency committee for outdoor recreation to place a high priority on the acquisition, development, redevelopment, and renovation of parks to be located in or near urban areas and to be particularly accessible to and used by the populations of those areas. For purposes of RCW 43.51.380 and 43.51.385, "urban areas" mean any incorporated city with a population of five thousand persons or greater or any county with a population density of two hundred fifty persons per square mile or greater. This section shall be implemented by January 1, 1981. [1980 c 89 § 3.]

43.51.385 Establishment of urban area state parks by parks and recreation commission. For the reasons specified in RCW 43.51.380, the state parks and recreation commission shall place a high priority on the establishment of urban area state parks and shall revise its plan for future state parks to achieve this priority. This section shall be implemented by January 1, 1981. [1980 c 89 § 4.]

43.51.395 Declaration of policy—Lands for public park purposes. The legislature declares that it is the continuing policy of the state of Washington to set aside and manage certain lands within the state for public park purposes. To comply with public park purposes, these lands shall be acquired and managed to:

(1) Maintain and enhance ecological, aesthetic, and recreational purposes;

(2) Preserve and maintain mature and old-growth forests containing trees of over ninety years and other unusual ecosystems as natural forests or natural areas, which may also be used for interpretive purposes;

(3) Protect cultural and historical resources, locations, and artifacts, which may also be used for interpretive purposes;

(4) Provide a variety of recreational opportunities to the public, including but not limited to use of developed recreation areas, trails, and natural areas;

(5) Preserve and maintain habitat which will protect and promote endangered, threatened, and sensitive plants, and endangered, threatened, and sensitive animal species; and

(6) Encourage public participation in the formulation and implementation of park policies and programs. [1984 c 82 § 2.]

43.51.400 Powers and duties—Program of boating safety education—Casualty and accident reporting program—Reports to the legislature. The state parks and recreation commission shall:

(1) Coordinate a state-wide program of boating safety education using to the maximum extent possible existing programs offered by the United States power squadron and the United States coast guard auxiliary;

(2) Adopt rules in accordance with chapter 34.05 RCW, consistent with United States coast guard regulations, standards, and precedents, as needed for the efficient administration and enforcement of this section;

(3) Enter into agreements aiding the administration of this chapter;

(4) Adopt and administer a casualty and accident reporting program consistent with United States coast guard regulations;

(5) Adopt and enforce recreational boating safety rules, including but not necessarily limited to equipment and navigating requirements, consistent with United States coast guard regulations;

(6) Coordinate with local and state agencies the development of biennial plans and programs for the enhancement of boating safety, safety education, and enforcement of safety rules and laws; allocate money appropriated to the commission for these programs as necessary; and accept and administer any public or private grants or federal funds which are obtained for these purposes under chapter 43.88 RCW;

(7) Biennially report to the legislature the effects of the combined efforts of state and local boating safety programs on the state's boating accident and fatality rate. The report shall assess and recommend new or alternative fire safety and accident prevention laws adopted in other states as well as successful programs employed by government or industry; and

(8) Take additional actions necessary to gain acceptance of a program of boating safety for this state under the federal boating safety act of 1971. [1994 c 151 § 3; 1984 c 183 § 4; 1983 2nd ex.s. c 3 § 52.]

Enforcement of watercraft registration and boating safety education: RCW 75.10.160.

Penalties for violations: RCW 88.02.110.

43.51.405 Milwaukee Road corridor—Transfer of management control to commission. Management control of the portion of the Milwaukee Road corridor, beginning at the western terminus near Easton and concluding at the west end of the bridge structure over the Columbia river, which point is located in section 34, township 16 north, range 23 east, W.M., inclusive of the northerly spur line therefrom, shall be transferred by the department of natural resources to the state parks and recreation commission at no cost to the commission. [1989 c 129 § 1; 1984 c 174 § 2.]

Construction—1989 c 129: "Nothing in this act shall be construed to affect any existing or reversionary interests in the real property lying within the Milwaukee Road corridor." [1989 c 129 § 4.]

Purpose—1984 c 174: "The purpose of RCW 43.51.405 through 43.51.411 and 79.08.275 through 79.08.283 is to set forth the state's policy regarding the approximately two hundred thirteen-mile corridor of land purchased by the state from the Milwaukee Railroad Company under section 17(21), chapter 143, Laws of 1981." [1984 c 174 § 1.]

43.51.407 Milwaukee Road corridor—Duties. The state parks and recreation commission shall do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Manage the corridor as a recreational trail except when closed under RCW 43.51.409;
- (2) Close the corridor to hunting;
- (3) Close the corridor to all motorized vehicles except: (a) Emergency or law enforcement vehicles; (b) vehicles necessary for access to utility lines; and (c) vehicles necessary for maintenance of the corridor, or construction of the trail;
- (4) Comply with legally enforceable conditions contained in the deeds for the corridor;
- (5) Control weeds under the applicable provisions of chapters 17.04, 17.06, and 17.10 RCW; and
- (6) Clean and maintain culverts. [1987 c 438 § 39; 1984 c 174 § 3.]

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.409 Milwaukee Road corridor—Additional duties. The state parks and recreation commission may do the following with respect to the portion of the Milwaukee Road corridor under its control:

- (1) Enter into agreements to allow the realignment or modification of public roads, farm crossings, water conveyance facilities, and other utility crossings;
- (2) Regulate activities and restrict uses, including, but not limited to, closing portions of the corridor to reduce fire danger or protect public safety;
- (3) Place hazard warning signs and close hazardous structures;
- (4) Renegotiate deed restrictions upon agreement with affected parties; and

(5) Approve and process the sale or exchange of lands or easements if such a sale or exchange will not adversely affect the recreational potential of the corridor; and

(6) Manage the portion of the Milwaukee Road corridor lying between the eastern corporate limits of the city of Kittitas and the eastern end of the corridor under commission control for recreational access limited to holders of permits issued by the commission. The commission shall, for the purpose of issuing permits for corridor use, adopt rules necessary for the orderly and safe use of the corridor and the protection of adjoining landowners, which may include restrictions on the total numbers of permits issued, numbers in a permitted group, and periods during which the corridor is available for permitted users. The commission may increase recreational management of this portion of the corridor and eliminate the permit system as it determines in its discretion based upon available funding and other resources. [1989 c 129 § 3; 1984 c 174 § 4.]

Construction—1989 c 129: See note following RCW 43.51.405.

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.411 Recreation trail on Milwaukee Road corridor. The state parks and recreation commission shall identify opportunities and encourage volunteer work, private contributions, and support from tax-exempt foundations to develop, operate, and maintain the recreation trail on the portion of the Milwaukee Road under its control. [1984 c 174 § 5.]

Purpose—1984 c 174: See note following RCW 43.51.405.

43.51.415 Environmental interpretation—Authority of commission. The legislature finds that the lands owned and managed by the state parks and recreation commission are a significant collection of valuable natural, historical, and cultural resources for the citizens of Washington state. The legislature further finds that if citizens understand and appreciate the state park ecological resources, they will come to appreciate and understand the ecosystems and natural resources throughout the state. Therefore, the state parks and recreation commission may increase the use of its facilities and resources to provide environmental interpretation throughout the state parks system. [1991 c 107 § 1.]

43.51.417 Environmental interpretation—Scope of activities. The state parks and recreation commission may provide environmental interpretative activities for visitors to state parks that:

- (1) Explain the functions, history, and cultural aspects of ecosystems;
- (2) Explain the relationship between human needs, human behaviors and attitudes, and the environment; and
- (3) Offer experiences and information to increase citizen appreciation and stewardship of the environment and its multiple uses. [1991 c 107 § 2.]

43.51.419 Environmental interpretation—Assistance from other organizations. The state parks and recreation commission may consult and enter into agreements with and solicit assistance from private sector organizations and other governmental agencies that are interested in conserving and interpreting Washington's environment. The commission

shall not permit commercial advertising in state park lands or interpretive centers as a condition of such agreements. Logos or credit lines for sponsoring organizations may be permitted. The commission shall maintain an accounting of all monetary gifts provided, and expenditures of monetary gifts shall not be used to increase personnel. [1991 c 107 § 3.]

43.51.420 Senior environmental corps—Commission powers and duties. (1) The parks and recreation commission shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers and procedures for reimbursement of volunteer expenses;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The commission shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 14.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.51.430 Underwater parks—Lead agency. The state parks and recreation commission shall act as the lead agency for the establishment of underwater parks in state waters and for environmental reviews of projects necessary to establish underwater parks. The commission may enter into interagency agreements to facilitate timely receipt of necessary permits from other state agencies and local governments. [1993 c 267 § 1.]

43.51.432 Underwater parks—Authority to establish—Powers and duties. The state parks and recreation commission may establish a system of underwater parks to provide for diverse recreational diving opportunities and to conserve and protect unique marine resources of the state of Washington. In establishing and maintaining an underwater park system, the commission may:

- (1) Plan, construct, and maintain underwater parks;
- (2) Acquire property and enter management agreements with other units of state government for the management of lands, tidelands, and bedlands as underwater parks;
- (3) Construct artificial reefs and other underwater features to enhance marine life and recreational uses of an underwater park;
- (4) Accept gifts and donations for the benefit of underwater parks;
- (5) Facilitate private efforts to construct artificial reefs and underwater parks;
- (6) Work with the federal government, local governments and other appropriate agencies of state government,

including but not limited to: The department of natural resources, the department of fish and wildlife and the natural heritage council to carry out the purposes of RCW 43.51.430 through 43.51.438; and

(7) Contract with other state agencies or local governments for the management of an underwater park unit. [1994 c 264 § 20; 1993 c 267 § 2.]

43.51.434 Underwater parks—Fees—Underwater park account. The commission may charge a fee for recreational uses of an underwater park to offset a part or all of the costs of creating and administering the underwater park system. The fees and any monetary gifts shall be deposited to the underwater park account, which is created in the state treasury. Funds in the underwater park account shall be expended for the operation and creation of state underwater parks, and shall be subject to appropriation. Before implementing a fee program for underwater park uses, the commission shall submit to the appropriate committees of the legislature an estimate of what the fees would be and a plan for collecting these fees. [1993 c 267 § 3.]

43.51.436 Underwater parks—Diverse recreational opportunity. In establishing an underwater park system, the commission shall seek to create diverse recreational opportunities in areas throughout Washington state. The commission shall place a high priority upon creating units that possess unique or diverse marine life or underwater natural or artificial features such as shipwrecks. [1993 c 267 § 4.]

43.51.438 Underwater parks—Liability. The commission is not liable for unintentional injuries to users of underwater parks, whether the facilities are administered by the commission or by another entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 267 § 5.]

43.51.440 Water trail recreation program—Created. The legislature recognizes the increase in water-oriented recreation by users of human and wind-powered, beachable vessels such as kayaks, canoes, or day sailors on Washington's waters. These recreationists frequently require overnight camping facilities along the shores of public or private beaches. The legislature now creates a water trail recreation program, to be administered by the Washington state parks and recreation commission. [1993 c 182 § 1.]

43.51.442 Water trail recreation program—Powers and duties. In addition to its other powers, duties, and functions, the commission may:

- (1) Plan, construct, and maintain suitable facilities for water trail activities on lands administered or acquired by the commission or as authorized on lands administered by tribes or other public agencies or private landowners by agreement.
- (2) Provide and issue, upon payment of the proper fee, with the assistance of those authorized agents as may be necessary for the convenience of the public, water trail permits to utilize designated water trail facilities. The commission may, after consultation with the water trail advisory

committee, adopt rules authorizing reciprocity of water trail permits provided by another state or Canadian province, but only to the extent that a similar exemption or provision for water trail permits is issued by that state or province.

(3) Compile, publish, distribute, and charge a fee for maps or other forms of public information indicating areas and facilities suitable for water trail activities.

(4) Contract with a public agency, private entity, or person for the actual conduct of these duties.

(5) Work with individuals or organizations who wish to volunteer their time to support the water trail recreation program. [1993 c 182 § 2.]

43.51.444 Water trail recreation program—Grants.

The commission may make water trail program grants to public agencies or tribal governments and may contract with any public agency, tribal government, entity, or person to develop and implement water trail programs. [1993 c 182 § 3.]

43.51.446 Water trail recreation program—Liability. The commission is not liable for unintentional injuries to users of facilities administered for water trail purposes under this chapter, whether the facilities are administered by the commission or by any other entity or person. However, nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. [1993 c 182 § 4.]

43.51.448 Water trail recreation program—Permits.

A person may not participate as a user of the water trail recreation program without first obtaining a water trail permit. A person must renew this permit on an annual basis in order to continue to participate as a user of the program. The fee for the issuance of the state-wide water trail permit for each year shall be determined by the commission after consultation with the water trail advisory committee. All state-wide water trail permits shall expire on the last day of December of the year for which the permit is issued. [1993 c 182 § 5.]

43.51.450 Water trail recreation program—Account created. The water trail program account is created in the state treasury. All receipts from sales of materials pursuant to RCW 43.51.442, from state-wide water trail permit fees collected pursuant to RCW 43.51.448, and all monetary civil penalties collected pursuant to RCW 43.51.454 shall be deposited in the water trail program account. Any gifts, grants, donations, or moneys from any source received by the commission for the water trail program shall also be deposited in the water trail program account. Moneys in the account may be spent only after appropriation to the commission, and may be used solely for water trail program purposes, including: (1) Administration, acquisition, development, operation, planning, and maintenance of water trail lands and facilities, and grants or contracts therefor; and (2) the development and implementation of water trail informational, safety, enforcement, and education programs, and grants or contracts therefor. [1993 c 182 § 6.]

43.51.452 Water trail recreation program—Rules.

The commission may, after consultation with the water trail advisory committee, adopt rules to administer the water trail program and facilities on areas owned or administered by the commission. Where water trail facilities administered by other public or private entities are incorporated into the water trail system, the rules adopted by those entities shall prevail. The commission is not responsible or liable for enforcement of these alternative rules. [1993 c 182 § 7.]

43.51.454 Water trail recreation program—Violation. Violation of the provisions of the commission's rules governing the use of water trail facilities and property shall constitute a civil infraction, punishable as provided under chapter 7.84 RCW. [1993 c 182 § 8.]

43.51.456 Water trail advisory committee. (1)

There is created a water trail advisory committee to advise the parks and recreation commission in the administration of RCW 43.51.440 through 43.51.454 and to assist and advise the commission in the development of water trail facilities and programs.

(2) The advisory committee shall consist of twelve members, who shall be appointed as follows:

(a) Five public members representing recreational water trail users, to be appointed by the commission;

(b) Two public members representing commercial sectors with an interest in the water trail system, to be appointed by the commission;

(c) One representative each from the department of natural resources, the department of fish and wildlife, the Washington state association of counties, and the association of Washington cities, to be appointed by the director of the agency or association. The director of the Washington state parks and recreation commission or the director's designee shall serve as secretary to the committee and shall be a nonvoting member.

(3) Except as provided in this section, the terms of the public members appointed by the commission shall begin on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies for the remainder of an unexpired term. In making the initial appointments to the advisory committee, the commission shall appoint two public members to serve one year, two public members to serve for two years, and three public members to serve for three years. Public members of the advisory committee may be reimbursed from the water trail program account for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The committee shall select a chair and adopt rules necessary to govern its proceedings. The committee shall meet at the times and places it determines, not less than twice a year, and additionally as required by the committee chair or by majority vote of the committee. [1994 c 264 § 21; 1993 c 182 § 9.]

YOUTH DEVELOPMENT AND CONSERVATION CORPS

43.51.500 Declaration of purpose. The purpose of RCW 43.51.500 through 43.51.570 is to provide: (1) The

opportunity for healthful employment of youths in programs of conservation, developing, improving, and maintaining natural and artificial recreational areas for the welfare of the general public; (2) the opportunity for our youths to learn vocational and work skills, develop good work habits and a sense of responsibility and contribution to society, improvement in personal physical and moral well being, and an understanding and appreciation of nature. [1969 ex.s. c 96 § 1; 1965 c 8 § 43.51.500. Prior: 1961 c 215 § 1.]

43.51.510 Youth development and conservation division established—Supervisory personnel. There is hereby created and established a youth development and conservation division within the state parks and recreation commission (hereafter referred to as the "commission"). The commission shall appoint such supervisory personnel as necessary to carry out the purposes of RCW 43.51.500 through 43.51.570. [1965 c 8 § 43.51.510. Prior: 1961 c 215 § 2.]

43.51.530 Composition of youth corps—Qualifications, conditions, period of enrollment, etc. Composition of the corps shall consist of youths who are citizens of the United States and residents of the state of Washington of good character and health, and who are not more than twenty-one years of age. In order to enroll, an individual must agree to comply with rules and regulations promulgated by the commission. The period of enrollment shall be for thirty, sixty or ninety days or for such shorter period as determined by the commission. If permitted by the commission an individual may reenroll. Enrollment shall basically be allocated on a percentage basis to each of the forty-nine legislative districts on the basis of the ratio that the population of each district bears to the total population of the state of Washington, but the commission may also take into account problems of substantial unemployment in certain areas. [1975 c 7 § 1; 1969 ex.s. c 96 § 3; 1965 c 8 § 43.51.530. Prior: 1961 c 215 § 3.]

43.51.540 Compensation—Quarters—Hospital services, etc. (1) The minimum compensation shall be at the rate of twenty-five dollars per week, except that up to the minimum state wage may be paid on the basis of assigned leadership responsibilities or special skills.

(2) Enrollees shall be furnished quarters, subsistence, medical and hospital services, transportation, equipment, as the commission may deem necessary and appropriate for their needs. Such quarters, subsistence, and equipment may be furnished by any governmental or public agency. [1982 c 70 § 1; 1975 c 7 § 2; 1965 c 8 § 43.51.540. Prior: 1961 c 215 § 5.]

43.51.545 Compensation—Biweekly payment of compensation authorized. The compensation of enrollees of any program under RCW 43.51.500 through 43.51.570 may be paid biweekly. [1965 ex.s. c 48 § 3.]

43.51.550 Laws relating to hours, conditions of employment, civil service, etc., not applicable. Existing provisions of law with respect to hours of work, rate of compensation, sick leave, vacation, civil service and unem-

ployment compensation shall not be applicable to enrollees or temporary employees working under the provisions of RCW 43.51.500 through 43.51.570. [1965 c 8 § 43.51.550. Prior: 1961 c 215 § 6.]

43.51.560 Expenditures, gifts, government surplus materials. The commission may expend such amounts as necessary for supplies, material and equipment to be used by enrollees in connection with their work, recreation, health, or welfare; the commission shall purchase government surplus materials, supplies and equipment when available and as needed.

The commission may accept any gifts, grants or contributions of money, material, lands, or personal property as it deems appropriate and may administer and dispose of them as it determines to be in the interests of the general public. [1965 c 8 § 43.51.560. Prior: 1961 c 215 § 7.]

43.51.570 Agreements with private persons to enroll additional people—Commercial activities prohibited—Authorized closures of area. The commission may, by agreement with an individual or company enroll and supervise additional young persons, who shall be furnished compensation, subsistence, quarters, supplies and materials by the cooperating private company or individual, to develop, maintain or improve natural and artificial recreational areas for the health and happiness of the general public. The corps shall not be engaged in the development, improvement or maintenance of a commercial recreational area or resort, and the individual or corporation entering such agreement with the commission shall make such improved areas available to the general public without cost for a period of at least five years. Private individuals may reserve the right to close the area during periods of fire hazard or during periods when excess damage would be caused by public use. [1975 c 7 § 3; 1973 1st ex.s. c 154 § 85; 1965 c 8 § 43.51.570. Prior: 1961 c 215 § 8.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

43.51.580 Agreements with and acceptance of grants from federal government authorized. The state parks and recreation commission is authorized to enter into agreements with and accept grants from the federal government for the support of any program within the purposes of RCW 43.51.500 through 43.51.570. [1965 ex.s. c 48 § 1.]

43.51.590 Agreements with and acceptance of grants from federal government authorized—Length of enrollment and compensation in accordance with federal standards authorized. Notwithstanding the provisions of RCW 43.51.530 and 43.51.540, the commission may determine the length of enrollment and the compensation of enrollees in accordance with the standards of any federal act or regulation under which an agreement is made with, or a grant is received from the federal government pursuant to RCW 43.51.580. [1965 ex.s. c 48 § 2.]

SEASHORE CONSERVATION AREA

43.51.650 Declaration of principles. The beaches bounding the Pacific Ocean from the Straits of Juan de Fuca to Cape Disappointment at the mouth of the Columbia River constitute some of the last unspoiled seashore remaining in the United States. They provide the public with almost unlimited opportunities for recreational activities, like swimming, surfing and hiking; for outdoor sports, like hunting, fishing, clamming, and boating; for the observation of nature as it existed for hundreds of years before the arrival of white men; and for relaxation away from the pressures and tensions of modern life. In past years, these recreational activities have been enjoyed by countless Washington citizens, as well as by tourists from other states and countries. The number of people wishing to participate in such recreational activities grows annually. This increasing public pressure makes it necessary that the state dedicate the use of the ocean beaches to public recreation and to provide certain recreational and sanitary facilities. Nonrecreational use of the beach must be strictly limited. Even recreational uses must be regulated in order that Washington's unrivaled seashore may be saved for our children in much the same form as we know it today. [1967 c 120 § 1.]

Repeal and savings—1967 c 120: "Chapter 78, Laws of 1929 (uncodified) is hereby repealed: PROVIDED, That the title of anyone who has purchased property under this act shall not be affected." [1967 c 120 § 10.]

43.51.655 Seashore conservation area—Established. There is established for the recreational use and enjoyment of the public the Washington State Seashore Conservation Area. It shall include all lands now or hereafter under state ownership or control lying between Cape Disappointment and Leadbetter Point; between Toke Point and the South jetty on Point Chehalis; and between Damon Point and the Makah Indian Reservation and occupying the area between the line of ordinary high tide and the line of extreme low tide, as these lines now are or may hereafter be located, and, where applicable, between the Seashore Conservation Line, as established by survey of the Washington state parks and recreation commission and the line of extreme low tide, as these lines now are or may hereafter be located; and shall also include all state-owned nontrust accreted lands along the ocean: PROVIDED, That no such conservation area shall include any lands within the established boundaries of any Indian reservation. [1969 ex.s. c 55 § 1; 1967 c 120 § 2.]

Construction—1969 ex.s. c 55: "No provision of this 1969 amendatory act shall be construed as affecting any private or public property rights." [1969 ex.s. c 55 § 8.]

43.51.660 Jurisdiction over and administration of area. Except as otherwise provided in RCW 43.51.650 through 43.51.685, the Washington State Seashore Conservation Area shall be under the jurisdiction of the Washington state parks and recreation commission, which shall administer RCW 43.51.650 through 43.51.685 in accordance with the powers granted it herein and under the appropriate provisions of chapter 43.51 RCW. [1969 ex.s. c 55 § 2; 1967 c 120 § 3.]

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.665 Principles and purposes to be followed in administering area. The Washington state parks and recreation commission shall administer the Washington State Seashore Conservation Area in harmony with the broad principles set forth in RCW 43.51.650. Where feasible, the area shall be preserved in its present state; everywhere it shall be maintained in the best possible condition for public use. All forms of public outdoor recreation shall be permitted and encouraged in the area, unless specifically excluded or limited by the commission. While the primary purpose in the establishment of the area is to preserve the coastal beaches for public recreation, other uses shall be allowed as provided in RCW 43.51.650 through 43.51.685, or when found not inconsistent with public recreational use by the Washington state parks and recreation commission. [1969 ex.s. c 55 § 3; 1967 c 120 § 4.]

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.670 Cooperation and assistance of federal, state and local agencies. In administering the Washington State Seashore Conservation Area, the Washington state parks and recreation commission shall seek the cooperation and assistance of federal agencies, other state agencies, and local political subdivisions. All state agencies, and the governing officials of each local subdivision shall cooperate with the commission in carrying out its duties. Except as otherwise provided in RCW 43.51.650 through 43.51.685, and notwithstanding any other provision of law, other state agencies and local subdivisions shall perform duties in the Washington State Seashore Conservation Area which are within their normal jurisdiction, except when such performance clearly conflicts with the purposes of RCW 43.51.650 through 43.51.685. [1969 ex.s. c 55 § 4; 1967 c 120 § 5.]

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.675 Powers and authority of department of fish and wildlife not interfered with. Nothing in RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 shall be construed to interfere with the powers, duties and authority of the department of fish and wildlife to regulate the conservation or taking of food fish and shellfish. Nor shall anything in RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 be construed to interfere with the powers, duties and authority of the department of fish and wildlife to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [1994 c 264 § 22; 1988 c 75 § 17; 1987 c 506 § 92; 1983 c 3 § 109; 1969 ex.s. c 55 § 5; 1967 c 120 § 6.]

Effective date—1988 c 75: See note following RCW 43.51.695.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.685 Sale, lease, and disposal of lands within the Seashore Conservation Area. Lands within the Seashore Conservation Area shall not be sold, leased, or otherwise disposed of, except as herein provided. The department of natural resources may lease the lands within the Washington State Seashore Conservation Area as well as the accreted lands along the ocean in state ownership for the

exploration and production of oil and gas: PROVIDED, That oil drilling rigs and equipment will not be placed on the seashore conservation area or state-owned accreted lands.

Sale of sand from accretions shall be made to supply the needs of cranberry growers for cranberry bogs in the vicinity and shall not be prohibited if found by the commission to be reasonable, and not generally harmful or destructive to the character of the land: PROVIDED, That the commission may grant leases and permits for the removal of sands for construction purposes from any lands within the Seashore Conservation Area if found by the commission to be reasonable and not generally harmful or destructive to the character of the land: PROVIDED FURTHER, That net income from such leases shall be deposited in the general fund. [1988 c 75 § 18; 1969 ex.s. c 55 § 6; 1967 c 120 § 8.]

Effective date—1988 c 75: See note following RCW 43.51.695.

Construction—1969 ex.s. c 55: See note following RCW 43.51.655.

43.51.695 Ocean beach recreation management plans—Cooperative program. A cooperative program to provide recreation management plans for the ocean beaches that comprise the Seashore Conservation Area established by RCW 43.51.655 is created. [1988 c 75 § 1.]

Effective date—1988 c 75: "This act shall take effect January 1, 1989." [1988 c 75 § 20.]

43.51.700 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply to RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765.

(1) "Local government" means a county, city, or town.

(2) "Ocean beaches" include the three ocean beaches described in RCW 43.51.655.

(3) "Pedestrian use" means any use that does not involve a motorized vehicle. [1988 c 75 § 2.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.705 Local recreation management plans. Local governments having a portion of the Seashore Conservation Area within their boundaries may, individually or through an agreement with other local governments located on the same ocean beach, adopt a recreation management plan which meets the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765 for that portion of the ocean beach. The legislature hereby encourages adoption of a single plan for each beach. [1988 c 75 § 3.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.710 Reservation for pedestrian use—Restrictions on motorized traffic. (1) Except as provided in RCW 43.51.715 and 43.51.720, a total of forty percent of the length of the beach subject to the recreation management plan shall be reserved for pedestrian use under this section and RCW 43.51.725. Restrictions on motorized traffic under this section shall be from April 15 to the day following Labor day of each year. Local jurisdictions may adopt provisions within recreation management plans that exceed the requirements of this section. The commission shall not

require that a plan designate for pedestrian use more than forty percent of the land subject to the plan.

(2) In designating areas to be reserved for pedestrian use, the plan shall consider the following:

(a) Public safety;

(b) State-wide interest in recreational use of the ocean beaches;

(c) Protection of shorebird and marine mammal habitats;

(d) Preservation of native beach vegetation;

(e) Protection of sand dune topography;

(f) Prudent management of clam beds;

(g) Economic impacts to the local community; and

(h) Public access and parking availability. [1988 c 75 § 4.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.715 Areas reserved for pedestrian use—Exception. Notwithstanding RCW 43.51.710(1), recreation management plans may make provision for vehicular traffic on areas otherwise reserved for pedestrian use in order to:

(1) Facilitate clam digging;

(2) Accommodate organized recreational events of not more than seven consecutive days duration;

(3) Provide for removal of wood debris under RCW 4.24.210 and 43.51.045(5); and

(4) Accommodate removal of sand located upland from the Seashore Conservation Area or removal of sand within the Seashore Conservation Area under the terms of a covenant, easement, or deed. [1988 c 75 § 5.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.720 Public vehicles. Recreation management plans shall not prohibit or restrict public vehicles operated in the performance of official duties or vehicles responding to an emergency. [1988 c 75 § 6.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.725 Land adjoining national wildlife refuges and state parks—Pedestrian use—Exception. Recreation management plans shall, upon request of the commission, reserve on a permanent, seasonal, or temporary basis, land adjoining national wildlife refuges and state parks for pedestrian use. After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan governing driving on land adjoining wildlife refuges and state parks. Land reserved for pedestrian use under this section for at least the period from April 15th through the day following Labor Day of each year shall be included when determining compliance with the requirements of RCW 43.51.710. [1988 c 75 § 7.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.730 Consultation with government agencies required. In preparing, adopting, or approving a recreation management plan, local jurisdictions and the commission shall consult with the *department of fisheries, the department of wildlife and the United States fish and wildlife service. [1988 c 75 § 8.]

*Reviser's note: Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.735 Compliance with federal and state laws required. Recreation management plans shall comply with all applicable federal and state laws. [1988 c 75 § 9.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.740 Hearings. Before adopting a recreation management plan, or amendments to an existing plan, local jurisdictions shall conduct a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in each jurisdiction adopting the plan as well as in a newspaper of general state-wide circulation on at least two occasions not less than fourteen days before the first day of the hearing. When a proposed recreation management plan has been prepared by more than one jurisdiction, joint hearings may be conducted. [1988 c 75 § 10.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.745 Adoption of plans—Approval—Procedure. Recreation management plans shall be adopted by each participating jurisdiction and submitted to the commission by September 1, 1989. The commission shall approve the proposed plan if, in the commission's judgment, the plan adequately fulfills the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765.

If the proposed plan is not approved, the commission shall suggest modifications to the participating local governments. Local governments shall have ninety days after receiving the suggested modifications to resubmit a recreation management plan. Thereafter, if the commission finds that a plan does not adequately fulfill the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765, the commission may amend the proposal or adopt an alternative plan.

If a plan for all or any portion of the Seashore Conservation Area is not submitted in accordance with RCW 43.51.695 through 43.51.765, the commission shall adopt a recreation management plan for that site.

Administrative rules adopted by the commission under RCW 43.51.680 shall remain in effect for all or any portion of each ocean beach until a recreation management plan for that site is adopted or approved by the commission.

The commission shall not adopt a recreation management plan for all or any portion of an ocean beach while appeal of a commission decision regarding that site is pending. [1988 c 75 § 11.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.750 Appeal. Any individual, partnership, corporation, association, organization, cooperative, local government, or state agency aggrieved by a decision of the commission under RCW 43.51.695 through 43.51.765 may appeal under chapter 34.05 RCW. [1988 c 75 § 12.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.755 Cooperation for law enforcement. The commission shall cooperate with state and local law enforcement agencies in meeting the need for law enforcement within the Seashore Conservation Area. [1988 c 75 § 13.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.760 Ocean beaches in Seashore Conservation Area declared public highways. The ocean beaches within the Seashore Conservation Area are hereby declared a public highway and shall remain forever open to the use of the public as provided in RCW 43.51.695 through 43.51.765. [1988 c 75 § 14.]

Effective date—1988 c 75: See note following RCW 43.51.695.

43.51.765 Amendments to plan—Approval—Procedure. Amendments to the recreation management plan may be adopted jointly by each local government participating in the plan and submitted to the commission for approval. The commission shall approve a proposed amendment if, in the commission's judgment, the amendment adequately fulfills the requirements of RCW 43.51.650 through 43.51.685 and 43.51.695 through 43.51.765.

After a plan is approved, the commission may require local jurisdictions to adopt amendments to the plan if the commission finds that such amendments are necessary to protect public health and safety, or to protect significant natural resources as determined by the agency having jurisdiction over the resource. [1988 c 75 § 15.]

Effective date—1988 c 75: See note following RCW 43.51.695.

GREEN RIVER GORGE CONSERVATION AREA

43.51.900 Declaration. The Green River Gorge, between the town of Kanasket and the Kummer bridge in King county, is a twelve mile spectacularly winding gorge with steep to overhanging rock walls reaching heights of from one hundred fifty to three hundred feet. The beauty and natural features of the gorge are generally confined within the canyon rim. This twelve mile gorge area contains many examples of unique biological and geological features for educational and recreational interpretation, almost two miles of Eocene sediment rocks and fossils are exposed revealing one of the most complete stratigraphic sections to be found in the region. The area, a unique recreational attraction with more than one million seven hundred thousand people living within an hour's driving time, is presently used by hikers, geologists, fishermen, kayakers and canoeists, picnickers and swimmers, and those seeking the solitude offered by this unique area. Abutting and adjacent landowners generally have kept the gorge lands in their natural state; however, economic and urbanization pressures for development are rapidly increasing. Local and state outdoor recreation plans show a regional need for resources and facilities which could be developed in this area. A twelve mile strip incorporating the visual basins of the Green River from the Kummer bridge to Palmer needs to be acquired and developed as a conservation area to preserve this unique area for the recreational needs of the region. [1969 ex.s. c 162 § 1.]

43.51.910 Green River Gorge conservation area created. There is hereby created a Washington state parks and recreation commission conservation area to be known as "Green River Gorge conservation area". [1969 ex.s. c 162 § 2.]

43.51.920 Acquisition of real property, easements, or rights authorized. In addition to all other powers and duties prescribed by law, the state parks and recreation commission is authorized and directed to acquire such real property, easements, or rights in the Green River Gorge in King county, together with such real property, easements, and rights as is necessary for such park and conservation purposes in any manner authorized by law for the acquisition of lands for parks and parkway purposes. Except for such real property as is necessary and convenient for development of picnicking or camping areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the gorge within the canyon rim in its natural pristine state. [1969 ex.s. c 162 § 3.]

43.51.930 Acquisition of real property, easements, or rights authorized—Rights of other state agencies not to be infringed upon. Nothing herein shall be construed as authorizing or directing the state parks and recreation commission to acquire any real property, easements, or rights in the Green River Gorge in King county which are now held by any state agency for the purposes of outdoor recreation, conservation, fish, or wildlife management or public hunting or fishing without the approval of such agency. [1969 ex.s. c 162 § 4.]

MOUNT SI CONSERVATION AREA

43.51.940 Legislative declaration. Mt. Si and Little Si in King county offer unique scenic, natural, and geological features which can be viewed from the I-90 highway. They also afford outstanding recreational opportunities enjoyed by the citizens of this state and tourists alike. The legislature recognizes the importance of guarding portions of this area from those types of development which would permanently alter the area's natural form and beauty. It further recognizes the necessity of setting forth procedures to manage the area, to enhance the opportunities afforded the state's citizens, one-half of whom live within one-half hour driving time of Mt. Si, and to safeguard to the extent possible the scenic, natural, geological, game habitat, and recreational values therein, and to safeguard and promote the upper Snoqualmie River valley's economy in which the recreational use of Mt. Si plays a pivotal role. Therefore, the legislature declares this area to be of state-wide significance for the foregoing purposes to be enhanced and safeguarded in accordance with the procedures set forth in *this 1977 amendatory act. [1977 ex.s. c 306 § 1; 1975-'76 2nd ex.s. c 88 § 1.]

***Reviser's note:** "This 1977 amendatory act" consists of the enactment of RCW 43.51.942 through 43.51.945, the repeal of RCW 43.51.941, and the 1977 amendment to RCW 43.51.940.

43.51.942 "Mt. Si conservation area"—Created. There is hereby created a "Mt. Si conservation area" to include approximately twenty-five hundred acres of state, United States government, and privately owned lands within Sections 25, 26, 35, and 36, Township 24 North, Range 8 East, W.M., and Sections 2, 3, 10, 11, and 12 of Township 23 North, Range 8 East, W.M., as identified for inclusion in

the conservation area and described more specifically by the Mt. Si citizen advisory subcommittee in their published report of December 6, 1976, to the Washington state department of natural resources and the Washington state parks and recreation commission as contained in the report filed by those agencies to the house and senate committees on parks and recreation, filed December 1976. [1977 ex.s. c 306 § 2.]

Designation of Mt. Si conservation area as Mt. Si natural resources conservation area: RCW 79.71.100.

43.51.943 Mt. Si conservation area—Management. The state department of natural resources and the state parks and recreation commission have joined together in excellent cooperation in the conducting of this study along with the citizen advisory subcommittee and have joined together in cooperation with the department of fish and wildlife to accomplish other projects of multidisciplinary concern, and because it may be in the best interests of the state to continue such cooperation, the state parks and recreation commission, the department of natural resources, and the department of fish and wildlife are hereby directed to consider both short and long term objectives, the expertise of each agency's staff, and alternatives such as reasonably may be expected to safeguard the conservation area's values as described in RCW 43.51.940 giving due regard to efficiency and economy of management: PROVIDED, That the interests conveyed to or by the state agencies identified in this section shall be managed by the department of natural resources until such time as the state parks and recreation commission or other public agency is managing public recreation areas and facilities located in such close proximity to the conservation area described in RCW 43.51.942 so as to make combined management of those areas and facilities and transfer of management of the conservation area more efficient and economical than continued management by the department of natural resources. At that time the department of natural resources is directed to negotiate with the appropriate public agency for the transfer of those management responsibilities for the interests obtained within the conservation area under RCW 43.51.940 through 43.51.945: PROVIDED FURTHER, That the state agencies identified in this section may, by mutual agreement, undertake management of portions of the conservation area as they may from time to time determine in accordance with those rules and regulations established for natural area preserves under chapter 79.70 RCW, for natural and conservation areas under present WAC 352-16-020(3) and (6), and under chapter 77.12 RCW. [1994 c 264 § 23; 1988 c 36 § 17; 1977 ex.s. c 306 § 3.]

43.51.944 Mt. Si conservation area—Valuation of included lands—Reports. (1) The full market value for department of natural resources' managed trust lands or interest therein within the conservation area shall be determined by the department of natural resources for any lands or interests to be dedicated or leased as provided herein. The department of natural resources shall determine the value of dedicating such lands or interests in lands as it may determine to be necessary to carry out the purposes of *this 1977 amendatory act either by execution of fifty-five year

scenic or development easements or by execution of fifty-five year leases, including such conditions as may be necessary to carry out the purposes of *this 1977 amendatory act. Any lease issued pursuant to *this 1977 amendatory act may be subject to renewal under the provisions of **RCW 79.01.276 as presently existing or hereafter amended. Nothing in *this 1977 amendatory act shall be deemed to alter or affect normal management on lands owned by the state for which no dedication by easement or lease has been made and it is further recognized that no restrictions on management of such lands shall be required unless the applicable trust relating to such lands shall have been compensated.

The completed report of the cost of obtaining the desired interest in these lands shall be presented by the department of natural resources to the interagency committee for outdoor recreation and a summary of the report to the senate and house committees on parks and recreation by December 31, 1978.

(2) The parks and recreation commission shall appraise all lands except those identified in subsection (1) of this section to establish fair market fee title value of the interests therein. The parks and recreation commission shall present to the interagency committee for outdoor recreation the completed report of the cost of obtaining the desired interest in such lands, and a summary of the report to the senate and house committees on parks and recreation by December 31, 1978. [1977 ex.s. c 306 § 4.]

Reviser's note: *(1) For "this 1977 amendatory act" see note following RCW 43.51.940.

***(2) "RCW 79.01.276" was repealed by 1979 1st ex.s. c 109 § 23.

43.51.945 Eminent domain—Use prohibited. No property or interest in property shall be acquired for the purpose of *this 1977 amendatory act by the exercise of the power of eminent domain. [1977 ex.s. c 306 § 6.]

*Reviser's note: For "this 1977 amendatory act" see note following RCW 43.51.940.

WASHINGTON STATE YAKIMA RIVER CONSERVATION AREA

43.51.946 Legislative declaration. It is the intent of RCW 43.51.946 through 43.51.956 to establish and recognize the Yakima river corridor from Selah Gap (Yakima Ridge) to Union Gap (Rattlesnake Hills) as a uniquely valuable recreation, conservation, and scenic resource in the state of Washington. [1977 ex.s. c 75 § 1.]

43.51.947 "Washington State Yakima river conservation area"—Created. There is hereby created an area to be known as the "Washington State Yakima river conservation area". This area designation may be used as a common reference by all state and local agencies, municipalities, and federal agencies. [1977 ex.s. c 75 § 3.]

43.51.948 Yakima river conservation area—Size prescribed. For the purposes of RCW 43.51.946 through 43.51.956, the Yakima river conservation area is to contain no more than the area delineated in appendix D on pages D-3, D-4, D-6, D-7, D-9, and D-10 of the report entitled "The

Yakima River Regional Greenway" which resulted from the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [1977 ex.s. c 75 § 2.]

43.51.949 Yakima river conservation area—Authority of Yakima county commissioners. The Yakima county commissioners are authorized to coordinate the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 43.51.946 through 43.51.956 and in cooperation with public parks, conservation and resource managing agencies. [1977 ex.s. c 75 § 4.]

43.51.950 Yakima river conservation area—Land acquisition. The Yakima county commissioners are authorized to acquire such real property, easements or rights in river-related lands in the Yakima river conservation area, together with such real property, easements, and rights as are necessary for such conservation and parks purposes in any manner authorized by law for the acquisition of lands for conservation, parks and parkway purposes: PROVIDED, That only the Yakima county commissioners shall have the power of eminent domain for the purposes of this chapter. [1977 ex.s. c 75 § 5.]

43.51.951 Intent to preserve river wetlands in their natural state. Except for such property as is necessary or suitable for the development of recreational areas and their related facilities, it is the intent of this section that such property shall be acquired to preserve, as much as possible, the river wetlands in their natural state. [1977 ex.s. c 75 § 6.]

43.51.952 Yakima river conservation area—Consultation between commission and Yakima county commissioners. The Washington state parks and recreation commission is directed to consult with the Yakima county commissioners in the acquisition, development, and operation of the Yakima river conservation area in accordance with the purposes of RCW 43.51.946 through 43.51.956 and the Yakima river study authorized in section 170, chapter 269, Laws of 1975, first extraordinary session. [1977 ex.s. c 75 § 7.]

43.51.953 Yakima river conservation area—Interagency committee for outdoor recreation directed to assist Yakima county commissioners. The interagency committee for outdoor recreation is directed to assist the Yakima county commissioners in obtaining state, federal, and private funding for the acquisition, development, and operation of the Yakima river conservation area. [1977 ex.s. c 75 § 8.]

43.51.954 County or city zoning and/or permitted land uses not affected. Nothing herein shall be construed as affecting nor being in conflict with existing county or city zoning and/or permitted land uses and the right to develop, build or expand existing uses in accordance with the said

zoning or permitted land uses within the Yakima river conservation area. [1977 ex.s. c 75 § 9.]

43.51.955 Department of fish and wildlife, fish and wildlife commission—Powers, duties, and authority—No hunting in any state park. Nothing in RCW 43.51.946 through 43.51.956 shall be construed to interfere with the powers, duties, and authority of the state department of fish and wildlife or the state fish and wildlife commission to regulate, manage, conserve, and provide for the harvest of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall be permitted in any state park. [1993 sp.s. c 2 § 19; 1987 c 506 § 93; 1977 ex.s. c 75 § 10.]

Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79: See RCW 43.300.900.

Severability—1993 sp.s. c 2: See RCW 43.300.901.

Legislative findings and intent—1987 c 506: See note following RCW 77.04.020.

43.51.956 Acquisition of real property, etc., of another agency by Yakima county commissioners—Agency approval required. Nothing herein shall be construed as authorizing or directing the Yakima county commissioners to acquire any real property, easements, or rights in the Yakima river conservation area which are now held by any other agency without the approval of that agency. [1977 ex.s. c 75 § 11.]

Chapter 43.52 OPERATING AGENCIES

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43.52.250 Definitions. As used in this chapter and unless the context indicates otherwise, words and phrases shall mean:

"District" means a public utility district as created under the laws of the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"City" means any city or town in the state of Washington authorized to engage in the business of generating and/or distributing electricity.

"Canada" means Canada or any province thereof.

"Operating agency" or "joint operating agency" means a municipal corporation created pursuant to RCW 43.52.360, as now or hereafter amended.

"Board of directors" means the board established under RCW 43.52.370.

"Executive board" means the board established under RCW 43.52.374.

"Board" means the board of directors of the joint operating agency unless the operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, in which case "board" means the executive board.

"Public utility" means any person, firm or corporation, political subdivision or governmental subdivision including cities, towns and public utility districts engaged in or authorized to engage in the business of generating, transmitting or distributing electric energy.

"Revenue bonds or warrants" means bonds, notes, bond anticipation notes, warrants, certificates of indebtedness, commercial paper, refunding or renewal obligations, payable from a special fund or revenues of the utility properties operated by the joint operating agency.

"Electrical resources" means both electric energy and conservation.

"Electrical energy" means electric energy produced by any means including water power, steam power, nuclear power, and conservation.

"Conservation" means any reduction in electric power consumption as a result of increases in efficiency of energy use, production, or distribution. [1987 c 376 § 8; 1982 1st ex.s. c 43 § 1; 1981 1st ex.s. c 1 § 1; 1977 ex.s. c 184 § 1; 1965 c 8 § 43.52.250. Prior: 1953 c 281 § 1.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

Severability—1981 1st ex.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 1st ex.s. c 1 § 5.]

43.52.260 Scope of authority. The authority granted in this chapter shall apply equally to the generating of electricity by water power, by steam power, by nuclear power, conservation, or by any other means whatsoever. [1987 c 376 § 9; 1977 ex.s. c 184 § 2; 1965 c 8 § 43.52.260. Prior: 1955 c 258 § 18; 1953 c 281 § 20.]

43.52.272 Power commission abolished. The Washington state power commission is hereby abolished. [1965 c 8 § 43.52.272. Prior: 1957 c 295 § 8.]

43.52.290 Members of the board of directors of an operating agency—Compensation—May hold other public position—Incompatibility of offices doctrine voided. Members of the board of directors of an operating agency shall be paid the sum of fifty dollars per day as compensation for each day or major part thereof devoted to the business of the operating agency, together with their traveling and other necessary expenses. Such member may, regardless of any charter or other provision to the contrary, be an officer or employee holding another public position and, if he be such other public officer or employee, he shall be paid by the operating agency such amount as will, together with the compensation for such other public position equal the sum of fifty dollars per day. The common law doctrine of incompatibility of offices is hereby voided as it applies to persons sitting on the board of directors or the executive board of an operating agency and holding an elective or appointive position on a public utility district commission or municipal legislative authority or being an employee of a public utility district or municipality. [1983 1st ex.s. c 3 § 1; 1982 1st ex.s. c 43 § 5; 1977 ex.s. c 184 § 3; 1965 c 8 § 43.52.290. Prior: 1953 c 281 § 4.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.300 Powers and duties of an operating agency. An operating agency formed under RCW 43.52.360 shall have authority:

(1) To generate, produce, transmit, deliver, exchange, purchase or sell electric energy and to enter into contracts for any or all such purposes.

(2) To construct, condemn, purchase, lease, acquire, add to, extend, maintain, improve, operate, develop and regulate plants, works and facilities for the generation and/or transmission of electric energy, either within or without the state of Washington, and to take, condemn, purchase, lease and acquire any real or personal, public or private property, franchise and property rights, including but not limited to state, county and school lands and properties, for any of the

purposes herein set forth and for any facilities or works necessary or convenient for use in the construction, maintenance or operation of any such works, plants and facilities; provided that an operating agency shall not be authorized to acquire by condemnation any plants, works and facilities owned and operated by any city or district, or by a privately owned public utility. An operating agency shall be authorized to contract for and to acquire by lease or purchase from the United States or any of its agencies, any plants, works or facilities for the generation and transmission of electricity and any real or personal property necessary or convenient for use in connection therewith.

(3) To negotiate and enter into contracts with the United States or any of its agencies, with any state or its agencies, with Canada or its agencies or with any district or city of this state, for the lease, purchase, construction, extension, betterment, acquisition, operation and maintenance of all or any part of any electric generating and transmission plants and reservoirs, works and facilities or rights necessary thereto, either within or without the state of Washington, and for the marketing of the energy produced therefrom. Such negotiations or contracts shall be carried on and concluded with due regard to the position and laws of the United States in respect to international agreements.

(4) To negotiate and enter into contracts for the purchase, sale, exchange, transmission or use of electric energy or falling water with any person, firm or corporation, including political subdivisions and agencies of any state of Canada, or of the United States, at fair and nondiscriminatory rates.

(5) To apply to the appropriate agencies of the state of Washington, the United States or any thereof, and to Canada and/or to any other proper agency for such permits, licenses or approvals as may be necessary, and to construct, maintain and operate works, plants and facilities in accordance with such licenses or permits, and to obtain, hold and use such licenses and permits in the same manner as any other person or operating unit.

(6) To establish rates for electric energy sold or transmitted by the operating agency. When any revenue bonds or warrants are outstanding the operating agency shall have the power and shall be required to establish and maintain and collect rates or charges for electric energy, falling water and other services sold, furnished or supplied by the operating agency which shall be fair and nondiscriminatory and adequate to provide revenues sufficient for the payment of the principal and interest on such bonds or warrants and all payments which the operating agency is obligated to set aside in any special fund or funds created for such purposes, and for the proper operation and maintenance of the public utility owned by the operating agency and all necessary repairs, replacements and renewals thereof.

(7) To act as agent for the purchase and sale at wholesale of electricity for any city or district whenever requested so to do by such city or district.

(8) To contract for and to construct, operate and maintain fishways, fish protective devices and facilities and hatcheries as necessary to preserve or compensate for projects operated by the operating agency.

(9) To construct, operate and maintain channels, locks, canals and other navigational, reclamation, flood control and fisheries facilities as may be necessary or incidental to the

construction of any electric generating project, and to enter into agreements and contracts with any person, firm or corporation, including political subdivisions of any state, of Canada or the United States for such construction, operation and maintenance, and for the distribution and payment of the costs thereof.

(10) To employ legal, engineering and other professional services and fix the compensation of a managing director and such other employees as the operating agency may deem necessary to carry on its business, and to delegate to such manager or other employees such authority as the operating agency shall determine. Such manager and employees shall be appointed for an indefinite time and be removable at the will of the operating agency.

(11) To study, analyze and make reports concerning the development, utilization and integration of electric generating facilities and requirements within the state and without the state in that region which affects the electric resources of the state.

(12) To acquire any land bearing coal, uranium, geothermal, or other energy resources, within or without the state, or any rights therein, for the purpose of assuring a long-term, adequate supply of coal, uranium, geothermal, or other energy resources to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale, or disposal of such energy resources that it deems proper. [1977 ex.s. c 184 § 4; 1975 1st ex.s. c 37 § 1; 1965 c 8 § 43.52.300. Prior: 1955 c 258 § 1; 1953 c 281 § 5.]

43.52.3411 Revenue bonds or warrants. For the purposes provided for in this chapter, an operating agency shall have power to issue revenue bonds or warrants payable from the revenues of the utility properties operated by it. Whenever the board of a joint operating agency shall deem it advisable to issue bonds or warrants to engage in conservation activities or to construct or acquire any public utility or any works, plants or facilities or any additions or betterments thereto or extensions thereof it shall provide therefor by resolution, which shall specify and adopt the system or plan proposed and declare the estimated cost thereof as near as may be. Such cost may include funds for working capital, for payment of expenses incurred in the conservation activities or the acquisition or construction of the utility and for the repayment of advances made to the operating agency by any public utility district or city. Except as otherwise provided in RCW 43.52.343, all the provisions of law as now or hereafter in effect relating to revenue bonds or warrants of public utility districts shall apply to revenue bonds or warrants issued by the joint operating agency including, without limitation, provisions relating to: The creation of special funds and the pledging of revenues thereto; the time and place of payment of such bonds or warrants and the interest rate or rates thereon; the covenants that may be contained therein and the effect thereof; the execution, issuance, sale, funding, or refunding, redemption and registration of such bonds or warrants; and the status thereof as negotiable instruments, as legal securities for deposits of public moneys and as legal investments for trustees and other fiduciaries and for savings and loan associations, banks and insurance companies doing business

in this state. However, for revenue bonds or warrants issued by an operating agency, the provisions under RCW 54.24.030 relating to additional or alternate methods for payment may be made a part of the contract with the owners of any revenue bonds or warrants of an operating agency. The board may authorize the managing director or the treasurer of the operating agency to sell revenue bonds or warrants maturing one year or less from the date of issuance, and to fix the interest rate or rates on such revenue bonds or warrants with such restrictions as the board shall prescribe. Such bonds and warrants may be in any form, including bearer bonds or bearer warrants, or registered bonds or registered warrants as provided in RCW 39.46.030. Such bonds and warrants may also be issued and sold in accordance with chapter 39.46 RCW. [1987 c 376 § 10; 1983 c 167 § 116; 1981 1st ex.s. c 1 § 2; 1965 c 8 § 43.52.3411. Prior: 1957 c 295 § 6.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Severability—1981 1st ex.s. c 1: See note following RCW 43.52.250.

43.52.343 Revenue bonds or warrants—Sale by negotiation or advertisement and bid. All bonds issued by an operating agency shall be sold and delivered in such manner, at such rate or rates of interest and for such price or prices and at such time or times as the board shall deem in the best interests of the operating agency, whether by negotiation or to the highest and best bidder after such advertising for bids as the board of the operating agency may deem proper: PROVIDED, That the board may reject any and all bids so submitted and thereafter sell such bonds so advertised under such terms and conditions as it may deem most advantageous to its own interests. [1981 1st ex.s. c 1 § 3; 1965 c 8 § 43.52.343. Prior: 1957 c 295 § 7; 1955 c 258 § 10.]

Severability—1981 1st ex.s. c 1: See note following RCW 43.52.250.

43.52.350 Operating agencies to provide fishways, facilities and hatcheries—Contracts. An operating agency shall, at the time of the construction of any dam or obstruction, construct and shall thereafter maintain and operate such fishways, fish protective facilities and hatcheries as the director of fish and wildlife finds necessary to permit anadromous fish to pass any dam or other obstruction operated by the operating agency or to replace fisheries damaged or destroyed by such dam or obstruction and an operating agency is further authorized to enter into contracts with the department of fish and wildlife to provide for the construction and/or operation of such fishways, facilities and hatcheries. [1994 c 264 § 24; 1988 c 36 § 18; 1977 ex.s. c 184 § 5; 1965 c 8 § 43.52.350. Prior: 1953 c 281 § 11.]

43.52.360 Operating agency—Formation—Additional projects—Appeals—Membership, withdrawal—Dissolution. Any two or more cities or public utility districts or combinations thereof may form an operating agency (herein sometimes called a joint operating agency) for the purpose of acquiring, constructing, operating and owning plants, systems and other facilities and extensions

thereof, for the generation and/or transmission of electric energy and power. Each such agency shall be a municipal corporation of the state of Washington with the right to sue and be sued in its own name.

Application for the formation of an operating agency shall be made to the director of the department of ecology (herein sometimes referred to as the director) after the adoption of a resolution by the legislative body of each city or public utility district to be initial members thereof authorizing said city or district to participate. Such application shall set forth (1) the name and address of each participant, together with a certified copy of the resolution authorizing its participation; (2) a general description of the project and the principal project works, including dams, reservoirs, power houses and transmission lines; (3) the general location of the project and, if a hydroelectric project, the name of the stream on which such proposed project is to be located; (4) if the project is for the generation of electricity, the proposed use or market for the power to be developed; (5) a general statement of the electric loads and resources of each of the participants; (6) a statement of the proposed method of financing the preliminary engineering and other studies and the participation therein by each of the participants.

Within ten days after such application is filed with the director of the department of ecology notice thereof shall be published by the director once a week for four consecutive weeks in a newspaper of general circulation in the county or counties in which such project is to be located, setting forth the names of the participants and the general nature, extent and location of the project. Any public utility wishing to do so may object to such application by filing an objection, setting forth the reasons therefor, with the director of the department of ecology not later than ten days after the date of last publication of such notice.

Within ninety days after the date of last publication the director shall either make findings thereon or have instituted a hearing thereon. In [the] event the director has neither made findings nor instituted a hearing within ninety days of the date of last publication, or if such hearing is instituted within such time but no findings are made within one hundred and twenty days of the date of such last publication, the application shall be deemed to have been approved and the operating agency established. If it shall appear (a) that the statements set forth in said application are substantially correct; (b) that the contemplated project is such as is adaptable to the needs, both actual and prospective, of the participants and such other public utilities as indicate a good faith intention by contract or by letter of intent to participate in the use of such project; (c) that no objection to the formation of such operating agency has been filed by any other public utility which prior to and at the time of the filing of the application for such operating agency had on file a permit or license from an agency of the state or an agency of the United States, whichever has primary jurisdiction, for the construction of such project; (d) that adequate provision will be made for financing the preliminary engineering, legal and other costs necessary thereto; the director shall make findings to that effect and enter an order creating such operating agency, establishing the name thereof and the specific project for the construction and operation for which such operating agency is formed. Such order shall not be

construed to constitute a bar to any other public utility proceeding according to law to procure any required governmental permits, licenses or authority, but such order shall establish the competency of the operating agency to proceed according to law to procure such permits, licenses or authority.

No operating agency shall undertake projects or conservation activities in addition to those for which it was formed without the approval of the legislative bodies of a majority of the members thereof. Prior to undertaking any new project for acquisition of an energy resource, a joint operating agency shall prepare a plan which details a least-cost approach for investment in energy resources. The plan shall include an analysis of the costs of developing conservation compared with costs of developing other energy resources and a strategy for implementation of the plan. The plan shall be updated annually and presented to the energy and utilities committees of the senate and house of representatives for their review and comment. In the event that an operating agency desires to undertake such a hydroelectric project at a site or sites upon which any publicly or privately owned public utility has a license or permit or has a prior application for a license or permit pending with any commission or agency, state or federal, having jurisdiction thereof, application to construct such additional project shall be made to the director of the department of ecology in the same manner, subject to the same requirements and with the same notice as required for an initial agency and project and shall not be constructed until an order authorizing the same shall have been made by the director in the manner provided for such original application.

Any party who has joined in filing the application for, or objections against, the creation of such operating agency and/or the construction of an additional project, and who feels aggrieved by any order or finding of the director shall have the right to appeal to the superior court in the manner set forth in RCW 43.52.430.

After the formation of an operating agency, any other city or district may become a member thereof upon application to such agency after the adoption of a resolution of its legislative body authorizing said city or district to participate, and with the consent of the operating agency by the affirmative vote of the majority of its members. Any member may withdraw from an operating agency, and thereupon such member shall forfeit any and all rights or interest which it may have in such operating agency or in any of the assets thereof: PROVIDED, That all contractual obligations incurred while a member shall remain in full force and effect. An operating agency may be dissolved by the unanimous agreement of the members, and the members, after making provisions for the payment of all debts and obligations, shall thereupon hold the assets thereof as tenants in common. [1987 c 376 § 11; 1977 ex.s. c 184 § 6; 1965 c 8 § 43.52.360. Prior: 1957 c 295 § 1; 1955 c 258 § 3; 1953 c 281 § 12.]

Generation of electric energy by steam: RCW 43.21.250 through 43.21.410.

43.52.370 Operating agency board of directors—Members, appointment, vote, term, etc.—Rules—Proceedings—Limitation on powers and duties. (1) Except as provided in subsection (2) of this section, the

management and control of an operating agency shall be vested in a board of directors, herein sometimes referred to as the board. The legislative body of each member of an operating agency shall appoint a representative who may, at the discretion of the member and regardless of any charter or other provision to the contrary, be an officer or employee of the member, to serve on the board of the operating agency. Each representative shall have one vote and shall have, in addition thereto, one vote for each block of electric energy equal to ten percent of the total energy generated by the agency during the preceding year purchased by the member represented by such representative. Each member may appoint an alternative representative to serve in the absence or disability of its representative. Each representative shall serve at the pleasure of the member. The board of an operating agency shall elect from its members a president, vice president and secretary, who shall serve at the pleasure of the board. The president and secretary shall perform the same duties with respect to the operating agency as are provided by law for the president and secretary, respectively, of public utility districts, and such other duties as may be provided by motion, rule or resolution of the board. The board of an operating agency shall adopt rules for the conduct of its meetings and the carrying out of its business, and adopt an official seal. All proceedings of an operating agency shall be by motion or resolution and shall be recorded in the minute book which shall be a public record. A majority of the board members shall constitute a quorum for the transaction of business. A majority of the votes which the members present are entitled to cast shall be necessary and sufficient to pass any motion or resolution: PROVIDED, That such board members are entitled to cast a majority of the votes of all members of the board. The members of the board of an operating agency may be compensated by such agency as is provided in RCW 43.52.290: PROVIDED, That the compensation to any member shall not exceed five thousand dollars in any year except for board members who are elected to serve on an executive board established under RCW 43.52.374.

(2) If an operating agency is constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW, the powers and duties of the board of directors shall include and are limited to the following:

(a) Final authority on any decision of the operating agency to purchase, acquire, construct, terminate, or decommission any power plants, works, and facilities except that once the board of directors has made a final decision regarding a nuclear power plant, the executive board established under RCW 43.52.374 shall have the authority to make all subsequent decisions regarding the plant and any of its components;

(b) Election of members to, removal from, and establishment of salaries for the elected members of the executive board under RCW 43.52.374(1)(a); and

(c) Selection and appointment of three outside directors as provided in RCW 43.52.374(1)(b).

All other powers and duties of the operating agency, including without limitation authority for all actions subsequent to final decisions by the board of directors, including but not limited to the authority to sell any power plant, works, and facilities are vested in the executive board es-

established under RCW 43.52.374. [1983 1st ex.s. c 3 § 2; 1982 1st ex.s. c 43 § 2; 1981 1st ex.s. c 3 § 1; 1977 ex.s. c 184 § 7; 1965 c 8 § 43.52.370. Prior: 1957 c 295 § 2; 1953 c 281 § 13.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.373 Executive committee—Composition, powers and duties, terms. The board of directors of an operating agency by rule may create an executive committee to be composed of not less than three nor more than seven members of the board of directors. The board of directors may provide by rule for the composition of the executive committee so as to afford, in its judgment, fair representation to the member public utility districts and cities. The executive committee shall administer the business of the board of directors during intervals between its meetings in accordance with its rules, motions or resolutions. The executive committee shall have authority to acquire or construct only such properties as may be provided for by motion or resolution of the board of directors. The terms of office of the members of the executive committee and the method of filling vacancies therein shall be fixed by the rules of the board of directors of the operating agency. [1982 1st ex.s. c 43 § 6; 1965 c 8 § 43.52.373. Prior: 1957 c 295 § 3.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.374 Operating agency executive board—Members—Terms—Removal—Rules—Proceedings—Managing director—Civil immunities—Defense and indemnification. (1) With the exception of the powers and duties of the board of directors described in RCW 43.52.370(2), the management and control of an operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement under chapter 80.50 RCW is vested in an executive board established under this subsection and consisting of eleven members.

(a) Five members of the executive board shall be elected to four-year terms by the board of directors from among the members of the board of directors. The board of directors may provide by rule for the composition of the five members of the executive board elected from among the members of the board of directors so as to reflect the member public utility districts' and cities' participation in the joint operating agency's projects. Members elected to the executive board from the board of directors are ineligible for continued membership on the executive board if they cease to be members of the board of directors. The board of directors may also provide by rule for the removal of a member of the executive board, except for the outside directors. Members of the board of directors may be elected to serve successive terms on the executive board. Members elected to the executive board from the board of directors shall receive a salary from the operating agency at a rate set by the board of directors.

(b) Six members of the executive board shall be outside directors. Three shall be selected and appointed by the board of directors, and three shall be selected and appointed

by the governor and confirmed by the senate. All outside directors shall:

(i) Serve four-year terms on the executive board. However, of the initial members of the executive board, the board of directors and the governor shall each appoint one outside director to serve a two-year term, one outside director to serve a three-year term, and one outside director to serve a four-year term. Thereafter, all outside directors shall be appointed for four-year terms. All outside directors are eligible for reappointment;

(ii) Receive travel expenses on the same basis as the five members elected from the board of directors. The outside directors shall also receive a salary from the operating agency as fixed by the governor;

(iii) Not be an officer or employee of, or in any way affiliated with, the Bonneville power administration or any electric utility conducting business in the states of Washington, Oregon, Idaho, or Montana;

(iv) Not be involved in the financial affairs of the operating agency as an underwriter or financial adviser of the operating agency or any of its members or any of the participants in any of the operating agency's plants; and

(v) Be representative of policy makers in business, finance, or science, or have expertise in the construction or management of such facilities as the operating agency is constructing or operating, or have expertise in the termination, disposition, or liquidation of corporate assets.

(c) The governor may remove outside directors from the executive board for incompetency, misconduct, or malfeasance in office in the same manner as state appointive officers under chapter 43.06 RCW. For purposes of this subsection, misconduct shall include, but not be limited to, nonfeasance and misfeasance.

(2) Nothing in this chapter shall be construed to mean that an operating agency is in any manner an agency of the state. Nothing in this chapter alters or destroys the status of an operating agency as a separate municipal corporation or makes the state liable in any way or to any extent for any preexisting or future debt of the operating agency or any present or future claim against the agency.

(3) The eleven members of the executive board shall be selected with the objective of establishing an executive board which has the resources to effectively carry out its responsibilities. All members of the executive board shall conduct their business in a manner which in their judgment is in the interest of all ratepayers affected by the joint operating agency and its projects.

(4) The executive board shall elect from its members a chairman, vice chairman, and secretary, who shall serve at the pleasure of the executive board. The executive board shall adopt rules for the conduct of its meetings and the carrying out of its business. All proceedings shall be by motion or resolution and shall be recorded in the minute book, which shall be a public record. A majority of the executive board shall constitute a quorum for the transaction of business.

(5) With respect to any operating agency existing on April 20, 1982, to which the provisions of this section are applicable:

(a) The board of directors shall elect five members to the executive board no later than sixty days after April 20, 1982; and

(b) The board of directors and the governor shall select and appoint the initial outside directors and the executive board shall hold its organizational meeting no later than sixty days after April 20, 1982, and the powers and duties prescribed in this chapter shall devolve upon the executive board at that time.

(6) The executive board shall select and employ a managing director of the operating agency and may delegate to the managing director such authority for the management and control of the operating agency as the executive board deems appropriate. The managing director's employment is terminable at the will of the executive board.

(7) Members of the executive board shall be immune from civil liability for mistakes and errors of judgment in the good faith performance of acts within the scope of their official duties involving the exercise of judgment and discretion. This grant of immunity shall not be construed as modifying the liability of the operating agency.

The operating agency shall undertake the defense of and indemnify each executive board member made a party to any civil proceeding including any threatened, pending, or completed action, suit, or proceeding, whether civil, administrative, or investigative, by reason of the fact he or she is or was a member of the executive board, against judgments, penalties, fines, settlements, and reasonable expenses, actually incurred by him or her in connection with such proceeding if he or she had conducted himself or herself in good faith and reasonably believed his or her conduct to be in the best interest of the operating agency.

In addition members of the executive board who are utility employees shall not be fired, forced to resign, or demoted from their utility jobs for decisions they make while carrying out their duties as members of the executive board involving the exercise of judgment and discretion. [1983 1st ex.s. c 3 § 3; 1982 1st ex.s. c 43 § 3; 1981 1st ex.s. c 3 § 2.]

Severability—1982 1st ex.s. c 43: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 43 § 11.]

Savings—1982 1st ex.s. c 43: "(1) All personnel and employees of a board of directors or executive board or committee displaced by section 3 of this act shall become personnel and employees of the executive board created in section 3 of this act without any loss of rights, subject to any appropriate action thereafter.

(2) All pending business before a board of directors or executive board or committee which is replaced by the executive board created in section 3 of this act shall be continued and acted upon by the new executive board.

(3) This act shall not be construed to alter:

(a) Any existing rights acquired under laws relating to operating agencies;

(b) The status of any actions, activities, or civil or criminal proceedings of any existing operating agencies;

(c) The status of any collective bargaining agreements, indebtedness, contracts, or other obligations;

(d) Any valid resolutions, covenants, or agreements between an operating agency and members, participants in any electric generating facility, privately owned public utilities, or agencies of the federal government; or

(e) Any rules, resolutions, or orders adopted by a board of directors or executive board or committee until canceled or superseded." [1982 1st ex.s. c 43 § 4.] "Section 3 of this act" is the 1982 1st ex.s. c 43 amendment to RCW 43.52.374.

43.52.375 Treasurer—Auditor—Powers and duties—Official bonds—Funds. The board of each joint

operating agency shall by resolution appoint a treasurer. The treasurer shall be the chief financial officer of the operating agency, who shall report at least annually to the board a detailed statement of the financial condition of the operating agency and of its financial operations for the preceding fiscal year. The treasurer shall advise the board on all matters affecting the financial condition of the operating agency. Before entering upon his duties the treasurer shall give bond to the operating agency, with a surety company authorized to write such bonds in this state as surety, in an amount which the board finds by resolution will protect the operating agency against loss, conditioned that all funds which he receives as such treasurer will be faithfully kept and accounted for and for the faithful discharge of his duties. The amount of such bond may be decreased or increased from time to time as the board may by resolution direct.

The board shall also appoint an auditor and may require him to give a bond with a surety company authorized to do business in the state of Washington in such amount as it shall by resolution prescribe, conditioned for the faithful discharge of his duties. The auditor shall report directly to the board and be responsible to it for discharging his duties.

The premiums on the bonds of the auditor and the treasurer shall be paid by the operating agency. The board may provide for coverage of said officers and other persons on the same bond.

All funds of the joint operating agency shall be paid to the treasurer and shall be disbursed by him only on warrants issued by the auditor upon orders or vouchers approved by the board: PROVIDED, That the board by resolution may authorize the managing director or any other bonded officer or employee as legally permissible to approve or disapprove vouchers presented to defray salaries of employees and other expenses of the operating agency arising in the usual and ordinary course of its business, including expenses incurred by the board of directors, its executive committee, or the executive board in the performance of their duties. All moneys of the operating agency shall be deposited forthwith by the treasurer in such depositories, and with such securities as are designated by rules of the board. The treasurer shall establish a general fund and such special funds as shall be created by the board, into which he shall place all money of the joint operating agency as the board by resolution or motion may direct. [1982 1st ex.s. c 43 § 7; 1981 1st ex.s. c 3 § 3; 1965 c 8 § 43.52.375. Prior: 1957 c 295 § 4.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.378 Executive board—Appointment of administrative auditor—Retention of firm for performance audits—Duties of auditor and firm—Reports. The executive board of any operating agency constructing, operating, terminating, or decommissioning a nuclear power plant under a site certification agreement issued pursuant to chapter 80.50 RCW shall appoint an administrative auditor. The administrative auditor shall be deemed an officer under chapter 42.23 RCW. The appointment of the administrative auditor shall be in addition to the appointment of the auditor for the issuance of warrants and other purposes as provided in RCW 43.52.375. The executive board shall retain a qualified firm or firms to conduct performance audits which is in fact independent and does not have any interest, direct

or indirect, in any contract with the operating agency other than its employment hereunder. No member or employee of any such firm shall be connected with the operating agency as an officer, employee, or contractor. The administrative auditor and the firm or firms shall be independently and directly responsible to the executive board of the operating agency. The executive board shall require a firm to conduct continuing audits of the methods, procedures and organization used by the operating agency to control costs, schedules, productivity, contract amendments, project design and any other topics deemed desirable by the executive board. The executive board may also require a firm to analyze particular technical aspects of the operating agency's projects and contract amendments. The firm or firms shall provide advice to the executive board in its management and control of the operating agency. At least once each year, the firm or firms shall prepare and furnish a report of its actions and recommendations to the executive board for the purpose of enabling it to attain the highest degree of efficiency in the management and control of any thermal power project under construction or in operation. The administrative auditor shall assist the firm or firms in the performance of its duties. The administrative auditor and the firm or firms shall consult regularly with the executive board and furnish any information or data to the executive board which the administrative auditor, firm, or executive board deems helpful in accomplishing the purpose above stated. The administrative auditor shall perform such other duties as the executive board shall prescribe to accomplish the purposes of this section.

Upon the concurrent request of the chairmen of the senate or house energy and utilities committees, the operating agency shall report to the committees on a quarterly basis. [1987 c 505 § 84; 1986 c 158 § 13; 1982 1st ex.s. c 43 § 8; 1981 1st ex.s. c 3 § 4; 1979 ex.s. c 220 § 1.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.380 Member's preference to buy energy—Apportionment—Surplus. Members shall have a preference right to the purchase of all electric energy generated by an operating agency. As between members, the amount of electric energy to which each shall be entitled shall be computed annually and shall be based on the same percentage as the purchases of such member bore to the total generation of the operating agency for the preceding year. Surplus electric energy, that is energy not contracted for by the members, may be sold to any public utility authorized by law to distribute and sell electric energy. [1965 c 8 § 43.52.380. Prior: 1953 c 281 § 14.]

43.52.383 Compliance with open public meetings act. (1) The legislature intends that the business and deliberations of joint operating agencies conducted by their boards of directors, executive boards, committees and subcommittees be conducted openly and with opportunity for public input.

(2) The board of directors, executive board, and all committees or subcommittees thereof shall comply with the provisions of chapter 42.30 RCW, in order to assure ade-

quate public input and awareness of decisions. [1983 1st ex.s. c 3 § 4.]

43.52.385 Best interest of ratepayers to determine interest of agency. For the purposes of this chapter, including but not limited to RCW 43.52.343, the best interests of all ratepayers affected by the joint operating agency and its projects shall determine the interest of the operating agency and its board. [1982 1st ex.s. c 43 § 9.]

Severability—Savings—1982 1st ex.s. c 43: See notes following RCW 43.52.374.

43.52.391 Powers and duties of operating agency. Except as otherwise provided in this section, a joint operating agency shall have all powers now or hereafter granted public utility districts under the laws of this state. It shall not acquire nor operate any electric distribution properties nor condemn any properties owned by a public utility which are operated for the generation and transmission of electric power and energy or are being developed for such purposes with due diligence under a valid license or permit, nor purchase or acquire any operating hydroelectric generating plant owned by any city or district on June 11, 1953, or which may be acquired by any city or district by condemnation on or after January 1, 1957, nor levy taxes, issue general obligation bonds, or create subdistricts. It may enter into any contracts, leases or other undertakings deemed necessary or proper and acquire by purchase or condemnation any real or personal property used or useful for its corporate purposes. Actions in eminent domain may be instituted in the superior court of any county in which any of the property sought to be condemned is located and the court in any such action shall have jurisdiction to condemn property wherever located within the state; otherwise such actions shall be governed by the same procedure as now or hereafter provided by law for public utility districts. An operating agency may sell steam or water not required by it for the generation of power and may construct or acquire any facilities it deems necessary for that purpose.

An operating agency may make contracts for any term relating to the purchase, sale, interchange or wheeling of power with the government of the United States or any agency thereof and with any municipal corporation or public utility, within or without the state, and may purchase or deliver power anywhere pursuant to any such contract. An operating agency may acquire any coal-bearing lands for the purpose of assuring a long-term, adequate supply of coal to supply its needs, both actual and prospective, for the generation of power and may make such contracts with respect to the extraction, sale or disposal of coal that it deems proper.

Any member of an operating agency may advance or contribute funds to an agency as may be agreed upon by the agency and the member, and the agency shall repay such advances or contributions from proceeds of revenue bonds, from operating revenues or from any other funds of the agency, together with interest not to exceed the maximum specified in RCW 43.52.395(1). The legislative body of any member may authorize and make such advances or contributions to an operating agency to assist in a plan for termination of a project or projects, whether or not such member is

a participant in such project or projects. Any member who makes such advances or contributions for terminating a project or projects in which it is not a participant shall not assume any liability for any debts or obligations related to the terminated project or projects on account of such advance or contribution. [1982 c 1 § 1; 1977 ex.s. c 184 § 8; 1965 c 8 § 43.52.391. Prior: 1957 c 295 § 5.]

Severability—1982 c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 c 1 § 3.]

Liability to other taxing districts for increased financial burdens: Chapter 54.36 RCW.

43.52.395 Maximum interest rate operating agency may pay member. (1) The maximum rate at which an operating agency shall add interest in repaying a member under RCW 43.52.391 may not exceed the higher of fifteen percent per annum or four percentage points above the equivalent coupon issue yield (as published by the Board of Governors of the Federal Reserve System) of the average bill rate for twenty-six week treasury bills as determined at the first bill market auction conducted during the preceding calendar month.

(2) The maximum rate specified in subsection (1) of this section is applicable to all advances and contributions made by each member to the agency prior to January 21, 1982, and to all renewals of such advances and contributions. [1989 c 14 § 4; 1982 c 1 § 2.]

Severability—1982 c 1: See note following RCW 43.52.391.

43.52.410 Authority of city or district to contract for electric energy or falling waters. Any city or district is authorized to enter into contracts or compacts with any operating agency or a publicly or privately owned public utility for the purchase and sale of electric energy or falling waters: PROVIDED, That no city or district may enter into a contract or compact with an operating agency to purchase electric energy, or to purchase or participate in a portion of an electrical generating project, that commits the city or district to pay an amount in excess of an express dollar amount or in excess of an express rate per unit of electrical energy received. [1983 c 308 § 1; 1977 ex.s. c 184 § 9; 1965 c 8 § 43.52.410. Prior: 1953 c 281 § 17.]

43.52.430 Appeals from director of department of ecology. Any party in interest deeming itself aggrieved by any order of the director of the department of ecology may appeal to the superior court of Thurston county by serving upon the director and filing with clerk of said court within thirty days after the entry of the order a notice of appeal. The director shall, within ten days after service of the notice of appeal, file with the clerk of the court a return containing a true copy of the order appealed from, together with a transcript of the record of the proceeding before the director, after which the appeal shall be at issue. The appeal shall be heard and decided by the court upon the record before the director and the court may either affirm, set aside, or remand the order appealed from for further proceedings. Appellate review of the superior court's decision may be sought as in other civil cases. [1988 c 202 § 44; 1977 ex.s. c 184 § 10;

1971 c 81 § 113; 1965 c 8 § 43.52.430. Prior: 1953 c 281 § 19.]

Severability—1988 c 202: See note following RCW 2.24.050.

43.52.440 Effect of chapter on "Columbia River Sanctuary Act". Nothing contained in this chapter shall be construed to amend, modify or repeal in any manner RCW 75.20.110, commonly known as the "Columbia River Sanctuary Act", and all matter herein contained shall be expressly subject to such act. [1983 1st ex.s. c 46 § 178; 1965 c 8 § 43.52.440. Prior: 1953 c 281 § 23.]

Intent—Savings—Effective date—1983 1st ex.s. c 46: See RCW 75.98.005 through 75.98.007.

43.52.450 Chapter requirements are cumulative—Preservation of rights—Not subject to utilities and transportation commission. The provisions of this chapter shall be cumulative and shall not impair or supersede the powers or rights of any person, firm or corporation or political subdivision of the state of Washington under any other law. The rights of all persons, firms, corporations and political subdivisions or operating units of any kind under existing contracts, renewals thereof or supplements thereto, with the United States, or any agency thereof, for power, are hereby preserved and such rights shall not be impaired or modified by any of the provisions of this chapter or any of the powers granted by this chapter.

The rates, services and practices of any operating agency in respect to the power generated, transmitted or sold by it shall not be governed by the regulations of the utilities and transportation commission. [1977 ex.s. c 184 § 11; 1965 c 8 § 43.52.450. Prior: 1953 c 281 § 10.]

43.52.460 Operating agency to pay in lieu of taxes. Any joint operating agency formed under this chapter shall pay in lieu of taxes payments in the same amounts as paid by public utility districts. Such payments shall be distributed in accordance with the provisions applicable to public utility districts: PROVIDED, HOWEVER, That such tax shall not apply to steam generated electricity produced by a nuclear steam powered electric generating facility constructed or acquired by a joint operating agency and in operation prior to May 17, 1971. [1971 ex.s. c 75 § 1; 1965 c 8 § 43.52.460. Prior: 1957 c 295 § 10.]

43.52.470 Operating agency—Validity of organization and existence. Except as provided in RCW 43.52.360, the validity of the organization of any joint operating agency can be questioned only by action instituted within six months from the date that the joint operating agency is created. If the validity of the existence of any joint operating agency is not challenged within that period, by the filing and service of a petition or complaint in the action, the state shall be barred forever from questioning the validity of the joint operating agency by reason of any defect claimed to exist in the organization thereof, and it shall be deemed validly organized for all purposes. Any joint operating agency heretofore (March 26, 1957) attempted to be organized pursuant to chapter 43.52 RCW and which has maintained its existence since the date of such attempted organization, is hereby declared legal and valid and its organization and

creation are validated and confirmed. [1965 c 8 § 43.52.470. Prior: 1957 c 295 § 11.]

43.52.515 Application of Titles 9 and 9A RCW. All of the provisions of Titles 9 and 9A RCW apply to actions of a joint operating agency. [1981 c 173 § 6.]

Severability—1981 c 173: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 173 § 9.]

43.52.520 Security force—Authorized. An operating agency constructing or operating a nuclear power plant under a site certificate issued under chapter 80.50 RCW may establish a security force for the protection and security of each nuclear power plant site exclusion area. Members of the security force may be supplied with uniforms and badges indicating their position as security force members if the uniforms and badges do not closely resemble the uniforms or badges of any law enforcement agency or other agency possessing law enforcement powers in the surrounding area of the nuclear power plant exclusion area. Members of the security force shall enroll in and successfully complete a training program approved by the criminal justice training commission which does not conflict with any requirements of the United States nuclear regulatory commission for the training of security personnel at nuclear power plants. All costs incurred by the criminal justice training commission in the preparation, delivery, or certification of the training programs shall be paid by the operating agency. [1981 c 301 § 1.]

43.52.525 Security force—Criminal history record information. An operating agency is authorized to obtain criminal history record information pursuant to RCW 10.97.050 for any member of an operating agency security force and for any applicant seeking employment as a member of an operating agency security force. [1981 c 301 § 2.]

43.52.530 Security force—Powers and duties—Rules on speed, operation, location of vehicles authorized. (1) Members of an operating agency security force authorized under RCW 43.52.520 may use reasonable force to detain, search, or remove persons who enter or remain without permission within the nuclear power plant site exclusion area or whenever, upon probable cause, it appears to a member of the security force that a person has committed or is attempting to commit a crime. Should any person be detained, the security force shall immediately notify the law enforcement agency, having jurisdiction over the nuclear power plant site, of the detention. The security force is authorized to detain the person for a reasonable time until custody can be transferred to a law enforcement officer. Members of a security force may use that force necessary in the protection of persons and properties located within the confines of the nuclear power plant site exclusion area.

(2) An operating agency may adopt and enforce rules controlling the speed, operation, and location of vehicles on property owned or occupied by the operating agency. Such

rules shall be conspicuously posted and persons violating the rules may be expelled or detained.

(3) The rights granted in subsection (1) of this section are in addition to any others that may exist by law including, but not limited to, the rights granted in RCW 9A.16.020(4). [1981 c 301 § 3.]

43.52.535 Security force—Membership in retirement system authorized. Members of the operating agency security force shall be members of the retirement system under chapter 41.40 RCW. [1981 c 301 § 4.]

43.52.550 Plans for repayment of operating agency obligations maturing prior to planned operation of plant. Any municipal corporation, cooperative or mutual which has entered into a contract with an operating agency to participate in the construction or acquisition of an energy plant as defined in chapter 80.50 RCW shall annually adopt a plan for the repayment of its contractual share of any operating agency obligation which matures prior to the planned operation of the plant. The manner of adoption of the plan shall be subject to the laws regarding approval of rates of the municipal corporation, cooperative or mutual.

The plan shall include the effect of the means of repayment on its financial condition, its customers' rates, its other contractual rights and obligations, and any other matter deemed useful by the participant.

Each such participating municipal corporation, cooperative or mutual shall include a statement of the extent of its contractual obligation to any operating agency in an annual financial report. [1981 1st ex.s. c 1 § 4.]

Severability—1981 1st ex.s. c 1: See note following RCW 43.52.250.

43.52.560 Contracts for materials or work required—Sealed bids—Certification. (1) Except as provided otherwise in this chapter, a joint operating agency shall purchase any item or items of materials, equipment, or supplies, the estimated cost of which is in excess of five thousand dollars exclusive of sales tax, or order work for construction of generating projects and associated facilities, the estimated cost of which is in excess of ten thousand dollars exclusive of sales tax, by contract in accordance with RCW 54.04.070 and 54.04.080, which require sealed bids for contracts.

(2) When a joint operating agency executes a contract under RCW 43.52.565, 43.52.575, or 43.52.580, the managing director shall certify to the committees on energy and utilities of the senate and house of representatives in writing within thirty days after the contract is signed, that such contract is in the public interest, state the reason or reasons why, and indicate the estimated cost savings to the project compared to contracting for the same material, supplies, equipment or work through completion of work as contracted, including termination costs, or through sealed bids. [1987 c 376 § 1.]

43.52.565 Contracts for materials or work through competitive negotiation authorized—Selection of contractor. (1) An operating agency may enter into contracts through competitive negotiation under subsection (2) of this

section for materials, equipment, supplies, or work to be performed during commercial operation of a nuclear generating project and associated facilities (a) to replace a defaulted contract or a contract terminated in whole or in part, or (b) where consideration of factors in addition to price, such as technical knowledge, experience, management, staff, or schedule, is necessary to achieve economical operation of the project, provided that the managing director or a designee determines in writing and the executive board finds that execution of a contract under this section will accomplish project completion or operation more economically than sealed bids.

(2) The selection of a contractor shall be made in accordance with the following procedures:

(a) Proposals shall be solicited through a request for proposals, which shall state the requirements to be met. Responses shall describe the professional competence of the offeror, the technical merits of the offer, and the price.

(b) The request for proposals shall be given adequate public notice in the same manner as for sealed bids.

(c) As provided in the request for proposals, the operating agency shall specify at a preproposal conference the contract requirements in the request for proposal, which may include but are not limited to: Schedule, managerial, and staffing requirements, productivity and production levels, technical expertise, approved project quality assurance procedures, and time and place for submission of proposals. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all potential offerors.

(d) Proposals shall be opened so as to avoid disclosure of contents to competing offerors during the process of negotiation. A register of proposals shall be open for public inspection after contract award.

(e) As provided in the request for proposals, invitations shall be sent to all responsible offerors who submit proposals to attend discussions for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Any inquiries and responses thereto shall be confirmed in writing and shall be sent to all offerors. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals, and such revisions may be permitted after submissions and prior to award for the purpose of obtaining best and final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(f) The operating agency shall execute a contract with the responsible offeror whose proposal is determined in writing to be the most advantageous to the operating agency and the state taking into consideration the requirements set forth in the request for proposals. If a proposed contract exceeds ten million dollars, the operating agency shall notify the committees on energy and utilities of the senate and house of representatives at least thirty days prior to the date of contract execution and shall provide a copy of the contract with the notification. The contract file shall contain the basis on which the successful offeror is selected. The operating agency shall conduct a briefing conference on the selection if requested by an offeror.

(g) The contract may be fixed price or cost-reimbursable, in whole or in part, but not cost-plus-percentage-of-cost.

(h) The operating agency shall retain authority and responsibility for inspection, testing, and compliance with applicable regulations or standards of any state or federal governmental agency. [1994 c 27 § 1; 1987 c 376 § 2.]

43.52.570 Purchase of materials by telephone or written quotation authorized—Procedure. For the awarding of a contract to purchase any item or items of materials, equipment, or supplies in an amount exceeding five thousand dollars but less than seventy-five thousand dollars, exclusive of sales tax, the managing director or a designee may, in lieu of sealed bids, secure telephone and/or written quotations from at least five vendors, where practical, and award contracts for purchase of materials, equipment, or supplies to the lowest responsible bidder. The agency shall establish a procurement roster, which shall consist of suppliers and manufacturers who may supply materials or equipment to the operating agency, and shall provide for solicitations which will equitably distribute opportunity for bids among suppliers and manufacturers on the roster. Immediately after the award is made, the bid quotations obtained shall be recorded and shall be posted or otherwise made available for public inspection and copying pursuant to chapter 42.17 RCW at the office of the operating agency or any other officially designated location. Waiver of the deposit or bid bond required for sealed bids may be authorized by the operating agency in securing the bid quotations. [1987 c 376 § 3.]

43.52.575 Purchase of materials without competition authorized. When the managing director or a designee determines in writing that it is impracticable to secure competition for required materials, equipment, or supplies, he or she may purchase the materials, equipment, or supplies without competition. The term "impracticable to secure competition" means:

(1) When material, equipment, or supplies can be obtained from only one person or firm (single source of supply); or

(2) When specially designed parts or components are being procured as replacement parts in support of equipment specially designed by the manufacturer. [1987 c 376 § 4.]

43.52.580 Emergency purchase of materials or work by contract. When the managing director or a designee determines in writing that an emergency endangers the public safety or threatens property damage or that serious financial injury would result if materials, supplies, equipment, or work are not obtained by a certain time, and they cannot be contracted for by that time by means of sealed bids, the managing director or a designee may purchase materials, equipment, or supplies or may order work by contract in any amount necessary, after having taken precautions to secure a responsive proposal at the lowest price practicable under the circumstances.

For the purposes of this section the term "serious financial injury" means that the costs attributable to the delay caused by contracting by sealed bids exceed the cost of materials, supplies, equipment, or work to be obtained. [1987 c 376 § 5.]

43.52.585 Procedures for implementing RCW 43.52.560 through 43.52.580. The executive board shall establish procedures for implementing RCW 43.52.560 through 43.52.580 by operating agency resolution after notice, public hearing, and opportunity for public comment. The procedures shall be established within six months after July 26, 1987. [1987 c 376 § 6.]

43.52.590 Construction of RCW 43.52.560 through 43.52.585. Nothing in RCW 43.52.560 through 43.52.585 requires reapplication by a joint operating agency in existence on July 26, 1987. [1987 c 376 § 7.]

43.52.612 Contract bid form. A joint operating agency shall require that bids upon any construction or improvement of any nuclear generating project and associated facilities shall be made upon the contract bid form supplied by the operating agency, and in no other manner. The operating agency may, before furnishing any person, firm, or corporation desiring to bid upon any work with a contract bid form, require from the person, firm, or corporation, answers to questions contained in a standard form of questionnaire and financial statement, including a complete statement of the financial ability and experience of the person, firm, or corporation in performing work. The questionnaire shall be sworn to before a notary public or other person authorized to take acknowledgement of deeds and shall be submitted once a year or at such other times as the operating agency may require. Whenever the operating agency is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement or whenever the operating agency determines that the person, firm, or corporation does not meet all of the requirements set forth in this section, it may refuse to furnish the person, firm, or corporation with a contract bid form and any bid of the person, firm, or corporation must be disregarded. The operating agency shall require that a person, firm, or corporation have all of the following requirements in order to obtain a contract form:

(1) Adequate financial resources, the ability to secure these resources, or the capability to secure a one hundred percent payment and performance bond;

(2) The necessary experience, organization, and technical qualifications to perform the proposed contract;

(3) The ability to comply with the required performance schedule taking into consideration all of its existing business commitments;

(4) A satisfactory record of performance, integrity, judgment, and skills; and

(5) Be otherwise qualified and eligible to receive an award under applicable laws and regulations.

The refusal shall be conclusive unless appealed to the superior court of the county where the operating agency is situated or Thurston county within fifteen days, which appeal shall be heard summarily within ten days after the appeal is made and on five days' notice thereof to the operating agency.

The prevailing party in such litigation shall be awarded its attorney fees and costs.

The operating agency shall not be required to make available for public inspection or copying under chapter

42.17 RCW financial information provided under this section. [1982 1st ex.s. c 44 § 5.]

Severability—1982 1st ex.s. c 44: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 1st ex.s. c 44 § 10.]

43.52.910 Construction—1965 c 8. This chapter shall be liberally construed to effectuate its purposes. [1965 c 8 § 43.52.910. Prior: 1957 c 295 § 12.]

Chapter 43.52A

ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL—STATE'S MEMBERS

Sections

43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council.

43.52A.020 Definitions.

43.52A.030 Appointment of members.

43.52A.040 Terms of members—Vacancies—Residence of members.

43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses.

43.52A.010 State agreement to participate in Pacific Northwest Electric Power and Conservation Planning Council. The state of Washington agrees to participate in the Pacific Northwest Electric Power and Conservation Planning Council pursuant to the Pacific Northwest Electric Power Planning and Conservation Act. [1981 c 14 § 1.]

43.52A.020 Definitions. As used in this chapter:

(1) The term "the act" means the Pacific Northwest Electric Power Planning and Conservation Act.

(2) The term "council" means the Pacific Northwest Electric Power and Conservation Planning Council. [1981 c 14 § 2.]

43.52A.030 Appointment of members. The governor, with the consent of the senate, shall appoint two residents of Washington state to the council pursuant to the act. These persons shall undertake the functions and duties of members of the council as specified in the act and in appropriate state law. Upon appointment by the governor to the council, the nominee shall make available to the senate such disclosure information as is requested for the confirmation process, including that required in RCW 42.17.241. [1984 c 34 § 8; 1981 c 14 § 3.]

43.52A.040 Terms of members—Vacancies—Residence of members. (1) Unless removed at the governor's pleasure, council members shall serve a term ending January 15 of the third year following appointment except that, with respect to members initially appointed, the governor shall designate one member to serve a term ending January 15 of the second year following appointment. Initial appointments to the council shall be made within thirty days of March 9, 1981.

(2) Each member shall serve until a successor is appointed, but if a successor is not appointed within sixty

days of the beginning of a new term, the member shall be considered reappointed, subject to the consent of the senate.

(3) A vacancy on the council shall be filled for the unexpired term by the governor, with the consent of the senate.

(4) For the first available appointment and at all times thereafter, one member of Washington's delegation to the council shall reside east of the crest of the Cascade Mountains and one member shall reside west of the crest of the Cascade Mountains. [1984 c 223 § 1; 1981 c 14 § 4.]

43.52A.050 Sufficient time on council activities required—Technical assistance—Reimbursement—Liaison—Report—Compensation—Travel expenses. (1) Council members shall spend sufficient time on council activities to fully represent the state of Washington in carrying out the purposes of the act.

(2) State agencies shall provide technical assistance to council members upon request. The council members shall request that the council request the administrator of the Bonneville Power Administration to reimburse the state for the expenses associated with such assistance as provided in the act.

(3) The members of the council shall maintain liaison with the governor or his designees and the committees on energy and utilities, or their successor entities, of the senate and house of representatives.

(4) The members of the council shall submit to the governor and legislature an annual report describing the activities and plans of the council.

(5) Each member of the council shall receive compensation to be determined by the governor and applicable federal law and shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060, as now or hereafter amended. [1981 c 14 § 5.]

Chapter 43.56

UNIFORM LEGISLATION COMMISSION

Sections

43.56.010 Appointment of commissioners.

43.56.020 Duties of commission.

43.56.040 Travel expenses of members.

Law revision commission: Chapter 1.30 RCW.

43.56.010 Appointment of commissioners. The governor shall appoint three suitable persons as a board of commissioners for the promotion of uniformity of legislation in the United States. Any vacancy on the board shall be filled by appointment by the governor. [1965 c 8 § 43.56.010. Prior: 1905 c 59 § 1; RRS § 8204.]

43.56.020 Duties of commission. The board shall examine the subjects of marriage and divorce, insolvency, the descent and distribution of property, the execution and probate of wills, and other subjects upon which uniformity of legislation in the various states is desirable, but which are outside of the jurisdiction of the congress of the United States.

It shall confer upon these matters with the commissioners appointed by other states for the same purpose and

consider and draft uniform laws to be submitted for approval and adoption by the several states; and generally devise and recommend such other and further course of action as shall accomplish such uniformity. [1965 c 8 § 43.56.020. Prior: 1905 c 59 § 2; RRS § 8205.]

43.56.040 Travel expenses of members. No member of the board shall receive any compensation for his services, but each member shall be paid travel expenses incurred in the discharge of official duty in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, after the account thereof has been audited by the board.

The board shall keep a full account of its expenditures and shall report it in each report. There shall be allowed such expenses for only one annual meeting of the board within this state, and for the members in attendance, not oftener than once in each year, at any conference of commissioners outside of this state. [1975-'76 2nd ex.s. c 34 § 118; 1965 c 8 § 43.56.040. Prior: 1955 c 91 § 1; 1905 c 59 § 4; RRS § 8207.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Chapter 43.58

WASHINGTON-OREGON BOUNDARY COMMISSION

Sections

- 43.58.050 Oregon-Washington Columbia River boundary compact—Ratification.
- 43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions.
- 43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives.
- 43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when.

43.58.050 Oregon-Washington Columbia River boundary compact—Ratification. The interstate compact determining the Oregon-Washington boundary on the Columbia River which was executed on the 21st day of December, 1956 by the Oregon commission on interstate cooperation for the state of Oregon and the Washington-Oregon boundary commission for the state of Washington is hereby ratified and approved. [1965 c 8 § 43.58.050. Prior: 1957 c 90 § 1.]

Reviser's note: The effective date of RCW 43.58.050 was March 13, 1957. State Constitution, Amendment 33, recognizing the modification of the state's boundaries through appropriate compact procedure, was approved by the voters on November 4th, 1958, and the governor's proclamation relating thereto was issued on December 4th, 1958.

The Oregon legislature has ratified the compact, see Oregon Revised Statutes §§ 186.510 and 186.520, effective April 4, 1957. See also, Article XVI of the Oregon Constitution relating to state boundaries which was adopted by the people November 4, 1958, effective December 3, 1958.

Congressional ratification is contained in Public Law 85-575, dated July 31, 1958.

43.58.060 Oregon-Washington Columbia River boundary compact—Terms and provisions. The terms and provisions of the compact referred to in RCW 43.58.050 are as follows:

INTERSTATE COMPACT DETERMINING OREGON-WASHINGTON BOUNDARY ON THE COLUMBIA RIVER

ARTICLE I. PURPOSE

The boundary between the states of Oregon and Washington along the course of the Columbia River has not been easy to ascertain because of changes in the main channel of the river with a result that a state of confusion and dispute exists and the enforcement and administration of the laws of the two states has been rendered difficult.

The purpose of this compact is to fix with precision by reference to stations of longitude and latitude the boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the most easterly point at which the 46th parallel of North latitude crosses said river, at which point the river ceases to form the boundary between the two states.

ARTICLE II. DESCRIPTION

The boundary between the states of Oregon and Washington from one marine league due west of the mouth of the Columbia River to the point at which the last described point number (# 191) of the boundary as herein determined meets the 46th parallel of North latitude at 118° 59' 10".12 of West longitude shall be as follows:

Beginning one marine league at sea off the mouth of the Columbia river at north latitude 46° 15' 00".00; running thence due east to point number 1 of this description, which point is at north latitude 46° 15' 00".00, west longitude 124° 05' 00".00; thence from point number 1 continuing upstream in the channel of the Columbia river by a series of straight lines connecting the following numbered and described points in consecutive order.

Point Number	North Latitude	West Longitude	Description of Location
1	46°15'00".00	124°05'00".00	
2	46°15'51".00	124°02'02".75	
3	46°16'17".00	124°01'45".80	
4	46°16'59".50	124°02'14".40	
5	46°17'28".00	124°02'07".00	
6	46°17'33".25	124°01'12".25	
7	46°16'41".50	124°00'00".00	
8	46°16'03".00	123°58'11".80	
9	46°14'19".80	123°55'42".00	
10	46°14'06".00	123°52'14".50	
11	46°16'09".50	123°44'20".50	
12	46°15'01".00	123°41'12".70	
13	46°15'33".30	123°38'52".80	
14	46°15'23".90	123°35'05".00	
15	46°15'38".00	123°32'23".00	
16	46°16'14".60	123°30'00".00	
17	46°15'46".70	123°27'51".40	
18	46°14'23".50	123°25'51".60	
19	46°13'10".50	123°25'20".50	
20	46°11'29".00	123°25'43".60	
21	46°10'47".80	123°25'38".00	
22	46°09'01".00	123°23'21".50	
23	46°08'33".00	123°18'45".60	
24	46°09'04".50	123°15'47".20	
25	46°10'00".00	123°13'51".20	
26	46°11'20".80	123°09'55".50	
27	46°11'11".30	123°07'10".90	
28	46°09'40".00	123°04'23".50	
29	46°09'24".00	123°03'22".40	
30	46°08'38".40	123°02'00".00	
31	46°08'06".00	123°00'16".00	

32	46°06'20".02	122°57'44".28		87	45°36'58".00	122°00'08".50	
33	46°06'17".36	122°57'38".295	a point on the center line of the Longview Bridge at center of main span	88	45°37'23".00	121°58'54".50	
34	46°06'14".71	122°57'32".31		89	45°37'59".00	121°57'42".80	
35	46°05'02".70	122°54'11".00		90	45°38'37".50	121°57'16".50	
36	46°03'37".50	122°52'59".50		91	45°38'42".00	121°57'01".80	
37	46°01'53".50	122°52'35".50		92	45°38'40".35	121°56'37".34	
38	46°00'52".25	122°51'17".20		93	45°38'40".13	121°56'22".57	a point at the intersection of the axis of Bonneville Dam and the center line of center pier of the spillway of said dam
39	45°58'52".00	122°50'11".80		94	45°38'39".82	121°56'01".46	
40	45°57'40".00	122°48'46".80		95	45°39'17".00	121°54'25".00	
41	45°55'57".00	122°48'18".00		96	45°39'43".85	121°53'58".48	a point on center line of bridge at Cascade Locks, known as "The Bridge of the Gods" and in the center of the main span of said bridge
42	45°54'47".00	122°48'36".75		97	45°39'44".81	121°53'58".16	
43	45°53'05".00	122°47'48".30		98	45°39'45".77	121°53'57".84	
44	45°52'06".00	122°47'01".50		99	45°40'15".00	121°54'02".00	
45	45°50'40".00	122°47'04".50		100	45°41'36".80	121°51'57".00	
46	45°49'31".20	122°47'41".00		101	45°42'24".75	121°48'36".00	
47	45°48'37".00	122°47'40".00		102	45°41'39".00	121°44'02".00	
48	45°46'51".00	122°46'06".30		103	45°41'42".00	121°42'22".00	
49	45°45'34".20	122°45'37".00		104	45°42'19".00	121°40'02".00	
50	45°44'04".70	122°45'32".00		105	45°42'17".50	121°37'48".50	
51	45°42'05".00	122°46'16".00		106	45°43'36".00	121°31'54".30	
52	45°40'50".80	122°46'24".00		107	45°43'15".275	121°29'52".445	
53	45°39'26".75	122°45'46".00		108	45°43'07".02	121°29'36".615	a point on the center line of the Hood River Bridge at the center of the draw span of said bridge
54	45°38'40".00	122°44'13".00		109	45°43'04".075	121°29'30".96	
55	45°38'17".00	122°42'47".50		110	45°42'05".20	121°27'41".80	
56	45°37'35".37	122°41'35".14		111	45°41'39".25	121°25'22".00	
57	45°37'29".47	122°41'23".855	a point on the center line of Northern Pacific Railroad Bridge across Columbia River, which point is at center of 3rd pier south of the draw span	112	45°41'35".00	121°24'02".00	
58	45°37'26".52	122°41'18".215		113	45°42'11".50	121°22'17".00	
59	45°37'07".85	122°40'33".42		114	45°42'18".00	121°20'11".50	
60	45°37'05".938	122°40'26".939	a point on the center line of the west highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge	115	45°42'00".00	121°18'40".00	
61	45°37'05".62	122°40'25".86	a point on the center line of the east highway bridge crossing the Columbia River between Portland, Ore. and Vancouver, Wash., said point being 12.0 ft. south from the center of pier No. 6 of said bridge	116	45°41'13".30	121°17'10".00	
62	45°37'03".71	122°40'19".38		117	45°40'40".50	121°14'52".00	
63	45°36'34".00	122°38'27".00		118	45°40'17".00	121°12'52".50	
64	45°36'29".80	122°36'21".30		119	45°39'00".00	121°11'57".00	
65	45°36'20".00	122°35'20".00		120	45°37'47".00	121°11'38".40	
66	45°35'47".90	122°32'48".00		121	45°37'00".25	121°11'43".00	
67	45°35'23".50	122°31'24".20		122	45°36'23".80	121°10'57".00	
68	45°35'01".00	122°29'30".00		123	45°36'22".50	121°10'00".00	
69	45°34'42".80	122°28'20".50		124	45°36'29".175	121°08'39".84	
70	45°34'03".00	122°27'09".30		125	45°36'40".89	121°08'22".135	a point on the center line of the Dallas Bridge across the Columbia River at the center of main span of said bridge
71	45°33'49".00	122°26'15".80		126	45°36'43".94	121°08'17".53	
72	45°34'03".30	122°24'36".50		127	45°36'35".69	121°07'50".34	
73	45°34'29".50	122°23'25".80		128	45°36'58".44	121°07'16".41	
74	45°34'33".40	122°22'44".00		129	45°37'06".095	121°06'57".58	
75	45°34'10".00	122°21'04".00		130	45°37'14".85	121°07'02".75	a point on the axis of the Dalles Dam at Station 48+79 of the center line survey of said dam
76	45°32'55".20	122°19'49".00		131	45°37'23".97	121°07'08".14	
77	45°32'38".00	122°17'43".70		132	45°38'53".13	121°05'01".25	
78	45°32'38".80	122°15'56".70		133	45°39'09".54	121°03'47".80	
79	45°33'03".25	122°14'24".50		134	45°39'04".04	121°01'57".51	
80	45°33'55".00	122°11'58".50		135	45°39'12".08	121°00'22".28	
81	45°34'37".00	122°10'54".00		136	45°38'54".66	120°58'56".33	
82	45°35'03".00	122°08'25".50		137	45°38'55".91	120°58'49".52	a point on the center line of the Oregon Trunk Railroad Bridge and in the center of the 4th pier from the north end of said bridge
83	45°34'53".40	122°06'40".00		138	45°38'58".405	120°58'35".90	
84	45°35'00".00	122°06'02".00		139	45°39'24".84	120°57'06".97	
85	45°36'35".00	122°02'35".00		140	45°39'23".58	120°56'34".22	
86	45°36'53".80	122°01'11".50					

141	45°38'24".54	120°54'44".75
142	45°38'35".09	120°53'40".72
143	45°40'18".79	120°51'15".26
144	45°41'11".69	120°47'14".64
145	45°42'19".71	120°43'38".83
146	45°42'42".58	120°42'10".70
147	45°42'57".18	120°41'18".11
148	45°43'48".14	120°40'05".19
149	45°44'45".12	120°38'01".97
150	45°44'47".00	120°37'17".91
151	45°44'47".99	120°35'23".91
152	45°44'18".49	120°33'29".23
153	45°42'37".59	120°31'17".65
154	45°42'00".37	120°30'16".48
155	45°41'40".42	120°28'53".22
156	45°41'58".55	120°24'08".96
157	45°42'41".66	120°19'30".62
158	45°43'16".74	120°16'56".18
159	45°43'33".84	120°12'34".62
160	45°45'43".67	120°10'10".01
161	45°46'24".09	120°08'25".17
162	45°47'07".10	120°04'08".70
163	45°48'26".17	120°00'49".27
164	45°49'28".29	119°57'52".64
165	45°49'41".97	119°54'21".95
166	45°50'25".18	119°50'53".51
167	45°50'52".00	119°48'05".62
168	45°50'45".15	119°46'18".16
169	45°51'25".40	119°40'07".80
170	45°54'20".70	119°37'20".96
171	45°55'10".82	119°35'58".28
172	45°55'32".25	119°34'13".67
173	45°54'31".37	119°31'24".18
174	45°54'23".43	119°29'13".01
175	45°55'03".10	119°26'57".35
176	45°55'18".10	119°21'48".12
177	45°55'51".37	119°19'52".71
178	45°55'54".48	119°19'39".28
179	45°55'59".59	119°19'17".20
180	45°56'10".26	119°17'47".60
181	45°56'15".24	119°17'05".76
182	45°56'24".05	119°15'21".40
183	45°55'58".60	119°13'28".22
184	45°55'40".97	119°11'39".82
185	45°55'40".26	119°10'05".04
186	45°55'58".55	119°07'30".72
187	45°56'34".25	119°05'32".00
188	45°57'31".28	119°03'37".36
189	45°58'09".33	119°01'33".95
190	45°58'45".73	119°00'27".12
191	46°00'00".00	118°59'10".12

a point on the center line of the Umatilla Bridge at the center of the north main span of said bridge

a point on the axis of McNary Dam at the north face of the south non-overflow section

ARTICLE III. RATIFICATION AND EFFECTIVE DATE

This compact shall become operative when it has been ratified by the legislatures of the states of Oregon and Washington and approved by the Congress of the United States and the Constitutions of the states of Oregon and Washington have been amended to authorize the establishment of the boundary as herein provided. [1965 c 8 § 43.58.060. Prior: 1957 c 90 § 2.]

43.58.070 Oregon-Washington Columbia River boundary compact—Transfer of records, etc., to division of archives. Upon ratification by the state of Oregon and approval by the Congress of the United States of the

compact set forth in RCW 43.58.060, the secretary of the Washington-Oregon boundary commission is hereby directed to transmit all records, work sheets, maps, minutes and other papers of said commission to the division of archives and records management of the office of the secretary of state. [1981 c 115 § 3; 1965 c 8 § 43.58.070. Prior: 1957 c 90 § 3.]

Effective date—1981 c 115: See note following RCW 40.14.020.

43.58.090 Oregon-Washington Columbia River boundary compact—Repeal of RCW 43.58.010 through 43.58.040, when. Chapter 27, Laws of 1937, as amended by chapter 6, Laws of 1955 extraordinary session and chapter 43.58 RCW [RCW 43.58.010 through 43.58.040] each shall be repealed when the compact set forth in RCW 43.58.060 has been ratified by the state of Oregon and approved by the Congress of the United States. [1965 c 8 § 43.58.090. Prior: 1957 c 90 § 5.]

Reviser's note: See note following RCW 43.58.050.

Chapter 43.59

TRAFFIC SAFETY COMMISSION

Sections

43.59.010	Purpose.
43.59.020	Governor responsible for administration of traffic safety program—Acceptance and disbursal of federal funds.
43.59.030	Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence.
43.59.040	Powers and duties of commission.
43.59.050	Meetings—Travel expenses of members.
43.59.060	Director of commission—Appointment—Salary.
43.59.070	Director's duties—Staff—Rules and regulations.
43.59.080	Governor's duties as chairman.
43.59.130	Report to legislative transportation committee.
43.59.140	Driving while under the influence of intoxicating liquor or any drug—Information and education.

43.59.010 Purpose. The purpose of this chapter is to establish a new agency of state government to be known as the Washington traffic safety commission. The functions and purpose of this commission shall be to find solutions to the problems that have been created as a result of the tremendous increase of motor vehicles on our highways and the attendant traffic death and accident tolls; to plan and supervise programs for the prevention of accidents on streets and highways including but not limited to educational campaigns designed to reduce traffic accidents in cooperation with all official and unofficial organizations interested in traffic safety; to coordinate the activities at the state and local level in the development of state-wide and local traffic safety programs; to promote a uniform enforcement of traffic safety laws and establish standards for investigation and reporting of traffic accidents; to promote and improve driver education; and to authorize the governor to perform all functions required to be performed by him under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). [1967 ex.s. c 147 § 1.]

Driver education courses: Chapter 28A.220 RCW.

Drivers' training schools: Chapter 46.82 RCW.

43.59.020 Governor responsible for administration of traffic safety program—Acceptance and disbursement of federal funds. The governor shall be responsible for the administration of the traffic safety program of the state and shall be the official of the state having ultimate responsibility for dealing with the federal government with respect to all programs and activities of the state and local governments pursuant to the Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731). The governor is authorized and empowered to accept and disburse federal grants or other funds or donations from any source for the purpose of improving traffic safety programs in the state of Washington, and is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) and in so doing, to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals, to effectuate the purposes of that enactment, and any and all subsequent amendments thereto. [1967 ex.s. c 147 § 2.]

43.59.030 Members of commission—Appointment—Vacancies—Governor's designee to act during governor's absence. The governor shall be assisted in his duties and responsibilities by the Washington state traffic safety commission. The Washington traffic safety commission shall be composed of the governor as chairman, the superintendent of public instruction, the director of licensing, the secretary of transportation, the chief of the state patrol, the secretary of health, the secretary of social and health services, a representative of the association of Washington cities to be appointed by the governor, a member of the association of counties to be appointed by the governor, and a representative of the judiciary to be appointed by the governor. Appointments to any vacancies among appointee members shall be as in the case of original appointment.

The governor may designate an employee of the governor's office to act on behalf of the governor during the absence of the governor at one or more of the meetings of the commission. The vote of the designee shall have the same effect as if cast by the governor if the designation is in writing and is presented to the person presiding at the meetings included within the designation.

The governor may designate a member to preside during the governor's absence. [1991 c 3 § 298; 1982 c 30 § 1; 1979 c 158 § 105; 1971 ex.s. c 85 § 7; 1969 ex.s. c 105 § 1; 1967 ex.s. c 147 § 3.]

43.59.040 Powers and duties of commission. In addition to other responsibilities set forth in this chapter the commission shall:

(1) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act of 1966 (Public Law 89-564; 80 Stat. 731) for participation in the aims and programs and purposes of that act;

(2) Advise and confer with all agencies of state government whose programs and activities are within the scope of the Highway Safety Act including those agencies that are not subject to direct supervision, administration, and control by the governor under existing laws;

(3) Succeed to and be vested with all powers, duties, and jurisdictions previously vested in the Washington state safety council;

(4) Carry out such other responsibilities as may be consistent with this chapter. [1983 1st ex.s. c 14 § 1; 1967 ex.s. c 147 § 4.]

43.59.050 Meetings—Travel expenses of members. The commission shall meet at least quarterly and shall have such special meetings as may be required. Members of the commission shall receive no additional compensation for their services except that which shall be allowed as travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 120; 1967 ex.s. c 147 § 6.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.59.060 Director of commission—Appointment—Salary. The governor as chairman of the commission shall appoint a person to be director of the Washington traffic safety commission which director shall be paid such salary as shall be deemed reasonable and shall serve at the pleasure of the governor. [1967 ex.s. c 147 § 7.]

43.59.070 Director's duties—Staff—Rules and regulations. The director shall be secretary of the commission and shall be responsible for carrying into effect the commission's orders and rules and regulations promulgated by the commission. The director shall also be authorized to employ such staff as is necessary pursuant to the provisions of chapter 41.06 RCW. The commission shall adopt such rules and regulations as shall be necessary to carry into effect the purposes of this chapter. [1967 ex.s. c 147 § 8.]

43.59.080 Governor's duties as chairman. The governor as chairman of said commission shall have the authority to appoint advisory committees as he may deem advisable to aid, advise and assist the commission in carrying out the purposes of this chapter. All actions and decisions, however, shall be made by the commission. [1967 ex.s. c 147 § 9.]

43.59.130 Report to legislative transportation committee. The Washington state traffic safety commission shall submit a report each biennium outlining programs planned and steps taken toward improving traffic safety to the chair of the legislative transportation committee. [1987 c 505 § 31; 1971 ex.s. c 195 § 5; 1967 ex.s. c 147 § 14.]

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

43.59.140 Driving while under the influence of intoxicating liquor or any drug—Information and education. The Washington traffic safety commission shall produce and disseminate through all possible media, informational and educational materials explaining the extent of the problems caused by drinking drivers, the need for public involvement in their solution, and the penalties of existing and new laws against driving while under the influence of

intoxicating liquor or any drug. [1991 c 290 § 4; 1983 c 165 § 42.]

Legislative finding, intent—Effective dates—Severability—1983 c 165: See notes following RCW 46.20.308.

Chapter 43.60A

DEPARTMENT OF VETERANS AFFAIRS

Sections

- 43.60A.010 Definitions.
- 43.60A.020 Department created—Transfer of powers, duties, and functions to department.
- 43.60A.030 Director—Qualifications—Salary—Vacancy.
- 43.60A.040 General powers and duties of director.
- 43.60A.050 Assistants—Executive staff—Deputy.
- 43.60A.060 Delegation of powers and duties.
- 43.60A.070 Additional powers and duties of director.
- 43.60A.075 Powers as to state soldiers' home and Washington veterans' home.
- 43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties.
- 43.60A.100 Counseling services—War-affected veterans.
- 43.60A.110 Counseling—Coordination of programs.
- 43.60A.120 Counseling—Priority.
- 43.60A.130 Counseling—Posttraumatic stress disorder and combat stress program.
- 43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved.
- 43.60A.901 Transfer of property, records, funds, assets of agencies whose functions are transferred to department.
- 43.60A.902 Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued—Savings.
- 43.60A.903 Certification when apportionments of budgeted funds required because of transfers.
- 43.60A.904 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative.
- 43.60A.905 Savings—1975-'76 2nd ex.s. c 115.
- 43.60A.906 Collective bargaining units or agreements not altered.
- 43.60A.907 Liberal construction—1975-'76 2nd ex.s. c 115.
- 43.60A.908 Severability—1975-'76 2nd ex.s. c 115.

Veterans and veterans' affairs: Title 73 RCW.

43.60A.010 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

- (1) "Department" means the department of veterans affairs;
- (2) "Director" means the director of the department of veterans affairs;
- (3) "Committee" means the veterans affairs advisory committee. [1975-'76 2nd ex.s. c 115 § 1.]

43.60A.020 Department created—Transfer of powers, duties, and functions to department. There is hereby created a department of state government to be known as the department of veterans affairs. All powers, duties, and functions now or through action of this legislature vested by law in the department of social and health services relating to veterans and veteran affairs are transferred to the department, except those powers, duties, and functions which are expressly directed elsewhere by law. Powers, duties, and functions to be transferred shall include, but not be limited to, all those powers, duties, and functions involving cooperation with other governmental units, such as

cities and counties, or with the federal government, in particular those concerned with participation in federal grants-in-aid programs. Also transferred to the department shall be the powers, duties, and functions of the bonus division of the treasurer's office: PROVIDED, That such transfer shall not occur until the bonus division completes its current duties of accepting and processing bonus claims arising from the Vietnam conflict. This section shall not be construed to continue the powers, duties and functions of said bonus division beyond a time when such powers, duties or functions would otherwise cease. [1975-'76 2nd ex.s. c 115 § 2.]

43.60A.030 Director—Qualifications—Salary—Vacancy. The executive head and appointing authority of the department shall be the director of veterans affairs. The director shall be an honorably discharged or retired veteran of the armed forces of the United States and shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. If a vacancy occurs in the position of director while the senate is not in session, the governor shall make a temporary appointment until the next meeting of the senate, when the governor shall present the nomination for the office to that body. [1975-'76 2nd ex.s. c 115 § 3.]

43.60A.040 General powers and duties of director. The director of the department of veterans affairs shall have the power and it shall be the director's duty:

- (1) To conduct, control, and supervise the department;
- (2) To appoint and employ and to determine the powers and duties together with the salaries and other expenses of such clerical and other personnel, subject to the provisions of chapter 41.06 RCW, as are necessary to carry out the duties of the department; and
- (3) To perform all other matters and things, whether similar to the foregoing or not, to carry out the provisions of this chapter. [1975-'76 2nd ex.s. c 115 § 4.]

43.60A.050 Assistants—Executive staff—Deputy. The director may appoint such assistants and executive staff as shall be needed to administer the department, all of whom shall be veterans. The director shall designate a deputy from the executive staff who shall have charge and general supervision of the department in the absence or disability of the director, and in case of a vacancy in the office of director, shall continue in charge of the department until a successor is appointed and qualified, or until the governor shall appoint an acting director. [1975-'76 2nd ex.s. c 115 § 5.]

Certain personnel of department exempted from state civil service law: RCW 41.06.077.

43.60A.060 Delegation of powers and duties. The director may delegate any power or duty vested in or transferred to the director by law or executive order to a deputy director or to any other assistant or subordinate, but the director shall be responsible for the official acts of the

officers and employees of the department. [1975-'76 2nd ex.s. c 115 § 6.]

43.60A.070 Additional powers and duties of director. In addition to other powers and duties, the director is authorized:

(1) To cooperate with officers and agencies of the United States in all matters affecting veterans affairs;

(2) To accept grants, donations, and gifts on behalf of this state for veterans affairs from any person, corporation, government, or governmental agency, made for the benefit of a former member of the armed forces of this or any other country;

(3) To be custodian of all the records and files of the selective service system in Washington that may be turned over to this state by the United States or any department, bureau, or agency thereof; and to adopt and promulgate such rules and regulations as may be necessary for the preservation of such records and the proper use thereof in keeping with their confidential nature;

(4) To act without bond as conservator of the estate of a beneficiary of the veterans administration when the director determines no other suitable person will so act;

(5) To extend on behalf of the state of Washington such assistance as the director shall determine to be reasonably required to any veteran and to the dependents of any such veteran;

(6) To adopt rules pursuant to chapter 34.05 RCW, the Administrative Procedure Act, with respect to all matters of administration to carry into effect the purposes of this section. Such proposed rules shall be submitted by the department at the time of filing notice with the code reviser as required by RCW 34.05.320 to the respective legislative committees of the senate and of the house of representatives dealing with the subject of veteran affairs legislation through the offices of the secretary of the senate and chief clerk of the house of representatives. [1989 c 175 § 108; 1975-'76 2nd ex.s. c 115 § 8.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.60A.075 Powers as to state soldiers' home and Washington veterans' home. The director of the department of veterans affairs shall have full power to manage and govern the state soldiers' home and colony and the Washington veterans' home. [1977 c 31 § 5.]

43.60A.080 Veterans affairs advisory committee—Created—Membership—Terms—Powers and duties. (1) There is hereby created a veterans affairs advisory committee which shall serve in an advisory capacity to the governor and the director of the department of veterans affairs. The committee shall be composed of seventeen members to be appointed by the governor, and shall consist of the following:

(a) One representative of the Washington soldiers' home and colony at Orting and one representative of the Washington veterans' home at Retsil. Each home's residents council may nominate up to three individuals whose names are to be forwarded by the director to the governor. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(b) One representative each from the three congressionally chartered veterans organizations with the largest number of active members in the state of Washington as determined by the director. The organizations' state commanders may each submit a list of three names to be forwarded to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(c) Ten members shall be chosen to represent those congressionally chartered veterans organizations having at least one active chapter within the state of Washington. Up to three nominations may be forwarded from each organization to the governor by the director. In making the appointments, the governor shall consider these recommendations or request additional nominations.

(d) Two members shall be veterans at large. Any individual or organization may nominate a veteran for an at-large position. Organizational affiliation shall not be a prerequisite for nomination or appointment. All nominations for the at-large positions shall be forwarded by the director to the governor.

(e) No organization shall have more than one official representative on the committee at any one time.

(f) In making appointments to the committee, care shall be taken to ensure that members represent the geographical portions of the state and minority viewpoints, and that the issues and views of concern to women veterans are represented.

(2) All members shall have terms of four years. In the case of a vacancy, appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. No member may serve more than two consecutive terms, with vacancy appointments to an unexpired term not considered as a term. Members appointed before June 11, 1992, shall continue to serve until the expiration of their current terms; and then, subject to the conditions contained in this section, are eligible for reappointment.

(3) The committee shall adopt an order of business for conducting its meetings.

(4) The committee shall have the following powers and duties:

(a) To serve in an advisory capacity to the governor and the director on matters pertaining to the department of veterans affairs;

(b) To acquaint themselves fully with the operations of the department and recommend such changes to the governor and the director as they deem advisable.

(5) Members of the committee shall receive no compensation for the performance of their duties but shall receive a per diem allowance and mileage expense according to the provisions of chapter 43.03 RCW. [1992 c 35 § 1; 1987 c 59 § 1; 1985 c 63 § 1; 1983 c 34 § 1; 1977 ex.s. c 285 § 1; 1975-'76 2nd ex.s. c 115 § 14.]

43.60A.100 Counseling services—War-affected veterans. The department of veterans affairs, to the extent funds are made available, shall: (1) Contract with professional counseling specialists to provide a range of direct treatment services to war-affected state veterans and to those national guard and reservists who served in the Middle East, and their family members; (2) provide additional treatment

services to Washington state Vietnam veterans for post traumatic stress disorder, particularly for those veterans whose post traumatic stress disorder has intensified or initially emerged due to the war in the Middle East; (3) provide an educational program designed to train primary care professionals, such as mental health professionals, about the effects of war-related stress and trauma; (4) provide informational and counseling services for the purpose of establishing and fostering peer-support networks throughout the state for families of deployed members of the reserves and the Washington national guard; (5) provide for veterans' families, a referral network of community mental health providers who are skilled in treating deployment stress, combat stress, and post traumatic stress. [1991 c 55 § 1.]

43.60A.110 Counseling—Coordination of programs.

The department shall coordinate the programs contained in RCW 43.60A.100 with the services offered by the department of social and health services, local mental health organizations, and the federal department of veterans affairs to minimize duplication. [1991 c 55 § 2.]

43.60A.120 Counseling—Priority. The department of veterans affairs shall give priority in its counseling and instructional programs to treating state veterans located in rural areas of the state, especially those who are members of traditionally underserved minority groups, and women veterans. [1991 c 55 § 3.]

43.60A.130 Counseling—Posttraumatic stress disorder and combat stress program. The department of veterans affairs shall design its posttraumatic stress disorder and combat stress programs and related activities to provide veterans with as much privacy and confidentiality as possible and yet consistent with sound program management. [1991 c 55 § 4.]

43.60A.900 Transfer of personnel of department of social and health services engaged in veterans' services—Rights preserved. All employees and personnel of the department of social and health services directly engaged in services to veterans shall, on June 25, 1976, be transferred to the jurisdiction of the department of veterans affairs. All employees classified under chapter 41.06 RCW, the state civil service law, shall be assigned to the department to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1975-'76 2nd ex.s. c 115 § 9.]

43.60A.901 Transfer of property, records, funds, assets of agencies whose functions are transferred to department. All reports, documents, surveys, books, records, files, papers, or other writings in the possession of all departments and agencies of state government concerned with veterans services, and pertaining to the functions affected by this chapter, shall be delivered to the custody of the department of veterans affairs. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed in carrying out the powers and duties transferred

by this chapter shall be made available to the department. All funds, credits, or other assets held in connection with the functions transferred by this chapter shall be assigned to the department.

Any appropriations made to the department of social and health services or other departments or agencies affected by this chapter for the purpose of carrying out the powers and duties transferred by this chapter, shall on June 25, 1976, be transferred and credited to the department of veterans affairs for the purpose of carrying out such transferred powers and duties.

Whenever any question arises as to the transfer of any funds, including unexpended balances within any accounts, books, documents, records, papers, files, equipment, or any other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred under this chapter, the director of financial management or successor thereto shall make a determination as to the proper allocation and certify the same to the state departments and agencies concerned. [1979 c 151 § 125; 1975-'76 2nd ex.s. c 115 § 10.]

43.60A.902 Rules and regulations, pending business, contracts, of agencies whose functions are transferred to department to be continued—Savings. All rules and regulations, and all pending business before the departments and agencies or divisions thereof affected by this chapter pertaining to matters transferred by this chapter, as of June 25, 1976, shall be continued and acted upon by the department. All existing contracts and obligations pertaining to the functions transferred by this chapter shall remain in full force and effect, and shall be performed by the department. Neither the transfer of any department or agency, or division thereof, nor any transfer of powers, duties, and functions, shall affect the validity of any act performed by such department or agency or division thereof or any officer or employee thereof prior to June 25, 1976. [1975-'76 2nd ex.s. c 115 § 11.]

43.60A.903 Certification when apportionments of budgeted funds required because of transfers. If apportionments of budgeted funds are required because of the transfers authorized by this chapter, the director of financial management shall certify such apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with such certification. [1979 c 151 § 126; 1975-'76 2nd ex.s. c 115 § 12.]

43.60A.904 Federal programs—Rules and regulations—Internal reorganization to meet federal requirements—Construction to comply with federal law—Conflicting parts inoperative. In furtherance of the policy of the state to cooperate with the federal government in all of the programs included in this chapter, such rules and regulations as may become necessary to entitle the state to participate in federal funds may be adopted, unless the same be expressly prohibited by law. Any internal reorganization carried out under the terms of this chapter shall meet federal requirements which are a necessary condition to state receipt

of federal funds. Any section or provision of this chapter which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to comply with federal laws entitling this state to receive federal funds for the various programs of the department. If any part of this chapter is ruled to be in conflict with federal requirements which are a prescribed condition of the allocation of federal funds to the state, or to any departments or agencies thereof, such conflicting part of this chapter is declared to be inoperative solely to the extent of the conflict. [1975-'76 2nd ex.s. c 115 § 13.]

43.60A.905 Savings—1975-'76 2nd ex.s. c 115. Nothing in this chapter shall be construed to affect any existing rights acquired under RCW 43.17.010, 43.17.020, 43.61.030, 43.61.040, or 43.61.070, as now or hereafter amended, except as to the governmental agencies referred to and their officials and employees, nor as affecting any actions, activities, or proceedings validated thereunder, nor as affecting any civil or criminal proceedings instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor any administrative action taken thereunder; and neither the abolition of any agency or division thereof nor any transfer of powers, duties, and functions as provided herein, shall affect the validity of any act performed by such agency or division thereof or any officer thereof prior to June 25, 1976. [1983 c 3 § 112; 1975-'76 2nd ex.s. c 115 § 15.]

43.60A.906 Collective bargaining units or agreements not altered. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until any such agreement has expired or until any such bargaining unit has been modified by action of the Washington personnel resources board as provided by law. [1993 c 281 § 52; 1975-'76 2nd ex.s. c 115 § 16.]

Effective date—1993 c 281: See note following RCW 41.06.022.

43.60A.907 Liberal construction—1975-'76 2nd ex.s. c 115. The rule of strict construction shall have no application to this chapter and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the director the maximum possible freedom in carrying the provisions of this chapter into effect. [1975-'76 2nd ex.s. c 115 § 17.]

43.60A.908 Severability—1975-'76 2nd ex.s. c 115. If any provision of this amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 115 § 25.]

Chapter 43.61

VETERANS' REHABILITATION COUNCIL

Sections

- 43.61.030 Contracts with veterans' organizations to provide veterans services—Use of funds.
- 43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report.
- 43.61.060 Donations may be accepted—Procedure for allotment and use.
- 43.61.070 Payments to veterans' organizations—Approval by director of veterans affairs.

Department of veterans affairs: Chapter 43.60A RCW.

43.61.030 Contracts with veterans' organizations to provide veterans services—Use of funds. The director of veterans affairs is empowered to contract with any veterans' organizations, now or hereafter chartered by act of congress to provide veterans services. All sums paid to veterans' organizations under contract shall be used by the organizations as specified in the contract in the maintenance of a rehabilitation service and to assist veterans in the prosecution of their claims and the solution of their problems arising out of military service. Such service and assistance shall be rendered all veterans and their dependents and also all beneficiaries of any military claim, and shall include but not be limited to those services now rendered by the service departments of the respective member organizations. [1983 c 260 § 1; 1975-'76 2nd ex.s. c 115 § 21; 1971 ex.s. c 189 § 5; 1970 ex.s. c 18 § 33; 1965 c 8 § 43.61.030. Prior: 1947 c 110 § 6; RRS § 10758-105.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.61.040 Director of veterans affairs to make rules and regulations—Veteran services—Annual report. The director of veterans affairs shall make such rules and regulations as may be necessary to carry out the purposes of this chapter. The department shall furnish information, advice, and assistance to veterans and coordinate all programs and services in the field of veterans' claims service, education, health, vocational guidance and placement, and services not provided by some other agency of the state or by the federal government. The director shall submit a report of the departments' activities hereunder each year to the governor. [1977 c 75 § 60; 1975-'76 2nd ex.s. c 115 § 22; 1971 ex.s. c 189 § 6; 1970 ex.s. c 18 § 34; 1965 c 8 § 43.61.040. Prior: 1947 c 110 § 3; RRS § 10758-102.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

43.61.060 Donations may be accepted—Procedure for allotment and use. The department of veterans affairs may receive gifts, donations, and grants from any person or agency and all such gifts, donations, and grants shall be placed in the general fund and may be allotted and used in accordance with the donors' instructions as an unanticipated receipt pursuant to RCW 43.79.270 through 43.79.282 as now existing or hereafter amended. [1979 ex.s. c 59 § 1;

1971 ex.s. c 189 § 7; 1965 c 8 § 43.61.060. Prior: 1947 c 110 § 5; RRS § 10758-104.]

43.61.070 Payments to veterans' organizations—Approval by director of veterans affairs. Payments to any veterans' organization shall first be approved by the director of veterans affairs and insofar as possible shall be made on an equitable basis for work done. [1975-'76 2nd ex.s. c 115 § 24; 1970 ex.s. c 18 § 36; 1965 c 8 § 43.61.070. Prior: 1947 c 110 § 7; RRS § 10758-106.]

Savings—Construction—Severability—1975-'76 2nd ex.s. c 115: See RCW 43.60A.905, 43.60A.907, 43.60A.908.

Effective date—Severability—1970 ex.s. c 18: See notes following RCW 43.20A.010.

Chapter 43.62

DETERMINATION OF POPULATIONS—STUDENT ENROLLMENTS

Sections

- 43.62.010 Office of financial management—Population studies—Expenditures.
- 43.62.020 Method of allocating state funds to cities and towns prescribed.
- 43.62.030 Determination of population—Cities and towns—Certificate—Allocation of state funds.
- 43.62.035 Determining population—Projections.
- 43.62.040 Assistance to office of financial management—Determination by office of financial management conclusive.
- 43.62.050 Student enrollment forecasts—Report.

43.62.010 Office of financial management—Population studies—Expenditures. If the state or any of its political subdivisions, or other agencies, use the population studies services of the office of financial management or the successor thereto, the state, its political subdivision, or other agencies utilizing such services shall pay for the cost of rendering such services. Expenditures shall be paid out of funds allocated to cities and towns under RCW 82.44.155 and shall be paid from said fund before any allocations or payments are made to cities and towns under RCW 82.44.155. [1990 c 42 § 317; 1979 c 151 § 127; 1975-'76 2nd ex.s. c 34 § 121; 1965 c 8 § 43.62.010. Prior: 1957 c 175 § 1; 1951 c 96 § 1; 1947 c 51 § 2; RRS § 5508-11.]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.62.020 Method of allocating state funds to cities and towns prescribed. Whenever cities and towns of the state are, by law, allocated and entitled to be paid any funds or state moneys from any source, and the allocation and payment is required to be made on a populations basis, notwithstanding the provisions of any other law to the contrary, all such allocations shall be made on the basis of the population of the respective cities and towns as last determined by the office of financial management: **PROVIDED**, That the regular federal decennial census figures released for cities and towns shall be considered by the office of financial management in determining the population of cities and towns. [1979 c 151 § 128; 1965 c 8 §

43.62.020. Prior: 1957 c 175 § 2; prior: (i) 1949 c 60 § 1; RRS § 5508-3. (ii) 1947 c 51 § 1; RRS § 5508-10.]

43.62.030 Determination of population—Cities and towns—Certificate—Allocation of state funds. The office of financial management shall annually as of April 1st, determine the populations of all cities and towns of the state; and on or before July 1st of each year, shall file with the secretary of state a certificate showing its determination as to the populations of cities and towns of the state. A copy of such certificate shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and on and after January 1st next following the date when such certificate or certificates are filed, the population determination shown in such certificate or certificates shall be used as the basis for the allocation and payment of state funds, to cities and towns until the next January 1st following the filing of successive certificates by the agency: **PROVIDED**, That whenever territory is annexed to a city or town, the population of the annexed territory shall be added to the population of the annexing city or town upon the effective date of the annexation as specified in the relevant ordinance, and upon approval of the agency as provided in RCW 35.13.260, as now or hereafter amended, a revised certificate reflecting the determination of the population as increased from such annexation shall be forwarded by the agency to each state official or department responsible for making allocations or payments, and upon and after the date of the commencement of the next quarterly period, the population determination indicated in such revised certificate shall be used as the basis for allocation and payment of state funds to such city or town until the next annual population determination becomes effective: **PROVIDED FURTHER**, That whenever any city or town becomes incorporated subsequent to the determination of such population, the populations of such cities and towns as shown in the records of incorporation filed with the secretary of state shall be used in determining the amount of allocation and payments, and the agency shall so notify the proper state officials or departments, and such cities and towns shall be entitled to participate in allocations thereafter made: **PROVIDED FURTHER**, That in case any incorporated city or town disincorporates subsequent to the filing of such certificate or certificates, the agency shall promptly notify the proper state officials or departments thereof, and such cities and towns shall cease to participate in allocations thereafter made, and all credit accrued to such incorporated city or town shall be distributed to the credit of the remaining cities and towns. The secretary of state shall promptly notify the agency of the incorporation of each new city and town and of the disincorporation of any cities or towns.

For the purposes of this section, each quarterly period shall commence on the first day of the months of January, April, July, and October. Whenever a revised certificate due to an annexation is forwarded by the agency thirty days or less prior to the commencement of the next quarterly period, the population of the annexed territory shall not be considered until the commencement of the following quarterly period.

Armed forces shipboard population, on-base naval group quarter population, and military dependents living in housing under United States navy jurisdiction, shall be determined quarterly by the office of financial management on the first days of January, April, July, and October. These counts shall be used to increase or decrease the armed forces component of the resident population determinations in the cities of Bremerton and Everett for the purpose of allocating state revenues according to this section. Counts on the first day of the quarterly periods commencing with January, April, July, and October shall be used to adjust the total population for the following quarter, in the same manner adjustments are made for population changes due to annexation as specified in RCW 35.13.260 and 35A.14.700.

Population determinations made under this section shall include only those persons who meet resident population criteria as defined by the federal bureau of the census. [1988 c 260 § 1; 1979 c 151 § 129; 1977 c 75 § 61; 1969 ex.s. c 50 § 2; 1965 c 8 § 43.62.030. Prior: 1957 c 175 § 3; 1951 c 96 § 2.]

Determination of population of area annexed to city: RCW 35.13.260.

43.62.035 Determining population—Projections.

The office of financial management shall determine the population of each county of the state annually as of April 1st of each year and on or before July 1st of each year shall file a certificate with the secretary of state showing its determination of the population for each county. The office of financial management also shall determine the percentage increase in population for each county over the preceding ten-year period, as of April 1st, and shall file a certificate with the secretary of state by July 1st showing its determination. At least once every ten years the office of financial management shall prepare twenty-year growth management planning population projections required by RCW 36.70A.110 for each county that adopts a comprehensive plan under RCW 36.70A.040 and shall review these projections with such counties before final adoption. [1991 sp.s. c 32 § 30; 1990 1st ex.s. c 17 § 32.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.62.040 Assistance to office of financial management—Determination by office of financial management conclusive. The department of revenue or any other state officer or officials of cities, towns, or counties shall upon request of the office of financial management furnish such information, aid, and assistance as may be required by the office of financial management in the performance of its population studies. The action of the office of financial management in determining the population shall be final and conclusive. [1979 c 151 § 130; 1975 1st ex.s. c 278 § 25; 1965 c 8 § 43.62.040. Prior: 1957 c 175 § 4; 1951 c 96 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.62.050 Student enrollment forecasts—Report.

The office of financial management shall develop and maintain student enrollment forecasts of Washington schools,

including both public and private, elementary schools, junior high schools, high schools, colleges, and universities. A current report of such forecasts shall be submitted to the standing committees on ways and means of the house and the senate on or before the fifteenth day of November of each even-numbered year. [1979 c 151 § 131; 1977 c 75 § 62; 1975 1st ex.s. c 293 § 2; 1965 c 8 § 43.62.050. Prior: 1959 c 171 § 1; 1957 c 229 § 1.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Review of reported FTE students: RCW 28A.150.260.

Chapter 43.63A

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT—AUTHORITY

(Formerly: Department of community development)

Sections

- 43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Department's duties.
- 43.63A.067 Early childhood assistance programs, department's duties.
- 43.63A.075 Community development finance program.
- 43.63A.105 Considerations in designating local community action and community service agencies.
- 43.63A.115 Community action agency network—Delivery system for federal and state anti-poverty programs.
- 43.63A.150 State census board abolished.
- 43.63A.155 Local government bond information—Publication—Rules.
- 43.63A.190 Distribution of funds for border areas.
- 43.63A.215 Accessory apartments—Development and placement—Local governments.
- 43.63A.220 Encouragement and assistance to the formation of employee stock ownership plans—Study and plan—Report.
- 43.63A.230 Employee ownership program—Advisory panel—Reports—When employee stock ownership plans qualify.
- 43.63A.240 Senior environmental corps—Finding.
- 43.63A.245 Senior environmental corps—Definitions.
- 43.63A.247 Senior environmental corps—Created.
- 43.63A.249 Senior environmental corps—Goals.
- 43.63A.260 Senior environmental corps—Coordinating council—Duties.
- 43.63A.265 Senior environmental corps—Department duties—Volunteers may not displace currently employed workers.
- 43.63A.270 Senior environmental corps—Volunteer activity to be governed by agreement.
- 43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution.
- 43.63A.300 State fire protection services—Intent.
- 43.63A.310 State fire protection policy board—Created—Members.
- 43.63A.320 State fire protection policy board—Duties.
- 43.63A.330 State fire protection policy board—Advisory duties.
- 43.63A.340 Director of fire protection—Appointment—Duties.
- 43.63A.350 Fire service training program—Grants and bequests.
- 43.63A.360 Fire service training—Fees and fee schedules.
- 43.63A.370 Fire service training account.
- 43.63A.375 Fire services trust fund.
- 43.63A.377 Fire services trust fund—Expenditures.
- 43.63A.380 Fire service training center bond retirement account of 1977.
- 43.63A.400 Grants to public broadcast stations.
- 43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements.
- 43.63A.420 Grants to other broadcast stations—Eligibility—Amounts.
- 43.63A.440 Assistance to communities adversely impacted by reductions in timber harvested from federal lands.
- 43.63A.450 Community diversification program.
- 43.63A.460 Manufactured housing—Department duties.
- 43.63A.465 Manufactured housing—Federal standards—Enforcement.
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- 43.63A.900 Severability—1967 c 74.
- 43.63A.901 Severability—1984 c 125.
- 43.63A.902 Headings—1984 c 125.
- 43.63A.903 Effective date—1984 c 125.

Annexations to cities or towns, annexation certificate submitted to the department of community development: RCW 35.13.260.

Center for volunteerism and citizen service within department of community development: RCW 43.150.040.

Community and technical college board to assist in enrollment projections: RCW 28B.50.090.

Local governmental organizations, actions affecting boundaries, etc., review by boundary review board: Chapter 36.93 RCW.

Scenic and recreational highway act, planning and design standards established by department of community development: RCW 47.39.040.

State occupational forecast—Other agencies consulted prior to: RCW 50.38.030.

43.63A.066 Child abuse and neglect prevention training for participants in head start or early childhood education assistance programs—Department's duties. The department of community, trade, and economic development shall have primary responsibility for providing child abuse and neglect prevention training to preschool age children participating in the federal head start program or the early childhood education and assistance program established under RCW 28A.215.010 through 28A.215.200 and 28A.215.900 through 28A.215.908. [1993 c 280 § 58; 1990 c 33 § 579; 1987 c 489 § 4.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Intent—1987 c 489: See note following RCW 28A.300.150.

43.63A.067 Early childhood assistance programs, department's duties. See chapter 28A.215 RCW.

43.63A.075 Community development finance program. The department shall establish a community development finance program. Pursuant to this program, the department shall: (1) Develop expertise in federal, state, and local community and economic development programs; and (2) assist communities and businesses to secure available financing. To the extent permitted by federal law, the de-

partment is encouraged to use federal community block grant funds to make urban development action grants to communities which have not been eligible to receive such grants prior to June 30, 1984. [1993 c 280 § 59; 1985 c 466 § 53; 1984 c 125 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.63A.105 Considerations in designating local community action and community service agencies. In designating local community action agencies or local community service agencies, the department shall give special consideration to (1) agencies previously funded under any community services or antipoverty program; (2) agencies meeting state and federal program and fiscal requirements; and (3) successors to such agencies. [1984 c 125 § 10.]

43.63A.115 Community action agency network—Delivery system for federal and state anti-poverty programs. (1) The community action agency network, established initially under the federal economic opportunity act of 1964 and subsequently under the federal community services block grant program of 1981, as amended, shall be a delivery system for federal and state anti-poverty programs in this state, including but not limited to the community services block grant program, the low-income energy assistance program, and the federal department of energy weatherization program.

(2) Local community action agencies comprise the community action agency network. The community action agency network shall serve low-income persons in the counties. Each community action agency and its service area shall be designated in the state federal community service block grant plan as prepared by the department of community, trade, and economic development.

(3) Funds for anti-poverty programs may be distributed to the community action agencies by the department of community, trade, and economic development and other state agencies in consultation with the authorized representatives of community action agency networks. [1993 c 280 § 60; 1990 c 156 § 1.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.63A.150 State census board abolished. The state census board is hereby abolished. [1967 ex.s. c 42 § 3.]

Effective date—1967 ex.s. c 42: See note following RCW 3.30.010.

Savings—1967 ex.s. c 42: See note following RCW 3.30.010.

Population determinations, office financial management: Chapter 43.62 RCW.

43.63A.155 Local government bond information—Publication—Rules. The department of community, trade, and economic development shall retain the bond information it receives under RCW 39.44.210 and 39.44.230 and shall publish summaries of local government bond issues at least once a year.

The department of community, trade, and economic development shall adopt rules under chapter 34.05 RCW to

implement RCW 39.44.210 and 39.44.230. [1993 c 280 § 61; 1989 c 225 § 5; 1985 c 130 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

43.63A.190 Distribution of funds for border areas.

Funds appropriated by the legislature as supplemental resources for border areas shall be distributed pursuant to a formula developed by the department under chapter 34.05 RCW based on border traffic and historical public impacts of law enforcement problems caused by the border on local budgets. All funds received by Whatcom county under this section shall be spent within the Point Roberts area.

As used in this section, "border area" means any incorporated city or town located within seven miles of the Washington-Canadian border and any point of land surrounded on three sides by water and adjacent to the Canadian border. [1984 c 125 § 11; 1981 c 269 § 2.]

Legislative declaration—1981 c 269: "The legislature finds and declares that certain counties and municipalities near international borders are subjected to a constant volume and flow of travelers and visitors for whom local government services must be provided. The legislature further finds that it is in the public interest and for the protection of the health, property, and welfare of the residents and visitors to provide supplemental resources to augment and maintain existing levels of police protection in these areas." [1981 c 269 § 1.]

43.63A.215 Accessory apartments—Development and placement—Local governments. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, report to the legislature on the development and placement of accessory apartments. The department shall produce a written report by December 15, 1993, which:

(a) Identifies local governments that allow the siting of accessory apartments in areas zoned for single-family residential use; and

(b) Makes recommendations to the legislature designed to encourage the development and placement of accessory apartments in areas zoned for single-family residential use.

(2) The recommendations made under subsection (1) of this section shall not take effect before ninety days following adjournment of the 1994 regular legislative session.

(3) Unless provided otherwise by the legislature, by December 31, 1994, local governments shall incorporate in their development regulations, zoning regulations, or official controls the recommendations contained in subsection (1) of this section. The accessory apartment provisions shall be part of the local government's development regulation, zoning regulation, or official control. To allow local flexibility, the recommendations shall be subject to such regulations, conditions, procedures, and limitations as determined by the local legislative authority.

(4) As used in this section, "local government" means:

(a) A city or code city with a population that exceeds twenty thousand;

(b) A county that is required to or has elected to plan under the state growth management act; and

(c) A county with a population that exceeds one hundred twenty-five thousand. [1993 c 478 § 7.]

43.63A.220 Encouragement and assistance to the formation of employee stock ownership plans—Study and plan—Report. (1) The department of community, trade, and economic development is directed to undertake a study as to the best means of providing encouragement and assistance to the formulation of employee stock ownership plans providing for the partial or total acquisition, through purchase, distribution in lieu of compensation, or a combination of these means or any other lawful means, of shares of stock or other instruments of equity in facilities by persons employed at these facilities in cases in which operations at these facilities would, absent employee equity ownership, be terminated, relocated outside of the state, or so reduced in volume as to entail the permanent layoff of a substantial number of the employees.

(2) In conducting its study, the department shall:

(a) Consider federal and state law relating directly or indirectly to plans proposed under subsection (1) of this section, and to the organization and operation of any trusts established pursuant to the plans, including but not limited to, the federal internal revenue code and any regulations promulgated under the internal revenue code, the federal securities act of 1933 as amended and other federal statutes providing for regulation of the issuance of securities, the federal employee retirement income and security act of 1974 as amended, the Chrysler loan guarantee legislation enacted by the United States congress in 1979, and other federal and state laws relating to employment, compensation, taxation, and retirement;

(b) Consult with relevant persons in the public sector, relevant persons in the private sector, including trustees of any existing employee stock ownership trust, and employees of any firm operating under an employee stock ownership trust, and with members of the academic community and of relevant branches of the legal profession;

(c) Examine the experience of trusts organized pursuant to an employee stock ownership plan in this state or in any other state; and

(d) Make other investigations as it may deem necessary in carrying out the purposes of this section.

(3) Pursuant to the findings and conclusions of the study conducted under subsection (2) of this section, the department of community, trade, and economic development shall develop a plan to encourage and assist the formulation of employee stock ownership plans providing for the acquisition of stock by employees of facilities in this state which are subject to closure or drastically curtailed operation. The department shall determine the amount of any costs of implementing the plan.

(4) The director of community, trade, and economic development shall, within one year of July 28, 1985, report the findings and conclusion of the study, together with details of the plan developed pursuant to the study, to the legislature, and shall include in the report any recommendations for legislation which the director deems appropriate.

(5) The department of community, trade, and economic development shall carry out its duties under this section using available resources. [1993 c 280 § 62; 1987 c 505 § 34; 1985 c 263 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative declaration—1985 c 263: "The legislature declares it to be the policy of this state to encourage the broadening of the base of capital ownership among wider numbers of Washington citizens, and to encourage the use of employee stock ownership plans as one means of broadening the ownership of capital." [1985 c 263 § 1.]

43.63A.230 Employee ownership program—Advisory panel—Reports—When employee stock ownership plans qualify. (1) The department of community, trade, and economic development shall integrate an employee ownership program within its existing technical assistance programs. The employee ownership program shall provide technical assistance to cooperatives authorized under chapter 23.78 RCW and conduct educational programs on employee ownership and self-management. The department shall include information on the option of employee ownership wherever appropriate in its various programs.

(2) The department shall maintain a list of firms and individuals with expertise in the field of employee ownership and utilize such firms and individuals, as appropriate, in delivering and coordinating the delivery of technical, managerial, and educational services. In addition, the department shall work with and rely on the services of the employment security department and state institutions of higher education to promote employee ownership.

(3) The department shall report to the governor, the appropriate economic development committees of the senate and the house of representatives, and the ways and means committees of each house by December 1 of 1988, and each year thereafter, on the accomplishments of the employee-ownership program. Such reports shall include the number and types of firms assisted, the number of jobs created by such firms, the types of services, the number of workshops presented, the number of employees trained, and the results of client satisfaction surveys distributed to those using the services of the program.

(4) For purposes of this section, an employee stock ownership plan qualifies as a cooperative if at least fifty percent, plus one share, of its voting shares of stock are voted on a one-person-one-vote basis. [1993 c 280 § 63; 1988 c 186 § 17; 1987 c 457 § 15.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1988 c 186 § 17: "Section 17 of this act shall take effect June 30, 1993." [1988 c 186 § 18.]

Severability—1987 c 457: See RCW 23.78.902.

43.63A.240 Senior environmental corps—Finding. The legislature finds that:

Enhancement and protection of the state's environment demands more resources than government funding can provide;

A critical underutilized asset to society is the knowledge, skills, abilities, and wisdom of our expanding, able senior population;

Central to the well-being and continued connection to society of Washington's senior citizens is the opportunity for them to voluntarily continue to provide meaningful contributions and to share their professional training, lifelong skills, talents, and wisdom with Washington state's citizens;

It will benefit all the citizens of the state of Washington to create a partnership between our senior citizens and the

state's natural resource agencies to augment our capability to protect, enhance, and appreciate the environment. [1992 c 63 § 1.]

Severability—1992 c 63: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 63 § 16.]

43.63A.245 Senior environmental corps—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.63A.240 through 43.63A.270.

"Agency" means one of the agencies or organizations participating in the activities of the senior environmental corps.

"Coordinator" means the person designated by the director of community, trade, and economic development with the advice of the council to administer the activities of the senior environmental corps.

"Corps" means the senior environmental corps.

"Council" means the senior environmental corps coordinating council.

"Department" means the department of community, trade, and economic development.

"Director" means the director of community, trade, and economic development or the director's authorized representative.

"Representative" means the person who represents an agency on the council and is responsible for the activities of the senior environmental corps in his or her agency.

"Senior" means any person who is fifty-five years of age or over.

"Volunteer" means a person who is willing to work without expectation of salary or financial reward, and who chooses where he or she provides services and the type of services he or she provides. [1993 c 280 § 64; 1992 c 63 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.247 Senior environmental corps—Created. The senior environmental corps is created within the department of community, trade, and economic development. The departments of agriculture, community, trade, and economic development, employment security, ecology, fish and wildlife, health, and natural resources, the parks and recreation commission, and the Puget Sound water quality authority shall participate in the administration and implementation of the corps and shall appoint representatives to the council. [1994 c 264 § 25; 1993 c 280 § 65; 1992 c 63 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.249 Senior environmental corps—Goals. The goals of the corps shall be to:

Provide resources and a support structure to facilitate corps activities and accomplish goals;

Carry out professional and paraprofessional projects that focus on conservation, protection, rehabilitation, and en-

hancement of the state's natural, environmental, and recreational resources and that otherwise would not be implemented because of limited financial resources;

Provide meaningful opportunities for senior volunteers to continue to utilize their professional training, lifelong skills, abilities, experience, and wisdom through participation in corps projects;

Assist agencies in carrying out statutory assignments with limited funding resources;

Enhance community understanding of environmental issues through educational outreach; and

Enhance the state's ability to provide needed public services in both urban and rural settings. [1992 c 63 § 4.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.260 Senior environmental corps—Coordinating council—Duties. The department shall convene a senior environmental corps coordinating council to meet as needed to establish and assess policies, define standards for projects, evaluate and select projects, develop recruitment, training, and placement procedures, receive and review project status and completion reports, and provide for recognition of volunteer activity. The council shall include representatives appointed by the departments of agriculture, community, trade, and economic development, ecology, fish and wildlife, health, and natural resources, the parks and recreation commission, and the Puget Sound water quality authority. The council shall develop bylaws, policies and procedures to govern its activities.

The council shall advise the director on distribution of available funding for corps activities. [1994 c 264 § 26; 1993 c 280 § 66; 1992 c 63 § 5.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.265 Senior environmental corps—Department duties—Volunteers may not displace currently employed workers. (1) Contingent upon available funding, the department shall:

Provide a coordinator and staff support to the council as needed;

Provide support to the agencies for recruitment of volunteers;

Develop a budget and allocate available funds with the advice of the council;

Develop a written volunteer agreement;

Collect and maintain project and volunteer records;

Provide reports to the legislature and the council as requested;

Provide agency project managers and volunteers with orientation to the corps program and training in the use of volunteers;

Act as a liaison with and provide information to other states and jurisdictions on the corps program and program activities;

Appoint a representative to the coordinating council;

Develop project proposals;

Administer project activities within the agency;

Develop appropriate procedures for the use of volunteers;

Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;

Maintain project records and provide project reports;

Apply for and accept grants or contributions for corps approved projects; and

With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 6.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.270 Senior environmental corps—Volunteer activity to be governed by agreement. All volunteer activity must be performed under the terms of a written master agreement approved by the council and the attorney general. As a minimum, the volunteer agreement must include a description of the work that the volunteer is to perform, including the standards of performance required, any expenses or other benefits to which the volunteer is to be entitled, such as mileage, lodging, state industrial coverage, uniforms, or other clothing or supplies, training or other support to be provided to the volunteer by the agency, the duration of the agreement, and the terms under which the agreement may be canceled. [1992 c 63 § 7.]

Severability—1992 c 63: See note following RCW 43.63A.240.

43.63A.275 Retired senior volunteer programs (RSVP)—Funds distribution. (1) Each biennium the department of community, trade, and economic development shall distribute such funds as are appropriated for retired senior volunteer programs (RSVP) as follows:

(a) At least sixty-five percent of the moneys may be distributed according to formulae and criteria to be determined by the department of community, trade, and economic development in consultation with the RSVP directors association.

(b) Up to twenty percent of the moneys may be distributed by competitive grant process to develop RSVP projects in counties not presently being served, or to expand existing RSVP services into counties not presently served.

(c) Ten percent of the moneys may be used by the department of community, trade, and economic development for administration, monitoring of the grants, and providing technical assistance to the RSVP projects.

(d) Up to five percent of the moneys may be used to support projects that will benefit RSVPs state-wide.

(2) Grants under subsection (1) of this section shall give priority to programs in the areas of education, tutoring, English as a second language, combating of and education on drug abuse, housing and homeless, and respite care, and shall be distributed in accordance with the following:

(a) None of the grant moneys may be used to displace any paid employee in the area being served.

(b) Grants shall be made for programs that focus on:

(i) Developing new roles for senior volunteers in nonprofit and public organizations with special emphasis on areas targeted in section 1, chapter 65, Laws of 1992. The

roles shall reflect the diversity of the local senior population and shall respect their life experiences;

(ii) Increasing the expertise of volunteer managers and RSVP managers in the areas of communication, recruitment, motivation, and retention of today's over-sixty population;

(iii) Increasing the number of senior citizens recruited, referred, and placed with nonprofit and public organizations; and

(iv) Providing volunteer support such as: Mileage to and from the volunteer assignment, recognition, and volunteer insurance. [1993 c 280 § 67; 1992 c 65 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1992 c 65: "The legislature finds that there is a growing number of citizens in the state over the age of sixty who have much to offer their fellow citizens and communities through volunteer service. The legislature further finds that public programs for education, at-risk youth, adult literacy, and combating drug abuse have benefited from and are still in need of the assistance of skilled retired senior volunteer programs volunteers. In addition the legislature further finds that public programs for developmentally disabled, environmental protection, corrections, crime prevention, mental health, long-term and respite care, and housing and homeless, among others, are also in need of volunteer assistance from the retired senior volunteer program.

Therefore, the legislature intends to encourage the increased involvement of senior volunteers by providing funding throughout Washington to promote the development and enhancement of such programs." [1992 c 65 § 1.]

43.63A.300 State fire protection services—Intent.

The legislature finds that fire protection services at the state level are provided by different, independent state agencies. This has resulted in a lack of a comprehensive state-level focus for state fire protection services, funding, and policy. It is the intent of the legislature to consolidate fire protection services into a single state agency and to create a state board with the responsibility of (1) establishing a comprehensive state policy regarding fire protection services and (2) advising the director of community, trade, and economic development and the director of fire protection on matters relating to their duties under state law. It is also the intent of the legislature that the fire protection services program created herein will assist local fire protection agencies in program development without encroaching upon their historic autonomy. [1993 c 280 § 68; 1986 c 266 § 54.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

State fire protection: Chapter 48.48 RCW.

43.63A.310 State fire protection policy board—Created—Members. There is created the state fire protection policy board consisting of ten members appointed by the governor:

(1) Three representatives of fire chiefs. At least one shall be from a fire department east of the Cascade mountains and at least one shall be from a fire department west of the Cascade mountains. One shall be from a fire protection district;

- (2) One insurance industry representative;
- (3) One representative of cities and towns;
- (4) One representative of counties;
- (5) Two full-time, paid, career fire fighters;
- (6) One volunteer fire fighter; and

(7) One representative of fire commissioners.

In making the appointments required under subsections (1) through (7) of this section, the governor shall (a) seek the advice of and consult with organizations involved in fire protection; and (b) ensure that racial minorities, women, and persons with disabilities are represented.

The terms of the appointed members of the board shall be three years and until a successor is appointed and qualified. However, initial board members shall be appointed as follows: Three members to terms of one year, three members to terms of two years, and four members to terms of three years. In the case of a vacancy of a member appointed under subsections (1) through (7) of this section, the governor shall appoint a new representative to fill the unexpired term of the member whose office has become vacant. A vacancy shall occur whenever an appointed member ceases to be employed in the occupation the member was appointed to represent.

The appointed members of the board shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

The board shall select its own chairperson and shall meet at the request of the governor or the chairperson and at least four times per year. [1986 c 266 § 55.]

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.320 State fire protection policy board—

Duties. Except for matters relating to the statutory duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection, the board shall have the responsibility of developing a comprehensive state policy regarding fire protection services. In carrying out its duties, the board shall:

- (1) Adopt a state fire protection master plan;
- (2) Monitor fire protection in the state and develop objectives and priorities to improve fire protection for the state's citizens;
- (3) Establish and promote state arson control programs and ensure development of local arson control programs;
- (4) Provide representation for local fire protection services to the governor in state-level fire protection planning matters such as, but not limited to, hazardous materials;
- (5) Seek and solicit grants, gifts, bequests, devices, and matching funds for use in furthering the objectives and duties of the board, and establish procedures for administering them;
- (6) Promote mutual aid and disaster planning for fire services in this state;
- (7) Assure the dissemination of information concerning the amount of fire damage including that damage caused by arson, and its causes and prevention;
- (8) Submit annually a report to the governor containing a statement of its official acts pursuant to this chapter, and make such studies, reports, and recommendations to the governor and the legislature as are requested;
- (9) Adopt a state fire training and education master plan;
- (10) Develop and adopt a master plan for the construction, equipping, maintaining, and operation of necessary fire service training and education facilities, but the authority to

construct, equip, and maintain such facilities is subject to chapter 43.19 RCW;

(11) Develop and adopt a master plan for the purchase, lease, or other acquisition of real estate necessary to establish and operate fire service training and education facilities in a manner provided by law;

(12) Adopt standards for state-wide fire service training and education courses including courses in arson detection and investigation for personnel of fire, police, and prosecutor's departments;

(13) Assure the administration of any legislation enacted by the legislature in pursuance of the aims and purposes of any acts of Congress insofar as the provisions thereof may apply;

(14) Cooperate with the common schools, community colleges, institutions of higher education, and any department or division of the state, or of any county or municipal corporation in establishing and maintaining instruction in fire service training and education in accordance with any act of Congress and legislation enacted by the legislature in pursuance thereof and in establishing, building, and operating training and education facilities.

This section does not apply to forest fire service personnel and programs. Industrial fire departments and private fire investigators may participate in training and education programs under this chapter for a reasonable fee established by rule. [1993 c 280 § 69; 1986 c 266 § 56.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.330 State fire protection policy board—Advisory duties. In regards to the statutory duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection, the board shall serve in an advisory capacity in order to enhance the continuity of state fire protection services. In this capacity, the board shall:

(1) Advise the director of community, trade, and economic development and the director of fire protection on matters pertaining to their duties under law; and

(2) Advise the director of community, trade, and economic development and the director of fire protection on all budgeting and fiscal matters pertaining to the duties of the director of fire protection and the board. [1993 c 280 § 70; 1986 c 266 § 57.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.340 Director of fire protection—Appointment—Duties. (1) Wherever the term state fire marshal appears in the Revised Code of Washington or the Washington Administrative Code it shall mean the director of fire protection.

(2) The director of community, trade, and economic development shall appoint an assistant director who shall be known as the director of fire protection. The board, after consulting with the director, shall prescribe qualifications for the position of director of fire protection. The board shall submit to the director a list containing the names of three

persons whom the board believes meet its qualifications. If requested by the director, the board shall submit one additional list of three persons whom the board believes meet its qualifications. The appointment shall be from one of the lists of persons submitted by the board.

(3) The director of fire protection may designate one or more deputies and may delegate to those deputies his or her duties and authorities as deemed appropriate.

(4) The director of community, trade, and economic development, through the director of fire protection, shall, after consultation with the board, prepare a biennial budget pertaining to fire protection services. Such biennial budget shall be submitted as part of the department's budget request.

(5) The director of community, trade, and economic development, through the director of fire protection, shall implement and administer, within the constraints established by budgeted resources, the policies of the board and all duties of the director of community, trade, and economic development which are to be carried out through the director of fire protection.

(6) The director of community, trade, and economic development, through the director of fire protection, shall seek the advice of the board in carrying out his or her duties under law. [1993 c 280 § 71; 1986 c 266 § 58.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.350 Fire service training program—Grants and bequests. The department may accept any and all donations, grants, bequests, and devices, conditional or otherwise, or money, property, service, or other things of value which may be received from the United States or any agency thereof, any governmental agency, any institution, person, firm, or corporation, public and private, to be held, used, or applied for the purposes of the fire service training program established in RCW 43.63A.320. [1986 c 266 § 59.]

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.360 Fire service training—Fees and fee schedules. The department may: (1) Impose and collect fees for fire service training; and (2) establish and set fee schedules for fire service training. [1986 c 266 § 60.]

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.370 Fire service training account. The fire service training account is hereby established in the state treasury. The department shall deposit in the account all fees received by the department for fire service training. Moneys in the account may be appropriated only for fire service training. [1986 c 266 § 61.]

Severability—1986 c 266: See note following RCW 38.52.005.

43.63A.375 Fire services trust fund. The fire services trust fund is created in the state treasury. All receipts designated by the legislature shall be deposited in the fund. Appropriations from the fund may be made exclusively for the purposes specified in RCW 43.63A.377. [1991 c 135 § 2.]

Intent—1991 c 135: "It is necessary for the health, safety, and welfare of the people of the state of Washington that fire code enforcement, public education on fire prevention, fire training for fire and emergency response personnel, and administration of these activities be funded in a dependable manner. It is therefore the intent of the legislature to establish a fund for these purposes." [1991 c 135 § 1.]

Effective date—1991 c 135: "This act is necessary for the preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 135 § 8.]

Severability—1991 c 135: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1991 c 135 § 9.]

43.63A.377 Fire services trust fund—Expenditures. Money from the fire services trust fund may be expended for the following purposes:

- (1) Training of fire service personnel, including both classroom and hands-on training at the state fire training center or other locations approved by the director through the director of fire protection services;
- (2) Maintenance and operation at the state's fire training center near North Bend. If in the future the state builds other fire training centers a portion of these moneys may be used for the maintenance and operation at these centers;
- (3) Lease or purchase of equipment for use in the provisions of training to fire service personnel;
- (4) Grants to local entities to allow them to perform their functions under this section;
- (5) Costs of administering these programs under this section;
- (6) Licensing and enforcement of state laws governing the sales of fireworks; and
- (7) Development with the legal fireworks industry and funding of a state-wide public education program for fireworks safety. [1991 c 135 § 3.]

Intent—Effective date—Severability—1991 c 135: See notes following RCW 43.63A.375.

43.63A.380 Fire service training center bond retirement account of 1977. The state fire service training center bond retirement account of 1977 is hereby reestablished as an account within the treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to chapter 349, Laws of 1977 ex. sess., or chapter 470, Laws of 1985 or, if the legislature so determines, for any bonds and notes hereafter authorized and issued for the commission for vocational education or the statutory successor to its powers and duties involving the state fire training center.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 13 § 79.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.63A.400 Grants to public broadcast stations. The department of community, trade, and economic development shall distribute grants to eligible public radio and television broadcast stations under RCW 43.63A.410 and 43.63A.420 to assist with programming, operations, and capital needs. [1993 c 280 § 72; 1987 c 308 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1987 c 308: "The legislature finds that public broadcasting creates a cultural and educational environment that is important to the citizens of the state. The legislature also finds that it is in the public interest to provide state support to bring cultural, educational, and public affairs broadcasting services to the citizens of the state." [1987 c 308 § 1.]

43.63A.410 Grants to broadcast stations eligible for grants from corporation for public broadcasting—Formula—Annual financial statements. (1) Eligibility for grants under this section shall be limited to broadcast stations which are:

- (a) Licensed to Washington state organizations, nonprofit corporations, or other entities under section 73.621 of the regulations of the federal communications commission; and
- (b) Qualified to receive community service grants from the federally chartered corporation for public broadcasting. Eligibility shall be established as of February 28th of each year.

(2) The formula in this subsection shall be used to compute the amount of each eligible station's grant under this section.

(a) Appropriations under this section shall be divided into a radio fund, which shall be twenty-five percent of the total appropriation under this section, and a television fund, which shall be seventy-five percent of the total appropriation under this section. Each of the two funds shall be divided into a base grant pool, which shall be fifty percent of the fund, and an incentive grant pool, which shall be the remaining fifty percent of the fund.

(b) Each eligible participating public radio station shall receive an equal share of the radio base grant pool, plus a share of the radio incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating radio stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(c) Each eligible participating public television station shall receive an equal share of the television base grant pool, plus a share of the television incentive grant pool equal to the proportion its nonfederal financial support bears to the sum of all participating television stations' nonfederal financial support as most recently reported to the corporation for public broadcasting.

(3) Annual financial reports to the corporation for public broadcasting by eligible stations shall also be submitted by the stations to the department of community, trade, and economic development. [1993 c 280 § 73; 1987 c 308 § 3.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.420 Grants to other broadcast stations—Eligibility—Amounts. (1) Eligibility for grants under this section shall be limited to broadcast stations that:

- (a) Have a noncommercial educational license granted by the federal communications commission;
- (b) Are not eligible under RCW 43.63A.410;
- (c) Have a permanent employee who is assigned operational management responsibility for the station and who is not compensated with moneys granted under this section;
- (d) Meet the operating schedule requirements of the station's federal broadcast license;
- (e) Have facilities and equipment that allow for program origination and production;
- (f) Have a daily broadcast schedule devoted primarily to serving the educational, informational, and cultural needs of the community within its primary service area. The programming shall be intended for a general audience and not designed to further a particular religious philosophy or political organization;
- (g) Originate a locally produced program service designed to serve the community;
- (h) Maintain financial records in accordance with generally accepted accounting principles; and
- (i) Complete an eligibility criteria statement and annual financial survey pursuant to rules adopted by the *department of community development.

(2)(a) A grant of up to ten thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(b) A grant of up to eight thousand dollars per year may be made under this section to those eligible stations operating at least twelve hours per day, three hundred sixty-five days each year, with transmitting facilities not fully developed under federal communications commission rules.

(c) A grant of up to five thousand dollars per year may be made under this section to those eligible stations operating less than twelve hours per day, three hundred sixty-five days each year, with transmitting facilities developed to the maximum combination of effective radiated power and antenna height possible under the station's federal communications commission license.

(d) A grant of up to one thousand five hundred dollars per year may be made under this section to those eligible stations not meeting the requirements of (a), (b), or (c) of this subsection.

(3) Funding received under this section is specifically for the support of public broadcast operations and facilities improvements which benefit the general community. No funds received under this section may be used for any other purposes by licensees of eligible stations.

(4) Any portion of the appropriation not expended under this section shall be transferred for expenditure under RCW 43.63A.410. [1987 c 308 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative findings—1987 c 308: See note following RCW 43.63A.400.

43.63A.440 Assistance to communities adversely impacted by reductions in timber harvested from federal lands. (1) The department of community, trade, and economic development shall provide technical and financial assistance to communities adversely impacted by reductions in timber harvested from federal lands. This assistance shall include the formation and implementation of community economic development plans. The department of community, trade, and economic development shall utilize existing state technical and financial assistance programs, and shall aid communities in seeking private and federal financial assistance for the purposes of this section. The department may contract for services provided for under this section.

(2) The sum of four hundred fifty thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the department of community, trade, and economic development for the biennium ending June 30, 1991, for the purposes of subsection (1) of this section. [1993 c 280 § 74; 1989 c 424 § 7.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1989 c 424: See note following RCW 76.12.200.

43.63A.450 Community diversification program. The community diversification program is created in the department of community, trade, and economic development. The program shall include:

(1) The monitoring and forecasting of shifts in the economic prospects of major defense employers in the state. This shall include but not be limited to the monitoring of defense contract expenditures, other federal contracts, defense employment shifts, the aircraft and aerospace industry, computer products, and electronics;

(2) The identification of cities, counties, or regions within the state that are primarily dependent on defense or other federal contracting and the identification of firms dependent on federal defense contracts;

(3) Assistance to communities in broadening the local economic base through the provision of management assistance, assistance in financing, entrepreneurial training, and assistance to businesses in using off-the-shelf technology to start new production processes or introduce new products;

(4) Formulating a state plan for diversification in defense dependent communities in collaboration with the employment security department and the office of financial management. The plan shall use the information made available through carrying out subsections (1) and (2) of this section; and

(5) The identification of diversification efforts conducted by other states, the federal government, and other nations, and the provision of information on these efforts, as well as information gained through carrying out subsections (1) and (2) of this section, to firms, communities, and work forces that are defense dependent.

The department shall, beginning January 1, 1992, report annually to the governor and the legislature on the activities of the community diversification program. [1993 c 280 § 75; 1990 c 278 § 2.]

Reviser's note—Sunset Act application: The community diversification program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.367. RCW 43.63A.450 is scheduled for future repeal under RCW 43.131.368.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Legislative finding—1990 c 278: "The legislature finds that the industrial and manufacturing base of the Washington economy has undergone tremendous change during the past two decades. The challenge facing Washington firms is to become as productive and efficient as possible to survive in an increasingly competitive world market. Many of the state's communities are dependent on one or two industries. Many firms are heavily reliant on the defense expenditures of the federal government. It is the intent of the legislature to assist communities in planning for economic change, developing a broader economic base, and preparing for any shift in federal priorities that could cause a reduction in federal expenditures, and assist firms by providing information and technical assistance necessary for them to introduce new products or production processes." [1990 c 278 § 1.]

Severability—1990 c 278: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 c 278 § 6.]

43.63A.460 Manufactured housing—Department duties. Beginning on July 1, 1991, the department of community, trade, and economic development shall be responsible for performing all the consumer complaint and related functions of the state administrative agency that are required for purposes of complying with the regulations established by the federal department of housing and urban development for manufactured housing, including the preparation and submission of the state administrative plan.

The department of community, trade, and economic development may enter into state or local interagency agreements to coordinate site inspection activities with record monitoring and complaint handling. The interagency agreement may also provide for the reimbursement for cost of work that an agency performs. The department may include other related areas in any interagency agreements which are necessary for the efficient provision of services.

The department of labor and industries shall transfer all records, files, books, and documents necessary for the department of community, trade, and economic development to assume these new functions.

The directors of community, trade, and economic development and the department of labor and industries shall immediately take such steps as are necessary to ensure that *this act is implemented on June 7, 1990. [1993 c 280 § 76; 1990 c 176 § 2.]

***Reviser's note:** For codification of "this act" [1990 c 176], see note following RCW 43.22.495.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Transfer of duties from the department of labor and industries: RCW 43.22.495.

43.63A.465 Manufactured housing—Federal standards—Enforcement. (Contingent expiration date.) The *director of the department of community development shall enforce manufactured housing safety and construction standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Furthermore, the director may

make agreements with the United States government, state agencies, or private inspection organizations to implement the development and enforcement of applicable provisions of this chapter and the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) regarding the state administrative agency program. [1993 c 124 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.63A.470 Manufactured housing—Inspections, investigations. (Contingent expiration date.) (1) The director or the director's authorized representative shall conduct such inspections and investigations as may be necessary to implement or enforce manufactured housing rules adopted under the authority of this chapter or to carry out the director's duties under this chapter.

(2) For the purposes of enforcement of this chapter, persons duly designated by the director upon presenting appropriate credentials to the owner, operator, or agent in charge shall:

(a) At reasonable times and without advance notice enter any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

(b) At reasonable times, within reasonable limits, and in a reasonable manner inspect any factory, warehouse, or establishment as required to comply with the standards adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). Each inspection shall be commenced and completed with reasonable promptness.

(3) For the purpose of carrying out the provisions of this chapter, the director or the director's authorized representative is authorized:

(a) To require, by general or special orders, any factory, warehouse, or establishment in which manufactured homes are manufactured, to file, in such form as prescribed, reports or answers in writing to specific questions relating to any function of the department under this chapter. Such reports and answers shall be made under oath or otherwise, and shall be filed with the department within such reasonable time periods as prescribed by the department; and

(b) To hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records, as the director or such officer or employee deems advisable.

(4) In carrying out the inspections authorized by this section the director shall establish by rule, under chapter 34.05 RCW, and impose on manufactured home manufacturers, distributors, and dealers such reasonable fees as may be necessary to offset the expenses incurred by the director in conducting the inspections, provided these fees are set in accordance with guidelines established by the United States secretary of housing and urban development. [1993 c 124 § 5.]

43.63A.475 Manufactured housing—Rules. (Contingent expiration date.) The department shall adopt all rules under chapter 34.05 RCW necessary to implement chapter 124, Laws of 1993, giving due consideration to standards and regulations adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) for manufactured housing construction and safety standards. [1993 c 124 § 2.]

43.63A.480 Manufactured housing—Hearing procedures. (Contingent expiration date.) The department shall adopt appropriate hearing procedures under chapter 34.05 RCW for the holding of formal and informal presentation of views, giving due consideration to hearing procedures adopted by the secretary of housing and urban development under the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426). [1993 c 124 § 3.]

43.63A.485 Manufactured housing—Violations—Fines. (Contingent expiration date.) (1) A person who violates any of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 is liable to the state of Washington for a civil penalty of not to exceed one thousand dollars for each such violation. Each violation of the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (800 Stat. 700; 42 U.S.C. Secs. 5401-5426) applicable to RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation.

(2) An individual or a director, officer, or agent of a corporation who knowingly and willfully violates any of the provisions of RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 or any rules adopted under RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480, in a manner that threatens the health or safety of any purchaser, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both.

(3) Any legal fees, court costs, expert witness fees, and staff costs expended by the state in successfully pursuing violators of RCW 43.63A.465, 43.63A.470, 43.63A.475, and 43.63A.480 shall be reimbursed in full by the violators. [1993 c 124 § 4.]

43.63A.490 Manufactured housing—Contingent expiration date. RCW 43.63A.465 through 43.63A.490 shall expire and be of no force and effect on January 1 in any year following the failure of the United States department of housing and urban development to reimburse the

state for the duties described in RCW 43.63A.465 through 43.63A.490. [1993 c 124 § 6.]

43.63A.500 Farmworker housing construction manuals and plans. The department shall develop, and make available to the public, model or prototype construction plans and manuals for several types of farmworker housing, including but not limited to seasonal housing for individuals and families, campgrounds, and recreational vehicle parks. Any person or organization intending to construct farmworker housing may adopt one or more of these models as the plan for the proposed housing. [1990 c 253 § 5.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.63A.510 Affordable housing—Inventory of state-owned land. (1) The department shall work with the departments of natural resources, transportation, social and health services, corrections, and general administration to identify and catalog under-utilized, state-owned land and property suitable for the development of affordable housing for very low-income, low-income or moderate-income households. The departments of natural resources, transportation, social and health services, corrections, and general administration shall provide an inventory of real property that is owned or administered by each agency and is available for lease or sale. The inventories shall be provided to the department by November 1, 1993, with inventory revisions provided each November 1 thereafter.

(2) Upon written request, the department shall provide a copy of the inventory of state-owned and publicly owned lands and buildings to parties interested in developing the sites for affordable housing.

(3) As used in this section:

(a) "Affordable housing" means residential housing that is rented or owned by a person who qualifies as a very low-income, low-income, or moderate-income household or who is from a special needs population, and whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(b) "Very low-income household" means a single person, family, or unrelated persons living together whose income is at or below fifty percent of the median income, adjusted for household size, for the county where the affordable housing is located.

(c) "Low-income household" means a single person, family, or unrelated persons living together whose income is more than fifty percent but is at or below eighty percent of the median income where the affordable housing is located.

(d) "Moderate-income household" means a single person, family, or unrelated persons living together whose income is more than eighty percent but is at or below one hundred fifteen percent of the median income where the affordable housing is located. [1993 c 461 § 2; 1990 c 253 § 6.]

Finding—1993 c 461: "(1) The legislature finds that:

(a) The lack of affordable housing for very low-income, low-income, or moderate-income households and special needs populations is intensified by the rising cost of land and construction; and

(b) There are publicly owned land and buildings which may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing.

(2) The legislature declares that the purpose of this act is to:

(a) Provide for an analysis of the inventory of state-owned lands and buildings prepared by the departments of natural resources, transportation, corrections, and general administration;

(b) Identify other publicly owned land and buildings that may be suitable for the development of affordable housing for very-low income, low-income, or moderate-income households and special needs populations;

(c) Provide a central location of inventories of state and publicly owned land and buildings that may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing; and

(d) Encourage an effective use of publicly owned surplus and underutilized land and buildings suitable for the development of affordable housing for very low-income, low-income, or moderate-income households and special needs populations." [1993 c 461 § 1.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.63A.550 Growth management—Inventorying and collecting data. (1) The department shall assist in the process of inventorying and collecting data on public and private land for the acquisition of data describing land uses, demographics, infrastructure, critical areas, transportation corridors physical features, housing, and other information useful in managing growth throughout the state. For this purpose the department shall contract with the department of information services and shall form an advisory group consisting of representatives from state, local, and federal agencies, colleges and universities, and private firms with expertise in land planning, and geographic information systems.

(2) The department shall establish a sequence for acquiring data, giving priority to rapidly growing areas. The data shall be retained in a manner to facilitate its use in preparing maps, aggregating with data from multiple jurisdictions, and comparing changes over time. Data shall further be retained in a manner which permits its access via computer.

(3) By December 1, 1990, the department shall report to the appropriate committees of the house of representatives and senate on the availability of existing data; specific data which is needed but not currently available; data compatibility across jurisdictions; the suitability of various types of data for retention on computer; the cost of collecting, storing, updating, mapping, and manipulating data on a computer; and recommendations on how to maintain an inventory of data which is accessible to any user and whether to maintain the data at a central repository or decentralized repositories.

(4) The department shall work with other state agencies, local governments, and private organizations that are inventorying public and private lands to ensure close coordination and to ensure that duplication of efforts does not occur. [1990 1st ex.s. c 17 § 21.]

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.63A.600 Emergency mortgage and rental assistance program—Timber impact areas—Grants and loans—Goals. (1) The department of community, trade, and economic development, as a member of the agency timber task force and in consultation with the economic recovery coordination board, shall establish and administer the emergency mortgage and rental assistance program. The department shall identify the communities most adversely affected by reductions in timber harvest levels and shall prioritize

assistance under this program to these communities. The department shall work with the department of social and health services and the timber recovery coordinator to develop the program in timber impact areas. Organizations eligible to receive grant funds for distribution under the program are those organizations that are eligible to receive assistance through the Washington housing trust fund. The department shall disburse the funds to eligible local organizations as grants. The local organizations shall use the funds to make grants or loans as specified in RCW 43.63A.600 through 43.63A.640. If funds are disbursed as loans, the local organization shall establish a revolving grant and loan fund with funds received as loan repayments and shall continue to make grants or loans or both grants and loans from funds received as loan repayments to dislocated forest products workers eligible under the provisions of RCW 43.63A.600 through 43.63A.640 and to other persons residing in timber impact areas who meet the requirements of RCW 43.63A.600 through 43.63A.640.

(2) The goals of the program are to:

(a) Provide temporary emergency mortgage loans or rental assistance grants or loans on behalf of dislocated forest products workers in timber impact areas who are unable to make mortgage, property tax, or rental payments on their permanent residences and are subject to immediate eviction for nonpayment of mortgage installments, property taxes, or nonpayment of rent;

(b) Prevent the dislocation of individuals and families from their permanent residences and their communities; and

(c) Maintain economic and social stability in timber impact areas. [1994 c 114 § 1; 1993 c 280 § 77; 1991 c 315 § 23.]

Effective date—1994 c 114: "This act shall take effect July 1, 1994." [1994 c 114 § 6.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.610 Emergency mortgage assistance—Guidelines. Emergency mortgage assistance shall be provided under the following general guidelines:

(1) Loans provided under the program shall not exceed an amount equal to twenty-four months of mortgage payments.

(2) The maximum loan amount allowed under the program shall not exceed twenty thousand dollars.

(3) Loans shall be made to applicants who meet specific income guidelines established by the department.

(4) Loan payments shall be made directly to the mortgage lender.

(5) Loans shall be granted on a first-come, first-served basis.

(6) Repayment of loans provided under the program shall be made to eligible local organizations, and must not take more than twenty years. Funds repaid to the program shall be used as grants or loans under the provisions of RCW 43.63A.600 through 43.63A.640. [1994 c 114 § 2; 1991 c 315 § 24.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.620 Emergency rental assistance—Guidelines. Emergency rental assistance shall be provided under the following general guidelines:

(1) Rental assistance provided under the program may be in the form of loans or grants and shall not exceed an amount equal to twenty-four months of rental payments.

(2) Rental assistance shall be made to applicants who meet specific income guidelines established by the department.

(3) Rental payments shall be made directly to the landlord.

(4) Rental assistance shall be granted on a first-come, first-served basis. [1994 c 114 § 3; 1991 c 315 § 25.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.630 Emergency mortgage and rental assistance program—Eligibility. To be eligible for assistance under the program, an applicant must:

(1) Be unable to keep mortgage or rental payments current, due to a loss of employment, and shall be at significant risk of eviction;

(2) Have his or her permanent residence located in an eligible community;

(3) If requesting emergency mortgage assistance, be the owner of an equitable interest in the permanent residence and intend to reside in the home being financed;

(4) Be actively seeking new employment or be enrolled in a training program approved by the director; and

(5) Submit an application for assistance to an organization eligible to receive funds under RCW 43.63A.600. [1994 c 114 § 4; 1991 c 315 § 26.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.640 Emergency mortgage and rental assistance program—Duties—Interest rate, assignment, eligibility. The department shall carry out the following duties:

(1) Administer the program;

(2) Identify organizations eligible to receive funds to implement the program;

(3) Develop and adopt the necessary rules and procedures for implementation of the program and for dispersal of program funds to eligible organizations;

(4) Establish the interest rate for repayment of loans at two percent below the market rate;

(5) Work with lending institutions and social service providers in the eligible communities to assure that all eligible persons are informed about the program;

(6) Utilize federal and state programs that complement or facilitate carrying out the program;

(7) Ensure that local eligible organizations that dissolve or become ineligible assign their program funds, rights to

loan repayments, and loan security instruments, to the government of the county in which the local organization is located. If the county government accepts the program assets described in this subsection, it shall act as a local eligible organization under the provisions of RCW 43.63A.600 through 43.63A.640. If the county government declines to participate, the program assets shall revert to the department. [1994 c 114 § 5; 1991 c 315 § 27.]

Effective date—1994 c 114: See note following RCW 43.63A.600.

Intent—1991 c 315: See note following RCW 50.12.270.

Severability—Conflict with federal requirements—Effective date—1991 c 315: See RCW 50.70.900 through 50.70.902.

43.63A.650 Housing—Department's coordination duties. (1) The department shall be the principal state department responsible for coordinating federal and state resources and activities in housing, except for programs administered by the Washington state housing finance commission under chapter 43.180 RCW, and for evaluating the operations and accomplishments of other state departments and agencies as they affect housing.

(2) The department shall work with local governments, tribal organizations, local housing authorities, nonprofit community or neighborhood-based organizations, and regional or state-wide nonprofit housing assistance organizations, for the purpose of coordinating federal and state resources with local resources for housing. [1993 c 478 § 13.]

43.63A.660 Housing—Technical assistance and information, affordable housing. The department shall provide technical assistance and information to state agencies and local governments to assist in the identification and removal of regulatory barriers to the development and placement of affordable housing. In providing assistance the department may:

(1) Analyze the costs and benefits of state legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;

(2) Analyze the costs and benefits of local legislation, rules, and administrative actions and their impact on the development and placement of affordable housing;

(3) Assist state agencies and local governments in determining the impact of existing and anticipated actions, legislation, and rules on the development and placement of affordable housing;

(4) Investigate techniques and opportunities for reducing the life-cycle housing costs through regulatory reform;

(5) Develop model standards and ordinances designed to reduce regulatory barriers to affordable housing and assisting in their adoption and use at the state and local government level;

(6) Provide technical assistance and information to state agencies and local governments for implementation of legislative and administrative reform programs to remove barriers to affordable housing;

(7) Prepare state regulatory barrier removal strategies;

(8) Provide staffing to the affordable housing advisory board created in RCW 43.185B.020; and

(9) Perform other activities as the director deems necessary to assist the state, local governments, and the

housing industry in meeting the affordable housing needs of the state. [1993 c 478 § 14.]

43.63A.670 Home-matching program—Finding, purpose. (1) The legislature finds that:

- (a) The trend toward smaller household sizes will continue into the foreseeable future;
- (b) Many of these households are in housing units that contain more bedrooms than occupants;
- (c) There are older homeowners on relatively low, fixed income who are experiencing difficulties maintaining their homes; and
- (d) There are single parents, recently widowed persons, people in the midst of divorce or separation, and handicapped that are faced with displacement due to the high cost of housing.

(2) The legislature declares that the purpose of RCW 43.63A.680 is to develop a pilot program designed to:

- (a) Provide home-matching services that can enable people to continue living in their homes while promoting continuity of home ownership and community stability; and
- (b) Counter the problem of displacement among people on relatively low, fixed incomes by linking people offering living space with people seeking housing. [1993 c 478 § 18.]

43.63A.680 Home-matching program—Pilot programs. (1) The department may develop and administer a home-matching program for the purpose of providing grants and technical assistance to eligible organizations to operate local home-matching programs. For purposes of this section, "eligible organizations" are those organizations eligible to receive assistance through the Washington housing trust fund, chapter 43.185 RCW.

(2) The department may select up to five eligible organizations for the purpose of implementing a local home-matching program. The local home-matching programs are designed to facilitate: (a) Intergenerational homesharing involving older homeowners sharing homes with younger persons; (b) homesharing arrangements that involve an exchange of services such as cooking, housework, gardening, or babysitting for room and board or some financial consideration such as rent; and (c) the more efficient use of available housing.

(3) In selecting local pilot programs under this section, the department shall consider:

- (a) The eligible organization's ability, stability, and resources to implement the local home-matching program;
- (b) The eligible organization's efforts to coordinate other support services needed by the individual or family participating in the local home-matching program; and
- (c) Other factors the department deems appropriate.

(4) The eligible organizations shall establish criteria for participation in the local home-matching program. The eligible organization shall make a determination of eligibility regarding the individuals' or families' participation in the local home-matching program. The determination shall include, but is not limited to a verification of the individual's or family's history of making rent payments in a consistent and timely manner. [1993 c 478 § 19.]

43.63A.690 Minority and women-owned business enterprises—Linked deposit program. (1) The department shall provide technical assistance and loan packaging services that enable minority and women-owned business enterprises to obtain financing under the linked deposit program created under RCW 43.86A.060.

(2) The department shall, in consultation with the state treasurer, monitor the performance of loans made to minority and women-owned business enterprises under RCW 43.86A.060. [1993 c 512 § 31.]

Sunset Act application: See note following RCW 43.86A.060.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.63A.700 Community empowerment zone—Application. (1) The department, in cooperation with the department of revenue, the employment security department, and the office of financial management, shall approve applications submitted by local governments for designation as a community empowerment zone under this section. The application shall be in the form and manner and contain such information as the department may prescribe, provided that the application for designation shall:

(a) Contain information sufficient for the director to determine if the criteria established in RCW 43.63A.710 have been met.

(b) Be submitted on behalf of the local government by its chief elected official, or, if none, by the governing body of the local government.

(c) Contain a five-year community empowerment plan that describes the proposed designated community empowerment zone's community development needs and present a strategy for meeting those needs. The plan shall address the following categories: Housing needs; public infrastructure needs, such as transportation, water, sanitation, energy, and drainage/flood control; other public facilities needs, such as neighborhood facilities or facilities for provision of health, education, recreation, public safety, or other services; community economic development needs, such as commercial/industrial revitalization, job creation and retention considering the unemployment and underemployment of area residents, accessibility to financial resources by area residents and businesses, investment within the area, or other related components of community economic development; and social service needs.

The local government is required to provide a description of its strategy for meeting the needs identified in this subsection (1)(c). As part of the strategy, the local government is required to identify the needs for which specific plans are currently in place and the source of funds expected to be used. For the balance of the area's needs, the local government must identify the source of funds expected to become available during the next two-year period and actions the local government will take to acquire those funds.

(d) Certify that neighborhood residents were given the opportunity to participate in the development of the five-year community empowerment strategy required under (c) of this subsection.

(2) No local government shall submit more than two neighborhoods to the department for possible designation as

a designated community empowerment zone under this section.

(3)(a) Within ninety days after January 1, 1994, the director may designate up to six designated community empowerment zones from among the applications eligible for designation as a designated community empowerment zone.

(b) The director shall make determinations of designated community empowerment zones on the basis of the following factors:

(i) The strength and quality of the local government commitments to meet the needs identified in the five-year community empowerment plan required under this section.

(ii) The level of private commitments by private entities of additional resources and contribution to the designated community empowerment zone.

(iii) The potential for revitalization of the area as a result of designation as a designated community empowerment zone.

(iv) Other factors the director deems necessary.

(c) The determination of the director as to the areas designated as community empowerment zones shall be final. [1994 1st sp.s. c 7 § 702; 1993 sp.s. c 25 § 401.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

43.63A.710 Community empowerment zone—Requirements. (1) The director may not designate an area as a designated community empowerment zone unless that area meets the following requirements:

(a) The area must be designated by the legislative authority of the local government as an area to receive federal, state, and local assistance designed to increase economic, physical, or social activity in the area;

(b) The area must have at least fifty-one percent of the households in the area with incomes at or below eighty percent of the county's median income, adjusted for household size;

(c) The average unemployment rate for the area, for the most recent twelve-month period for which data is available must be at least one hundred twenty percent of the average unemployment rate of the county; and

(d) A five-year community empowerment plan for the area that meets the requirements of RCW 43.63A.700(1)(c) and as further defined by the director must be adopted.

(2) The director may establish, by rule, such other requirements as the director may reasonably determine necessary and appropriate to assure that the purposes of this section are satisfied.

(3) In determining if an area meets the requirements of this section, the director may consider data provided by the United States bureau of the census from the most recent census or any other reliable data that the director determines to be acceptable for the purposes for which the data is used. [1994 1st sp.s. c 7 § 703; 1993 sp.s. c 25 § 402.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

43.63A.900 Severability—1967 c 74. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter or the application of the provision to other persons or circumstances is not affected. [1967 c 74 § 16.]

43.63A.901 Severability—1984 c 125. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 125 § 23.]

43.63A.902 Headings—1984 c 125. Headings as used in this act constitute no part of the law. [1984 c 125 § 24.]

43.63A.903 Effective date—1984 c 125. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1984. [1984 c 125 § 25.]

Chapter 43.63B

MOBILE AND MANUFACTURED HOME INSTALLATION

Sections

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43.63B.030 Installer certification—Training course—Examination.

43.63B.040 Installer certification—Issuance of certificate—Renewal—Exclusive.

43.63B.050 Installer certification—Revocation.

43.63B.060 Local government installation application and permit requirements.

43.63B.070 Fees—Certification program.

43.63B.080 Manufactured home installation training account.

43.63B.090 Certified installer required on-site—Infraction—Exceptions.

43.63B.100 Certified installer required on-site—Infraction—Notice.

43.63B.110 Violations—Investigations—Inspections.

43.63B.120 Violations—Separate infraction for each day, each worksite.

43.63B.130 Violation—Use of uncertified installer.

43.63B.140 Notice of infraction.

43.63B.150 Infractions adjudicated under administrative procedure act.

43.63B.160 Notice as determination.

43.63B.170 Penalty.

43.63B.800 Rule adoption—Enforcement.

43.63B.900 Severability—1994 c 284.

43.63B.901 Effective date—1994 c 284.

43.63B.005 Purpose. The purpose of this chapter is to ensure that all mobile and manufactured homes are installed by a certified manufactured home installer in accordance with the state installation code, chapter 296-150B WAC, in order to provide greater protections to consumers and make the warranty requirement of *RCW 46.70.134 easier to achieve. [1994 c 284 § 14.]

***Reviser's note:** The reference in 1994 c 284 § 14 to "section 2 of this act" was erroneous. Section 10 of that act, codified as RCW 46.70.134, was apparently intended.

Dispute mediation: RCW 46.70.136.

43.63B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Authorized representative" means an employee of a state agency, city, or county acting on behalf of the department.

(2) "Certified manufactured home installer" means a person who is in the business of installing mobile or manufactured homes and who has been issued a certificate by the department as provided in this chapter.

(3) "Department" means the department of community, trade, and economic development.

(4) "Director" means the director of community, trade, and economic development.

(5) "Manufactured home" means a single-family dwelling built in accordance with the department of housing and urban development manufactured home construction and safety standards act, which is a national, preemptive building code.

(6) "Mobile or manufactured home installation" means all on-site work necessary for the installation of a manufactured home, including:

- (a) Construction of the foundation system;
- (b) Installation of the support piers;
- (c) Required connection to foundation system and support piers;
- (d) Skirting;
- (e) Connections to the on-site water and sewer systems that are necessary for the normal operation of the home; and
- (f) Extension of the pressure relief valve for the water heater.

(7) "Manufactured home standards" means the manufactured home construction and safety standards as promulgated by the United States department of housing and urban development (HUD).

(8) "Mobile home" means a factory-built dwelling built prior to June 15, 1976, to standards other than the HUD code, and acceptable under applicable state codes in effect at the time of construction or introduction of the home into the state. Mobile homes have not been built since introduction of the HUD manufactured home construction and safety standards act.

(9) "Training course" means the education program administered by the department as a prerequisite to taking the examination for certification. [1994 c 284 § 15.]

43.63B.020 Installer certification—Application—Training. A person desiring to be issued a certificate of manufactured home installation as provided in this chapter shall make application to the department, in such a form as required by the department.

Upon receipt of the application and evidence required in this chapter, the director shall review the information and make a determination as to whether the applicant is eligible to take the training course and examination for the certificate of manufactured home installation. An applicant must furnish written evidence of six months of experience under the direct supervision of a certified manufactured home installer, or other equivalent experience, in order to be eligible to take the training course and examination. The director shall establish reasonable rules for the training

course and examinations to be given to applicants for certificates of manufactured home installation. Upon determining that the applicant is eligible to take the training course and examination, the director shall notify the applicant, indicating the time and place for taking the training course and examination.

The requirement that an applicant must be under the direct supervision of a certified manufactured home installer for six months only applies to applications made on or after July 1, 1996. For applications made before July 1, 1996, the department shall require evidence of experience to satisfy this requirement.

The director may allow other persons to take the training course and examination on manufactured home installation, without certification. [1994 c 284 § 17.]

43.63B.030 Installer certification—Training course—Examination. The department shall prepare a written training course and examination to be administered to applicants for manufactured home installer certification. The examination shall be constructed to determine whether the applicant:

(1) Possesses general knowledge of the technical information and practical procedures that are necessary for manufactured home installation;

(2) Is familiar with the federal and state codes and administrative rules pertaining to manufactured homes; and

(3) Is familiar with the local government regulations as related to manufactured home installations.

The department shall certify the results of the examination and shall notify the applicant in writing whether the applicant has passed or failed the examination. An applicant who failed the examination may retake the training course and examination. The director may not limit the number of times that a person may take the training course and examination. [1994 c 284 § 18.]

43.63B.040 Installer certification—Issuance of certificate—Renewal—Exclusive. (1) The department shall issue a certificate of manufactured home installation to an applicant who has taken the training course, passed the examination, paid the fees, and in all other respects meet[s] the qualifications. The certificate shall bear the date of issuance, a certification identification number, and is renewable every three years upon application and completion of a continuing education program as determined by the department. A renewal fee shall be assessed for each certificate. If a person fails to renew a certificate by the renewal date, the person must retake the examination and pay the examination fee.

(2) The certificate of manufactured home installation provided for in this chapter grants the holder the right to engage in manufactured home installation throughout the state, without any other installer certification. [1994 c 284 § 19.]

43.63B.050 Installer certification—Revocation. (1) The department may revoke a certificate of manufactured home installation upon the following grounds:

- (a) The certificate was obtained through error or fraud;

(b) The holder of the certificate is judged to be incompetent as a result of multiple infractions of the state installation code, WAC 296-150B-200 through 296-150B-255; or

(c) The holder has violated a provision of this chapter or a rule adopted to implement this chapter.

(2) Before a certificate of manufactured home installation is revoked, the holder must be given written notice of the department's intention to revoke the certificate, sent by registered mail, return receipt requested, to the holder's last known address. The notice shall enumerate the allegations against the holder, and shall give the holder the opportunity to request a hearing. At the hearing, the department and the holder may produce witnesses and give testimony. The hearing shall be conducted in accordance with the provisions of chapter 34.05 RCW. [1994 c 284 § 21.]

43.63B.060 Local government installation application and permit requirements. Any local government mobile or manufactured home installation application and permit shall state the name and certification identification number of the certified manufactured home installer supervising such installation. A local government may not issue a permit to install a manufactured home unless: (1) The installer submits a copy of the certificate of manufactured home installation to the local government; or (2) work is being performed that does not require a certified installer. When work must be performed by a certified manufactured home installer, no work may commence until the installer or the installer's agent has posted or otherwise made available, with the inspection record card at the set-up site, a copy of the certified manufactured home installer's certificate of manufactured home installation. [1994 c 284 § 20.]

43.63B.070 Fees—Certification program. The department shall charge reasonable fees to cover the costs to administer the certification program which shall include but not be limited to the issuance, renewal, and reinstatement of all certificates, training courses, and examinations required under this chapter. All fees collected under this chapter shall be deposited in the manufactured home installation training account created in RCW 43.63B.080 and used only for the purposes specified in this chapter.

The fees shall be limited to covering the direct cost of issuing the certificates, administering the examinations, and administering and enforcing this chapter. The costs shall include only essential travel, per diem, and administrative support costs. [1994 c 284 § 22.]

43.63B.080 Manufactured home installation training account. The manufactured home installation training account is created in the state treasury. All receipts collected under this chapter and any legislative appropriations for manufactured home installation training shall be deposited into the account. Moneys in the account may only be spent after appropriation. Expenditures from the account may only be used for the purposes of this chapter. Unexpended and unencumbered moneys that remain in the account at the end of the fiscal year do not revert to the state general fund but remain in the account, separately accounted for, as a contingency reserve. [1994 c 284 § 23.]

43.63B.090 Certified installer required on-site—Infraction—Exceptions. After July 1, 1995, a mobile or manufactured home may not be installed without a certified manufactured home installer providing on-site supervision whenever installation work is being performed. The certified manufactured home installer is responsible for the reading, understanding, and following [of] the manufacturer's installation instructions and performance of noncertified workers engaged in the installation of the home. There shall be at least one certified manufactured home installer on the installation site whenever installation work is being performed.

A manufactured home installer certification shall not be required for:

- (1) Site preparation;
- (2) Sewer and water connections outside of the building site;
- (3) Specialty trades that are responsible for constructing accessory structures such as garages, carports, and decks;
- (4) Pouring concrete into forms;
- (5) Painting and dry wall finishing;
- (6) Carpet installation;
- (7) Specialty work performed within the scope of their license by licensed plumbers or electricians. This provision does not waive or lessen any state regulations related to licensing or permits required for electricians or plumbers;
- (8) A mobile or manufactured home owner performing installation work on their own home; and
- (9) A manufacturer's mobile home installation crew installing a mobile or manufactured home sold by the manufacturer except for the on-site supervisor.

Violation of this section is an infraction. [1994 c 284 § 16.]

43.63B.100 Certified installer required on-site—Infraction—Notice. An authorized representative of the department may issue a notice of infraction if the person supervising the manufactured home installation work fails to produce evidence of having a certificate issued by the department in accordance with this chapter. A notice of infraction issued under this chapter shall be personally served on or sent by certified mail to the person named in the notice by the authorized representative. [1994 c 284 § 25.]

43.63B.110 Violations—Investigations—Inspections. An authorized representative may investigate alleged or apparent violations of this chapter. Upon presentation of credentials, an authorized representative, including a local government building official, may inspect sites at which manufactured home installation work is undertaken to determine whether such work is being done under the supervision of a certified manufactured home installer. Upon request of the authorized representative, a person performing manufactured home installation work shall identify the person holding the certificate issued by the department in accordance with this chapter. [1994 c 284 § 24.]

43.63B.120 Violations—Separate infraction for each day, each worksite. Each day in which a person engages in the installation of manufactured homes in violation of this

chapter is a separate infraction. Each worksite at which a person engages in the trade of manufactured home installation in violation of this chapter is a separate infraction. [1994 c 284 § 27.]

43.63B.130 Violation—Use of uncertified installer. It is a violation of this chapter for any contractor, manufactured home dealer, manufacturer, or home dealer's or manufacturer's agent to engage any person to install a manufactured home who is not certified in accordance with this chapter. [1994 c 284 § 28.]

43.63B.140 Notice of infraction. (1) The department shall prescribe the form of the notice of infraction issued under this chapter.

(2) The notice of infraction shall include the following:

(a) A statement that the notice represents a determination that the infraction has been committed by the person named in the notice and that the determination is final unless contested as provided in this chapter;

(b) A statement that the infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;

(c) A statement of the specific infraction for which the notice was issued;

(d) A statement of a monetary penalty that has been established for the infraction;

(e) A statement of the options provided in this chapter for responding to the notice and the procedures necessary to exercise these options;

(f) A statement that, at a hearing to contest the determination, the state has the burden of proving, by a preponderance of the evidence, that the infraction was committed, and that the person may subpoena witnesses including the authorized representative who issued and served the notice of the infraction;

(g) A statement, that the person shall sign, that the person promises to respond to the notice of infraction in one of the ways provided in this chapter;

(h) A statement that refusal to sign the infraction as directed in (g) of this subsection is a misdemeanor; and

(i) A statement that failure to respond to a notice of infraction as promised is a misdemeanor and may be punished by a fine or imprisonment in jail. [1994 c 284 § 26.]

43.63B.150 Infractions adjudicated under administrative procedure act. All violations designated as an infraction shall be adjudicated in accordance with the administrative procedure act, chapter 34.05 RCW. [1994 c 284 § 29.]

43.63B.160 Notice as determination. Unless contested in accordance with this chapter, the notice of infraction represents a determination that the person to whom the notice was issued committed the infraction. [1994 c 284 § 30.]

43.63B.170 Penalty. (1) A person found to have committed an infraction under this chapter shall be assessed a monetary penalty of one thousand dollars.

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(2) The administrative law judge may waive, reduce, or suspend the monetary penalty imposed for the infraction.

(3) Monetary penalties collected under this chapter shall be remitted as provided in chapter 3.62 RCW. [1994 c 284 § 31.]

43.63B.800 Rule adoption—Enforcement. The director may adopt rules in accordance with chapter 34.05 RCW, make specific decisions, orders, and rulings, include demands and findings within the decisions, orders, and rulings, and take other necessary action for the implementation and enforcement of duties under this chapter. [1994 c 284 § 32.]

43.63B.900 Severability—1994 c 284. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 284 § 34.]

43.63B.901 Effective date—1994 c 284. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]. [1994 c 284 § 35.]

Chapter 43.70

DEPARTMENT OF HEALTH

Sections

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- 43.70.910 Effective date—1989 1st ex.s. c 9.
- 43.70.920 Severability—1989 1st ex.s. c 9.

Immunization program, departmental participation: RCW 28A.210.060 through 28A.210.170.

Pesticide advisory board, departmental representation: RCW 17.21.230.

Visual and auditory screening of pupils, data transferred to secretary: RCW 28A.210.030.

43.70.005 Intent. The legislature finds and declares that it is of importance to the people of Washington state to live in a healthy environment and to expect a minimum standard of quality in health care. The legislature further finds that the social and economic vitality of the state depend[s] on a healthy and productive population. The

legislature further declares where it is a duty of the state to assure a healthy environment and minimum standards of quality in health care facilities and among health care professionals, the ultimate responsibility for a healthy society lies with the citizens themselves.

For these reasons, the legislature recognizes the need for a strong, clear focus on health issues in state government and among state health agencies to give expression to the needs of individual citizens and local communities as they seek to preserve the public health. It is the intent of the legislature to form such focus by creating a single department in state government with the primary responsibilities for the preservation of public health, monitoring health care costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for all the state's activities as they relate to the health of its citizenry.

Further, it is the intent of the legislature to improve illness and injury prevention and health promotion, and restore the confidence of the citizenry in the expenditure of public funds on health activities, and to ensure that this new health agency delivers quality health services in an efficient, effective, and economical manner that is faithful and responsive to policies established by the legislature. [1989 1st ex.s. c 9 § 101.]

43.70.010 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Assessment" means the regular collection, analysis, and sharing of information about health conditions, risks, and resources in a community. Assessment activities identify trends in illness, injury, and death and the factors that may cause these events. They also identify environmental risk factors, community concerns, community health resources, and the use of health services. Assessment includes gathering statistical data as well as conducting epidemiologic and other investigations and evaluations of health emergencies and specific ongoing health problems;

(2) "Board" means the state board of health;

(3) "Council" means the health care access and cost control council;

(4) "Department" means the department of health;

(5) "Policy development" means the establishment of social norms, organizational guidelines, operational procedures, rules, ordinances, or statutes that promote health or prevent injury, illness, or death; and

(6) "Secretary" means the secretary of health. [1994 1st sp.s. c 7 § 206; 1989 1st ex.s. c 9 § 102.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.70.020 Department created. (1) There is hereby created a department of state government to be known as the department of health. The department shall be vested with all powers and duties transferred to it by chapter 9, Laws of 1989 1st ex. sess. and such other powers and duties as may be authorized by law. The main administrative office of the department shall be located in the city of Olympia. The secretary may establish administrative facilities in other locations, if deemed necessary for the efficient operation of

the department, and if consistent with the principles set forth in subsection (2) of this section.

(2) The department of health shall be organized consistent with the goals of providing state government with a focus in health and serving the people of this state. The legislature recognizes that the secretary needs sufficient organizational flexibility to carry out the department's various duties. To the extent practical, the secretary shall consider the following organizational principles:

(a) Clear lines of authority which avoid functional duplication within and between subelements of the department;

(b) A clear and simplified organizational design promoting accessibility, responsiveness, and accountability to the legislature, the consumer, and the general public;

(c) Maximum span of control without jeopardizing adequate supervision;

(d) A substate or regional organizational structure for the department's health service delivery programs and activities that encourages joint working agreements with local health departments and that is consistent between programs;

(e) Decentralized authority and responsibility, with clear accountability;

(f) A single point of access for persons receiving like services from the department which would limit the number of referrals between divisions.

(3) The department shall provide leadership and coordination in identifying and resolving threats to the public health by:

(a) Working with local health departments and local governments to strengthen the state and local governmental partnership in providing public protection;

(b) Developing intervention strategies;

(c) Providing expert advice to the executive and legislative branches of state government;

(d) Providing active and fair enforcement of rules;

(e) Working with other federal, state, and local agencies and facilitating their involvement in planning and implementing health preservation measures;

(f) Providing information to the public; and

(g) Carrying out such other related actions as may be appropriate to this purpose.

(4) In accordance with the administrative procedure act, chapter 34.05 RCW, the department shall ensure an opportunity for consultation, review, and comment by the department's clients before the adoption of standards, guidelines, and rules.

(5) Consistent with the principles set forth in subsection (2) of this section, the secretary may create such administrative divisions, offices, bureaus, and programs within the department as the secretary deems necessary. The secretary shall have complete charge of and supervisory powers over the department, except where the secretary's authority is specifically limited by law.

(6) The secretary shall appoint such personnel as are necessary to carry out the duties of the department in accordance with chapter 41.06 RCW.

(7) The secretary shall appoint the state health officer and such deputy secretaries, assistant secretaries, and other administrative positions as deemed necessary consistent with the principles set forth in subsection (2) of this section. All

persons who administer the necessary divisions, offices, bureaus, and programs, and five additional employees shall be exempt from the provisions of chapter 41.06 RCW. The officers and employees appointed under this subsection shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the state civil service law.

(8) The secretary shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 8; 1989 1st ex.s. c 9 § 103.]

Severability—Effective date—1992 c 198: See RCW 70.190.910 and 70.190.920.

43.70.030 Secretary of health. The executive head and appointing authority of the department shall be the secretary of health. The secretary shall be appointed by, and serve at the pleasure of, the governor in accordance with RCW 43.17.020. The secretary shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1989 1st ex.s. c 9 § 104.]

43.70.040 Secretary's powers. In addition to any other powers granted the secretary, the secretary may:

(1) Adopt, in accordance with chapter 34.05 RCW, rules necessary to carry out the provisions of *this act;

(2) Appoint such advisory committees as may be necessary to carry out the provisions of *this act. Members of such advisory committees are authorized to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060. The secretary and the board of health shall review each advisory committee within their jurisdiction and each statutory advisory committee on a biennial basis to determine if such advisory committee is needed. The criteria specified in RCW 43.131.070 shall be used to determine whether or not each advisory committee shall be continued;

(3) Undertake studies, research, and analysis necessary to carry out the provisions of *this act in accordance with RCW 43.70.050;

(4) Delegate powers, duties, and functions of the department to employees of the department as the secretary deems necessary to carry out the provisions of *this act;

(5) Enter into contracts on behalf of the department to carry out the purposes of *this act;

(6) Act for the state in the initiation of, or the participation in, any intergovernmental program to the purposes of *this act; or

(7) Accept gifts, grants, or other funds. [1989 1st ex.s. c 9 § 106.]

*Reviser's note: For codification of "this act" [1989 1st ex.s. c 9], see Codification Tables, Volume 0.

43.70.045 Warren Featherstone Reid Award for Excellence in Health Care. There is created an award to honor and recognize cost-effective and quality health care services. This award shall be known as the "Warren Featherstone Reid Award for Excellence in Health Care." [1994 c 7 § 2.]

Finding—1994 c 7: "The legislature recognizes the critical importance of ensuring that all Washington residents have access to quality and affordable health care. The legislature further recognizes that substantial improvements can be made in health care delivery when providers, including health care facilities, are encouraged to continuously strive for

excellence in quality management practices, value, and consumer satisfaction. The legislature finds that when centers of quality are highlighted and honored publicly they become examples for other health care providers to emulate, thereby further promoting the implementation of improved health care delivery processes." [1994 c 7 § 1.]

43.70.047 Warren Featherstone Reid Award for Excellence in Health Care. The governor, in conjunction with the secretary of health, shall identify and honor health care providers and facilities in Washington state who exhibit exceptional quality and value in the delivery of health services. The award shall be given annually consistent with the availability of qualified nominees. The secretary may appoint an advisory committee to assist in the selection of nominees, if necessary. [1994 c 7 § 3.]

43.70.050 Collection, utilization, and accessibility of health-related data. (1) The legislature intends that the department, board, and council promote and assess the quality, cost, and accessibility of health care throughout the state as their roles are specified in *this act in accordance with the provisions of this chapter. In furtherance of this goal, the secretary shall create an ongoing program of data collection, storage, assessability, and review. The legislature does not intend that the department conduct or contract for the conduct of basic research activity. The secretary may request appropriations for studies according to this section from the legislature, the federal government, or private sources.

(2) All state agencies which collect or have access to population-based, health-related data are directed to allow the secretary access to such data. This includes, but is not limited to, data on needed health services, facilities, and personnel; future health issues; emerging bioethical issues; health promotion; recommendations from state and national organizations and associations; and programmatic and statutory changes needed to address emerging health needs. Private entities, such as insurance companies, health maintenance organizations, and private purchasers are also encouraged to give the secretary access to such data in their possession. The secretary's access to and use of all data shall be in accordance with state and federal confidentiality laws and ethical guidelines. Such data in any form where the patient or provider of health care can be identified shall not be disclosed, subject to disclosure according to chapter 42.17 RCW, discoverable or admissible in judicial or administrative proceedings. Such data can be used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.

(3) The department shall serve as the clearinghouse for information concerning innovations in the delivery of health care services, the enhancement of competition in the health care marketplace, and federal and state information affecting health care costs.

(4) The secretary shall review any data collected, pursuant to this chapter, to:

(a) Identify high-priority health issues that require study or evaluation. Such issues may include, but are not limited to:

(i) Identification of variations of health practice which indicate a lack of consensus of appropriateness;

(ii) Evaluation of outcomes of health care interventions to assess their benefit to the people of the state;

(iii) Evaluation of specific population groups to identify needed changes in health practices and services;

(iv) Evaluation of the risks and benefits of various incentives aimed at individuals and providers for both preventing illnesses and improving health services;

(v) Identification and evaluation of bioethical issues affecting the people of the state; and

(vi) Other such objectives as may be appropriate;

(b) Further identify a list of high-priority health study issues for consideration by the board or council, within their authority, for inclusion in the state health report required by RCW 43.20.050. The list shall specify the objectives of each study, a study timeline, the specific improvements in the health status of the citizens expected as a result of the study, and the estimated cost of the study; and

(c) Provide background for the state health report required by RCW 43.20.050.

(5) Any data, research, or findings may also be made available to the general public, including health professions, health associations, the governor, professional boards and regulatory agencies and any person or group who has allowed the secretary access to data.

(6) The secretary may charge a fee to persons requesting copies of any data, research, or findings. The fee shall be no more than necessary to cover the cost to the department of providing the copy. [1989 1st ex.s. c 9 § 107.]

***Reviser's note:** For codification of "this act" [1989 1st ex.s. c 9], see Codification Tables, Volume 0.

43.70.060 Duties of department—Promotion of health care cost-effectiveness. It is the intent of the legislature to promote appropriate use of health care resources to maximize access to adequate health care services. The legislature understands that the rapidly increasing costs of health care are limiting access to care. To promote health care cost-effectiveness, the department shall:

(1) Implement the certificate of need program;

(2) Monitor and evaluate health care costs;

(3) Evaluate health services and the utilization of services for outcome and effectiveness; and

(4) Recommend strategies to encourage adequate and cost-effective services and discourage ineffective services. [1989 1st ex.s. c 9 § 108.]

43.70.070 Duties of department—Analysis of health services. The department shall evaluate and analyze readily available data and information to determine the outcome and effectiveness of health services, utilization of services, and payment methods. This section should not be construed as allowing the department access to proprietary information.

(1) The department shall make its evaluations available to the board and the council for use in preparation of the state health report required by RCW 43.20.050, and to consumers, purchasers, and providers of health care.

(2) The department, with advice from the council shall use the information to:

(a) Develop guidelines which may be used by consumers, purchasers, and providers of health care to encourage necessary and cost-effective services; and

(b) Make recommendations to the governor on how state government and private purchasers may be prudent purchasers of cost-effective, adequate health services. [1989 1st ex.s. c 9 § 109.]

43.70.080 Transfer of powers and duties from the department of social and health services. The powers and duties of the department of social and health services and the secretary of social and health services under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 16.70, 18.20, 18.46, 18.71, 18.73, 18.76, 69.30, 70.28, 70.30, 70.32, 70.33, 70.50, 70.58, 70.62, 70.83, 70.83B, 70.90, 70.98, 70.104, 70.116, 70.118, 70.119, 70.119A, 70.121, 70.127, 70.142, and 80.50 RCW. More specifically, the following programs and services presently administered by the department of social and health services are hereby transferred to the department of health:

(1) Personal health and protection programs and related management and support services, including, but not limited to: Immunizations; tuberculosis; sexually transmitted diseases; AIDS; diabetes control; primary health care; cardiovascular risk reduction; kidney disease; regional genetic services; newborn metabolic screening; sentinel birth defects; cytogenetics; communicable disease epidemiology; and chronic disease epidemiology;

(2) Environmental health protection services and related management and support services, including, but not limited to: Radiation, including x-ray control, radioactive materials, uranium mills, low-level waste, emergency response and reactor safety, and environmental radiation protection; drinking water; toxic substances; on-site sewage; recreational water contact facilities; food services sanitation; shellfish; and general environmental health services, including schools, vectors, parks, and camps;

(3) Public health laboratory;

(4) Public health support services, including, but not limited to: Vital records; health data; local public health services support; and health education and information;

(5) Licensing and certification services including, but not limited to: Health and personal care facility survey, construction review, emergency medical services, laboratory quality assurance, and accommodations surveys; and

(6) Effective January 1, 1991, parent and child health services and related management support services, including, but not limited to: Maternal and infant health; child health; parental health; nutrition; handicapped children's services; family planning; adolescent pregnancy services; high priority infant tracking; early intervention; parenting education; pre-natal regionalization; and power and duties under RCW 43.20A.635. The director of the office of financial management may recommend to the legislature a delay in this transfer, if it is determined that this time frame is not adequate. [1989 1st ex.s. c 9 § 201.]

43.70.090 Authority to administer oaths and issue subpoenas—Provisions governing subpoenas. (1) The secretary shall have full authority to administer oaths and take testimony thereunder, to issue subpoenas requiring the attendance of witnesses before the secretary together with all books, memoranda, papers, and other documents, articles or

instruments, and to compel the disclosure by such witnesses of all facts known to them relative to the matters under investigation.

(2) Subpoenas issued in adjudicative proceedings shall be governed by RCW 34.05.588(1).

(3) Subpoenas issued in the conduct of investigations required or authorized by other statutory provisions or necessary in the enforcement of other statutory provisions shall be governed by RCW 34.05.588(2). [1989 1st ex.s. c 9 § 252.]

43.70.095 Civil fines. This section governs the assessment of a civil fine against a person by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice to the person against whom it assesses a civil fine. The notice shall state the reasons for the adverse action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in subsection (4) of this section, the civil fine is due and payable twenty-eight days after receipt. The department may make the date the fine is due later than twenty-eight days after receipt. When the department does so, it shall state the effective date in the written notice given the person against whom it assesses the fine.

(3) The person against whom the department assesses a civil fine has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the fine, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the person's receiving the notice of civil fine, and be served in a manner which shows proof of receipt.

(4) If the person files a timely and sufficient appeal, the department shall not implement the action until the final order has been served. The presiding or reviewing officer may permit the department to implement part or all of the action while the proceedings are pending if the appellant causes an unreasonable delay in the proceedings or for other good cause. [1991 c 3 § 378.]

43.70.100 Reports of violations by secretary—Duty to institute proceedings—Notice to alleged violator. (1) It shall be the duty of each assistant attorney general, prosecuting attorney, or city attorney to whom the secretary reports any violation of chapter 43.20 or 43.70 RCW, or regulations promulgated under them, to cause appropriate proceedings to be instituted in the proper courts, without delay, and to be duly prosecuted as prescribed by law.

(2) Before any violation of chapter 43.20 or 43.70 RCW is reported by the secretary to the prosecuting attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his or her views to the secretary, either orally or in writing, with regard to such contemplated proceeding. [1989 1st ex.s. c 9 § 262.]

43.70.110 License fees—Exemption—Waiver. (1) The secretary shall charge fees to the licensee for obtaining a license. After June 30, 1995, municipal corporations providing emergency medical care and transportation services pursuant to chapter 18.73 RCW shall be exempt from such fees, provided that such other emergency services shall only be charged for their pro rata share of the cost of licensure and inspection, if appropriate. The secretary may waive the fees when, in the discretion of the secretary, the fees would not be in the best interest of public health and safety, or when the fees would be to the financial disadvantage of the state.

(2) Fees charged shall be based on, but shall not exceed, the cost to the department for the licensure of the activity or class of activities and may include costs of necessary inspection.

(3) Department of health advisory committees may review fees established by the secretary for licenses and comment upon the appropriateness of the level of such fees. [1993 sp.s. c 24 § 918; 1989 1st ex.s. c 9 § 263.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

43.70.115 Licenses—Denial, suspension, revocation, modification. This section governs the denial of an application for a license or the suspension, revocation, or modification of a license by the department. This section does not govern actions taken under chapter 18.130 RCW.

(1) The department shall give written notice of the denial of an application for a license to the applicant or his or her agent. The department shall give written notice of revocation, suspension, or modification of a license to the licensee or his or her agent. The notice shall state the reasons for the action. The notice shall be personally served in the manner of service of a summons in a civil action or shall be given in an other [another] manner that shows proof of receipt.

(2) Except as otherwise provided in this subsection and in subsection (4) of this section, revocation, suspension, or modification is effective twenty-eight days after the licensee or the agent receives the notice.

(a) The department may make the date the action is effective later than twenty-eight days after receipt. If the department does so, it shall state the effective date in the written notice given the licensee or agent.

(b) The department may make the date the action is effective sooner than twenty-eight days after receipt when necessary to protect the public health, safety, or welfare. When the department does so, it shall state the effective date and the reasons supporting the effective date in the written notice given to the licensee or agent.

(3) A license applicant or licensee who is aggrieved by a department denial, revocation, suspension, or modification has the right to an adjudicative proceeding. The proceeding is governed by the Administrative Procedure Act, chapter 34.05 RCW. The application must be in writing, state the basis for contesting the adverse action, include a copy of the adverse notice, be served on and received by the department within twenty-eight days of the license applicant's or licensee's receiving the adverse notice, and be served in a manner that shows proof of receipt.

(4)(a) If the department gives a licensee twenty-eight or more days notice of revocation, suspension, or modification and the licensee files an appeal before its effective date, the department shall not implement the adverse action until the final order has been entered. The presiding or reviewing officer may permit the department to implement part or all of the adverse action while the proceedings are pending if the appellant causes an unreasonable delay in the proceeding, if the circumstances change so that implementation is in the public interest, or for other good cause.

(b) If the department gives a licensee less than twenty-eight days notice of revocation, suspension, or modification and the licensee timely files a sufficient appeal, the department may implement the adverse action on the effective date stated in the notice. The presiding or reviewing officer may order the department to stay implementation of part or all of the adverse action while the proceedings are pending if staying implementation is in the public interest or for other good cause. [1991 c 3 § 377.]

43.70.120 Federal programs—Rules—Statutes to be construed to meet federal law. In furtherance of the policy of this state to cooperate with the federal government in the public health programs, the department of health shall adopt such rules and regulations as may become necessary to entitle this state to participate in federal funds unless the same be expressly prohibited by law. Any section or provision of the public health laws of this state which may be susceptible to more than one construction shall be interpreted in favor of the construction most likely to satisfy federal laws entitling this state to receive federal funds for the various programs of public health. [1989 1st ex.s. c 9 § 264.]

43.70.130 Powers and duties of secretary—General. The secretary of health shall:

(1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;

(2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;

(3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;

(4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it, or by agreement with the local health officer or local board of health;

(8) Cause to be made from time to time, personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Review and approve plans for public water system design, engineering, operation, maintenance, financing, and emergency response, as required under state board of health rules;

(10) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

(11) Establish and maintain laboratory facilities and services as are necessary to carry out the responsibilities of the department. [1990 c 132 § 2; 1989 1st ex.s. c 9 § 251; 1985 c 213 § 2; 1979 c 141 § 46; 1967 ex.s. c 102 § 1; 1965 c 8 § 43.20.010. Prior: (i) 1909 c 208 § 2; RRS § 6004. (ii) 1921 c 7 § 59; RRS § 10817. Formerly RCW 43.20A.600 and 43.20.010.]

Legislative findings—Severability—1990 c 132: See note following RCW 43.20.240.

Savings—Effective date—1985 c 213: See notes following RCW 43.20.050.

Severability—1967 ex.s. c 102: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1967 ex.s. c 102 § 13.]

Public water systems—Complaint process: RCW 43.20.240.

43.70.140 Annual conference of health officers. In order to receive the assistance and advice of local health officers in carrying out the secretary's duties and responsibilities, the secretary of health shall hold annually a conference of local health officers, at such place as the secretary deems convenient, for the discussion of questions pertaining to public health, sanitation, and other matters pertaining to the duties and functions of the local health departments, which

shall continue in session for such time not exceeding three days as the secretary deems necessary.

The health officer of each county, district, municipality and county-city department shall attend such conference during its entire session, and receive therefor his or her actual and necessary traveling expenses, to be paid by his or her county, district, and municipality or county-city department. No claim for such expenses shall be allowed or paid unless it is accompanied by a certificate from the secretary of health attesting the attendance of the claimant. [1989 1st ex.s. c 9 § 253; 1979 c 141 § 50; 1967 ex.s. c 102 § 10; 1965 c 8 § 43.20.060. Prior: 1915 c 75 § 1; RRS § 6005. Formerly RCW 43.20A.615 and 43.20.060.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.150 Registration of vital statistics. The secretary of health shall have charge of the state system of registration of births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance, and shall prepare the necessary rules, forms, and blanks for obtaining records, and insure the faithful registration thereof. [1989 1st ex.s. c 9 § 254; 1979 c 141 § 51; 1967 c 26 § 1; 1965 c 8 § 43.20.070. Prior: 1907 c 83 § 1; RRS § 6018. Formerly RCW 43.20A.620 and 43.20.070.]

Effective date—1967 c 26: "This act shall take effect on January 1, 1968." [1967 c 26 § 12.]

Vital statistics: Chapter 70.58 RCW.

43.70.160 Duties of registrar. The state registrar of vital statistics shall prepare, print, and supply to all registrars all blanks and forms used in registering, recording, and preserving the returns, or in otherwise carrying out the purposes of Title 70 RCW; and shall prepare and issue such detailed instructions as may be required to secure the uniform observance of its provisions and the maintenance of a perfect system of registration. No other blanks shall be used than those supplied by the state registrar. The state registrar shall carefully examine the certificates received monthly from the local registrars, county auditors, and clerks of the court and, if any are incomplete or unsatisfactory, the state registrar shall require such further information to be furnished as may be necessary to make the record complete and satisfactory, and shall cause such further information to be incorporated in or attached to and filed with the certificate. The state registrar shall furnish, arrange, bind, and make a permanent record of the certificate in a systematic manner, and shall prepare and maintain a comprehensive index of all births, deaths, fetal deaths, marriages, and decrees of divorce, annulment and separate maintenance registered. [1989 1st ex.s. c 9 § 255; 1967 c 26 § 2; 1965 c 8 § 43.20.080. Prior: 1961 ex.s. c 5 § 2; 1951 c 106 § 1; 1915 c 180 § 9; 1907 c 83 § 17; RRS § 6034. Formerly RCW 43.20A.625 and 43.20.080.]

Effective date—1967 c 26: See note following RCW 43.70.150.

Vital statistics: Chapter 70.58 RCW.

43.70.170 Threat to public health—Investigation, examination or sampling of articles or conditions constituting—Access—Subpoena power. The secretary on his or her own motion or upon the complaint of any interested party, may investigate, examine, sample or inspect any

article or condition constituting a threat to the public health including, but not limited to, outbreaks of communicable diseases, food poisoning, contaminated water supplies, and all other matters injurious to the public health. When not otherwise available, the department may purchase such samples or specimens as may be necessary to determine whether or not there exists a threat to the public health. In furtherance of any such investigation, examination or inspection, the secretary or the secretary's authorized representative may examine that portion of the ledgers, books, accounts, memorandums, and other documents and other articles and things used in connection with the business of such person relating to the actions involved.

For purposes of such investigation, the secretary or the secretary's representative shall at all times have free and unimpeded access to all buildings, yards, warehouses, storage and transportation facilities or any other place. The secretary may also, for the purposes of such investigation, issue subpoenas to compel the attendance of witnesses, as provided for in RCW 43.70.090 or the production of books and documents anywhere in the state. [1989 1st ex.s. c 9 § 256; 1979 c 141 § 53; 1967 ex.s. c 102 § 3. Formerly RCW 43.20A.640 and 43.20.150.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.180 Threat to public health—Order prohibiting sale or disposition of food or other items pending investigation. Pending the results of an investigation provided for under RCW 43.70.170, the secretary may issue an order prohibiting the disposition or sale of any food or other item involved in the investigation. The order of the secretary shall not be effective for more than fifteen days without the commencement of a legal action as provided for under RCW 43.70.190. [1989 1st ex.s. c 9 § 257; 1979 c 141 § 54; 1967 ex.s. c 102 § 4. Formerly RCW 43.20A.645 and 43.20.160.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.190 Violations—Injunctions and legal proceedings authorized. The secretary of health or local health officer may bring an action to enjoin a violation or the threatened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. Upon the filing of any action, the court may, upon a showing of an immediate and serious danger to residents constituting an emergency, issue a temporary injunctive order ex parte. [1990 c 133 § 3; 1989 1st ex.s. c 9 § 258; 1979 c 141 § 55; 1967 ex.s. c 102 § 5. Formerly RCW 43.20A.650 and 43.20.170.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.195 Public water systems—Receivership actions brought by secretary—Plan for disposition. (1) In any action brought by the secretary of health or by a local

health officer pursuant to chapter 7.60 RCW to place a public water system in receivership, the petition shall include the names of one or more suitable candidates for receiver who have consented to assume operation of the water system. The department shall maintain a list of interested and qualified individuals, municipal entities, special purpose districts, and investor-owned water companies with experience in the provision of water service and a history of satisfactory operation of a water system. If there is no other person willing and able to be named as receiver, the court shall appoint the county in which the water system is located as receiver. The county may designate a county agency to operate the system, or it may contract with another individual or public water system to provide management for the system. If the county is appointed as receiver, the secretary of health and the county health officer shall provide regulatory oversight for the agency or other person responsible for managing the water system.

(2) In any petition for receivership under subsection (1) of this section, the department shall recommend that the court grant to the receiver full authority to act in the best interests of the customers served by the public water system. The receiver shall assess the capability, in conjunction with the department and local government, for the system to operate in compliance with health and safety standards, and shall report to the court and the petitioning agency its recommendations for the system's future operation, including the formation of a water district or other public entity, or ownership by another existing water system capable of providing service.

(3) If a petition for receivership and verifying affidavit executed by an appropriate departmental official allege an immediate and serious danger to residents constituting an emergency, the court shall set the matter for hearing within three days and may appoint a temporary receiver ex parte upon the strength of such petition and affidavit pending a full evidentiary hearing, which shall be held within fourteen days after receipt of the petition.

(4) A bond, if any is imposed upon a receiver, shall be minimal and shall reasonably relate to the level of operating revenue generated by the system. Any receiver appointed pursuant to this section shall not be held personally liable for any good faith, reasonable effort to assume possession of, and to operate, the system in compliance with the court's orders.

(5) The court shall authorize the receiver to impose reasonable assessments on a water system's customers to recover expenditures for improvements necessary for the public health and safety.

(6) No later than twelve months after appointment of a receiver, the petitioning agency, in conjunction with the county in which the system is located, and the appropriate state and local health agencies, shall develop and present to the court a plan for the disposition of the system. The report shall include the recommendations of the receiver made pursuant to subsection (2) of this section. The report shall include all reasonable and feasible alternatives. After receiving the report, the court shall provide notice to interested parties and conduct such hearings as are necessary. The court shall then order the parties to implement one of the alternatives, or any combination thereof, for the disposition of the system. Such order shall include a date, or

proposed date, for the termination of the receivership. Nothing in this section authorizes a court to require a city, town, public utility district, water district, or irrigation district to accept a system that has been in receivership unless the city, town, public utility district, water district, or irrigation district agrees to the terms and conditions outlined in the plan adopted by the court.

(7) The court shall not terminate the receivership, and order the return of the system to the owners, unless the department of health approves of such an action. The court may impose reasonable conditions upon the return of the system to the owner, including the posting of a bond or other security, routine performance and financial audits, employment of qualified operators and other staff or contracted services, compliance with financial viability requirements, or other measures sufficient to ensure the ongoing proper operation of the system.

(8) If, as part of the ultimate disposition of the system, an eminent domain action is commenced by a public entity to acquire the system, the court shall oversee any appraisal of the system conducted under Title 7 RCW to assure that the appraised value properly reflects any reduced value because of the necessity to make improvements to the system. The court shall have the authority to approve the appraisal, and to modify it based on any information provided at an evidentiary hearing. The court's determination of the proper value of the system, based on the appraisal, shall be final, and only appealable if not supported by substantial evidence. If the appraised value is appealed, the court may order that the system's ownership be transferred upon payment of the approved appraised value. [1994 c 292 § 3; 1990 c 133 § 4.]

Findings—Intent—1994 c 292: See note following RCW 57.04.050.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.70.200 Enforcement of health laws and state or local rules and regulations upon request of local health officer. Upon the request of a local health officer, the secretary of health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington, including a proceeding under Title 7 RCW. [1990 c 133 § 5; 1989 1st ex.s. c 9 § 259; 1979 c 141 § 56; 1967 ex.s. c 102 § 6. Formerly RCW 43.20A.655 and 43.20.180.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

43.70.210 Right of person to rely on prayer to alleviate ailments not abridged. Nothing in chapter 43.20 or 43.70 RCW, or RCW 43.70.120 shall be construed to abridge the right of any person to rely exclusively on spiritual means alone through prayer to alleviate human ailments, sickness or disease, in accordance with the tenets and practice of the Church of Christ, Scientist, nor shall anything in chapters 43.20, 43.70 RCW, or RCW 43.70.120 be deemed to prohibit a person so relying who is inflicted with

a contagious or communicable disease from being isolated or quarantined in a private place of his own choice, provided, it is approved by the local health officer, and all laws, rules and regulations governing control, sanitation, isolation and quarantine are complied with. [1989 1st ex.s. c 9 § 260; 1979 c 141 § 59; 1967 ex.s. c 102 § 14. Formerly RCW 43.20A.665 and 43.20.210.]

Severability—1967 ex.s. c 102: See note following RCW 43.70.130.

Prayer: RCW 18.50.030, 43.72.200, 70.127.040, 70.128.170, 71.05.070, 74.09.190.

43.70.220 Transfer of powers and duties from the department of licensing. The powers and duties of the department of licensing and the director of licensing under the following statutes are hereby transferred to the department of health and the secretary of health: Chapters 18.06, 18.19, 18.22, 18.25, 18.29, 18.32, 18.34, 18.35, 18.36A, 18.50, 18.52, 18.52C, 18.53, 18.54, 18.55, 18.57, 18.57A, 18.59, 18.71, 18.71A, 18.74, 18.83, 18.84, 18.79, 18.89, 18.92, 18.108, 18.135, and 18.138 RCW. More specifically, the health professions regulatory programs and services presently administered by the department of licensing are hereby transferred to the department of health. [1994 1st sp.s. c 9 § 727; 1989 1st ex.s. c 9 § 301.]

Severability—Headings and captions not law—Effective date—1994 1st sp.s. c 9: See RCW 18.79.900 through 18.79.902.

43.70.230 Office of health consumer assistance created—Duties. There is created in the department an office of health consumer assistance. The office shall establish a state-wide hotline and shall assist and serve as an advocate for consumers who are complainants or witnesses in a licensing or disciplinary proceeding. [1989 1st ex.s. c 9 § 303.]

43.70.240 Written operating agreements. The secretary and each of the professional licensing and disciplinary boards under the administration of the department shall enter into written operating agreements on administrative procedures with input from the regulated profession and the public. The intent of these agreements is to provide a process for the department to consult each board on administrative matters and to ensure that the administration and staff functions effectively enable each board to fulfill its statutory responsibilities. The agreements shall include, but not be limited to, the following provisions:

- (1) Administrative activities supporting the board's policies, goals, and objectives;
- (2) Development and review of the agency budget as it relates to the board; and
- (3) Board related personnel issues.

The agreements shall be reviewed and revised in like manner if appropriate at the beginning of each fiscal year, and at other times upon written request by the secretary or the board.

The secretary shall report to the health care committees of the legislature, on or before February 28, 1990, on the implementation of the written operating agreement and the need, if any, for modification of this section. [1989 1st ex.s. c 9 § 304.]

43.70.250 License fees for professions, occupations, and businesses—Limitation on midwifery fees. (1) It shall be the policy of the state of Washington that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation, or business. The secretary shall from time to time establish the amount of all application fees, license fees, registration fees, examination fees, permit fees, renewal fees, and any other fee associated with licensing or regulation of professions, occupations, or businesses administered by the department. In fixing said fees, the secretary shall set the fees for each program at a sufficient level to defray the costs of administering that program. All such fees shall be fixed by rule adopted by the secretary in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

(2) Notwithstanding subsection (1) of this section, no fee for midwives, as licensed in chapter 18.50 RCW may be increased by more than one hundred dollars or fifty percent, whichever is greater during any biennium. [1989 1st ex.s. c 9 § 319.]

43.70.260 Appointment of temporary additional members of boards and committees for administration and grading of examinations. The secretary may, at the request of a board or committee established under Title 18 RCW under the administrative authority of the department of health, appoint temporary additional members for the purpose of participating as members during the administration and grading of practical examinations for licensure, certification, or registration. The appointment shall be for the duration of the examination specified in the request. Individuals so appointed must meet the same minimum qualifications as regular members of the board or committee, including the requirement to be licensed, certified, or registered. While serving as board or committee members, persons so appointed have all the powers, duties, and immunities and are entitled to the emoluments, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of regular members of the board or committee. This authority is intended to provide for more efficient, economical, and effective examinations. [1989 1st ex.s. c 9 § 320.]

43.70.270 License moratorium for persons in the service. Notwithstanding any provision of law to the contrary, the license of any person licensed by the secretary of health to practice a profession or engage in an occupation, if valid and in force and effect at the time the licensee entered service in the armed forces or the merchant marine of the United States, shall continue in full force and effect so long as such service continues, unless sooner suspended, canceled, or revoked for cause as provided by law. The secretary shall renew the license of every such person who applies for renewal thereof within six months after being honorably discharged from service upon payment of the renewal fee applicable to the then current year or other license period. [1989 1st ex.s. c 9 § 321.]

43.70.280 Extension or modification of licensing, certification, or registration period authorized. Notwith-

standing any provision of law to the contrary which provides for a licensing period for any type of license subject to this chapter, the secretary of health may, from time to time, extend or otherwise modify the duration of any licensing, certification, or registration period, whether an initial or renewal period, if the secretary determines that it would result in a more economical or efficient operation of state government and that the public health, safety, or welfare would not be substantially adversely affected thereby. However, no license, certification, or registration may be issued or approved for a period in excess of four years, without renewal. Such extension, reduction, or other modification of a licensing, certification, or registration period shall be by rule or regulation of the department of health adopted in accordance with the provisions of chapter 34.05 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended or modified period. [1989 1st ex.s. c 9 § 322.]

43.70.290 Funeral directors and embalmers subject to chapter 18.130 RCW. Funeral directors and embalmers, licensed under chapter 18.39 RCW, are subject to the provisions of chapter 18.130 RCW under the administration of the department of licensing. The department of licensing shall review the statutes authorizing the regulation of funeral directors and embalmers, and recommend any changes necessary by January 1, 1990. [1989 1st ex.s. c 9 § 323.]

43.70.300 Secretary or secretary's designee ex officio member of health professional licensure and disciplinary boards. In order to provide liaison with the department of health, provide continuity between changes in board membership, achieve uniformity as appropriate in licensure or regulated activities under the jurisdiction of the department, and to better represent the public interest, the secretary, or a designee appointed by the secretary, shall serve as an ex officio member of every health professional licensure or disciplinary board established under Title 18 RCW under the administrative authority of the department of health. The secretary shall have no vote unless otherwise authorized by law. [1989 1st ex.s. c 9 § 318; 1983 c 168 § 11. Formerly RCW 43.24.015.]

Severability—1983 c 168: See RCW 18.120.910.

43.70.310 Cooperation with department of ecology. Where feasible, the department and the state board of health shall consult with the department of ecology in order that, to the fullest extent possible, agencies concerned with the preservation of life and health and agencies concerned with protection of the environment may integrate their efforts and endorse policies in common. [1987 c 109 § 25; 1970 ex.s. c 18 § 12. Formerly RCW 43.20A.140.]

Purpose—Short title—Construction—Rules—Severability—Captions—1987 c 109: See notes following RCW 43.21B.001.

43.70.320 Health professions account—Fees credited—Requirements for biennial budget request. (1) There is created in the state treasury an account to be known as the health professions account. All fees received by the department for health professions licenses, registration, certifica-

tions, renewals, or examinations and the civil penalties assessed and collected by the department under RCW 18.130.190 shall be forwarded to the state treasurer who shall credit such moneys to the health professions account.

(2) All expenses incurred in carrying out the health professions licensing activities of the department shall be paid from the account as authorized by legislative appropriation. Any residue in the account shall be accumulated and shall not revert to the general fund at the end of the biennium.

(3) The secretary shall biennially prepare a budget request based on the anticipated costs of administering the health professions licensing activities of the department which shall include the estimated income from health professions fees. [1993 c 492 § 411; 1991 sp.s. c 13 § 18; 1991 c 3 § 299; 1985 c 57 § 29; 1983 c 168 § 5. Formerly RCW 43.24.072.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1983 c 168: See RCW 18.120.910.

43.70.325 Rural health access account. The rural health access account is created in the custody of the state treasurer. The account may receive moneys through gift, grant, or donation to the state for the purposes of the account. Expenditures from the account may be used only for rural health programs including, but not limited to, those authorized in chapters 70.175 and 70.180 RCW, the health professional and loan repayment programs authorized in chapter 28B.115 RCW, and to make grants to small or rural hospitals, or rural public hospital districts, for the purpose of developing viable, integrated rural health systems. Only the secretary of health or the secretary's designee may authorize expenditures from the account. No appropriation is required for an expenditure from the account. Any residue in the account shall accumulate in the account and shall not revert to the general fund at the end of the biennium. Costs incurred by the department in administering the account shall be paid from the account. [1992 c 120 § 1.]

43.70.330 Labor camps and farmworker housing—Inspector—Interagency agreement for inspections. (1) The department of health shall be the primary inspector of labor camps and farmworker housing for the state of Washington: PROVIDED, That the department of labor and industries shall be the inspector for all farmworker housing not covered by the authority of the state board of health.

(2) The department of health, the department of labor and industries, the department of community development, the state board of health, and the employment security department shall develop an interagency agreement defining the rules and responsibilities for the inspection of farmworker housing. This agreement shall recognize the department of health as the primary inspector of labor camps for the state, and shall further be designed to provide a central information center for public information and

education regarding farmworker housing. The agencies shall provide the legislature with a report on the results of this agreement by January 1, 1991. [1990 c 253 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative finding and purpose—1990 c 253: "The legislature finds that the demand for housing for migrant and seasonal farmworkers far exceeds the supply of adequate housing in the state of Washington. In addition, increasing numbers of these housing units are in deteriorated condition because they cannot be economically maintained and repaired.

The legislature further finds that the lack of a clear program for the regulation and inspection of farmworker housing has impeded the construction and renovation of housing units in this state.

It is the purpose of this act for the various agencies involved in the regulation of farmworker housing to coordinate and consolidate their activities to provide for efficient and effective monitoring of farmworker housing. It is intended that this action will provide greater responsiveness in dealing with public concerns over farmworker housing, and allow greater numbers of housing units to be built." [1990 c 253 § 1.]

43.70.340 Farmworker housing inspection fund—Fee on labor camp operating license—Licenses generally.

(1) The farmworker housing inspection fund is established in the custody of the state treasury. The department of health shall deposit all funds received under subsection (2) of this section and from the legislature to administer a labor camp inspection program conducted by the department of health. Disbursement from the fund shall be on authorization of the secretary of health or the secretary's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

(2) There is imposed a fee on each operating license issued by the department of health to every operator of a labor camp that is regulated by the state board of health. The fee paid under this subsection shall include all necessary inspection of the units to ensure compliance with applicable state board of health rules on labor camps.

(a) Fifty dollars shall be charged for each labor camp containing six or less units.

(b) Seventy-five dollars shall be charged for each labor camp containing more than six units.

(3) The term of the operating license and the application procedures shall be established, by rule, by the department of health. [1990 c 253 § 3.]

Legislative finding and purpose—1990 c 253: See note following RCW 43.70.330.

43.70.400 Head injury prevention—Legislative finding. The legislature finds that head injury is a major cause of death and disability for Washington citizens. The costs of head injury treatment and rehabilitation are extensive and resultant disabilities are long and indeterminate. These costs are often borne by public programs such as medicaid. The legislature finds further that many such injuries are preventable. The legislature intends to reduce the occurrence of head injury by educating persons whose behavior may place them at risk and by regulating certain activities. [1990 c 270 § 2.]

43.70.410 Head injury prevention—Program, generally. As used in RCW 43.70.400 through 43.70.440, the term "head injury" means traumatic brain injury.

A head injury prevention program is created in the department of health. The program's functions may be integrated with those of similar programs to promote comprehensive, integrated, and effective health promotion and disease prevention.

In consultation with the traffic safety commission, the department shall, directly or by contract, identify and coordinate public education efforts currently underway within state government and among private groups to prevent traumatic brain injury, including, but not limited to, bicycle safety, pedestrian safety, bicycle passenger seat safety, motorcycle safety, motor vehicle safety, and sports safety. If the department finds that programs are not available or not in use, it may, within funds appropriated for the purpose, provide grants to promote public education efforts. Grants may be awarded only after recipients have demonstrated coordination with relevant and knowledgeable groups within their communities, including at least schools, brain injury support organizations, hospitals, physicians, traffic safety specialists, police, and the public. The department may accept grants, gifts, and donations from public or private sources to use to carry out the head injury prevention program.

The department may assess or contract for the assessment of the effectiveness of public education efforts coordinated or initiated by any agency of state government. Agencies are directed to cooperate with assessment efforts by providing access to data and program records as reasonably required. The department may seek and receive additional funds from the federal government or private sources for assessments. Assessments shall contain findings and recommendations that will improve the effectiveness of public education efforts. These findings shall be distributed among public and private groups concerned with traumatic brain injury prevention. [1990 c 270 § 3.]

Bicycle awareness program: RCW 43.43.390.

43.70.420 Head injury prevention—Information preparation. The department of health, the department of licensing, and the traffic safety commission shall jointly prepare information for driver license manuals, driver education programs, and driving tests to increase driver awareness of pedestrian safety, to increase driver skills in avoiding pedestrian and motor vehicle accidents, and to determine drivers' abilities to avoid pedestrian motor vehicle accidents. [1990 c 270 § 4.]

43.70.430 Head injury prevention—Guidelines on training and education—Training of emergency medical personnel. The department shall prepare guidelines on relevant training and education regarding traumatic brain injury for health and education professionals, and relevant public safety and law enforcement officials. The department shall distribute such guidelines and any recommendations for training or educational requirements for health professionals or educators to the disciplinary authorities governed by chapter 18.130 RCW and to educational service districts established under chapter 28A.310 RCW. Specifically, all

emergency medical personnel shall be trained in proper helmet removal. [1990 c 270 § 6.]

43.70.440 Head injury prevention act—Short title. *This act shall be known and cited as the Head Injury Prevention Act of 1990. [1990 c 270 § 1.]

*Reviser's note: "This act" consists of the enactment of RCW 43.70.400 through 43.70.440 and the 1990 c 270 amendments to RCW 46.37.530 and 46.37.535.

43.70.450 Senior environmental corps—Department powers and duties. (1) The department of health shall have the following powers and duties in carrying out its responsibilities for the senior environmental corps created under RCW 43.63A.247:

- Appoint a representative to the coordinating council;
- Develop project proposals;
- Administer project activities within the agency;
- Develop appropriate procedures for the use of volunteers;
- Provide project orientation, technical training, safety training, equipment, and supplies to carry out project activities;
- Maintain project records and provide project reports;
- Apply for and accept grants or contributions for corps approved projects; and
- With the approval of the council, enter into memoranda of understanding and cooperative agreements with federal, state, and local agencies to carry out corps approved projects.

(2) The department shall not use corps volunteers to displace currently employed workers. [1992 c 63 § 12.]

Severability—1992 c.63: See note following RCW 43.63A.240.

43.70.460 Retired primary care provider liability malpractice insurance—Program authorized. (1) The department may establish a program to purchase and maintain liability malpractice insurance for retired primary care providers who provide primary health care services at community clinics. The following conditions apply to the program:

- (a) Primary health care services shall be provided at community clinics that are public or private tax-exempt corporations;
- (b) Primary health care services provided at the clinics shall be offered to low-income patients based on their ability to pay;
- (c) Retired primary care providers providing health care services shall not receive compensation for their services; and
- (d) The department shall contract only with a liability insurer authorized to offer liability malpractice insurance in the state.

(2) This section and RCW 43.70.470 shall not be interpreted to require a liability insurer to provide coverage to a primary care provider should the insurer determine that coverage should not be offered to a physician [primary care provider] because of past claims experience or for other appropriate reasons.

(3) The state and its employees who operate the program shall be immune from any civil or criminal action

involving claims against clinics or physicians [primary care providers] that provided health care services under this section and RCW 43.70.470. This protection of immunity shall not extend to any clinic or primary care provider participating in the program.

(4) The department may monitor the claims experience of retired physicians [primary care providers] covered by liability insurers contracting with the department.

(5) The department may provide liability insurance under chapter 113, Laws of 1992 only to the extent funds are provided for this purpose by the legislature. [1993 c 492 § 276; 1992 c 113 § 2.]

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—1992 c 113: "There are a number of retired physicians who wish to provide, or are providing, health care services to low-income patients without compensation. However, the cost of obtaining malpractice insurance is a burden that is deterring them from donating their time and services in treating the health problems of the poor. The necessity of maintaining malpractice insurance for those in practice is a significant reality in today's litigious society.

A program to alleviate the onerous costs of malpractice insurance for retired physicians providing uncompensated health care services to low-income patients will encourage philanthropy and augment state resources in providing for the health care needs of those who have no access to basic health care services.

An estimated sixteen percent of the nonelderly population do not have health insurance and lack access to even basic health care services. This is especially problematic for low-income persons who are young and who are either unemployed or have entry-level jobs without health care benefits. The majority of the uninsured, however, are working adults, and some twenty-nine percent are children.

The legislature declares that this act will increase the availability of primary care to low-income persons and is in the interest of the public health and safety." [1992 c 113 § 1.]

43.70.470 Retired primary care provider liability malpractice insurance—Conditions. The department may establish by rule the conditions of participation in the liability insurance program by retired primary care providers at clinics utilizing retired physicians [primary care providers] for the purposes of this section and RCW 43.70.460. These conditions shall include, but not be limited to, the following:

(1) The participating primary care provider associated with the clinic shall hold a valid license to practice as a physician under chapter 18.71 or 18.57 RCW, a naturopath under chapter 18.36A RCW, a physician assistant under chapter 18.71A or 18.57A RCW, an advanced registered nurse practitioner under *chapter 18.88 RCW, a dentist under chapter 18.32 RCW, or other health professionals as may be deemed in short supply in the health personnel resource plan under chapter 28B.125 RCW. All primary care providers must be in conformity with current requirements for licensure as a retired primary care provider, including continuing education requirements;

(2) The participating primary care provider shall limit the scope of practice in the clinic to primary care. Primary care shall be limited to noninvasive procedures and shall not include obstetrical care, or any specialized care and treatment. Noninvasive procedures include injections, suturing of minor lacerations, and incisions of boils or superficial abscesses. Primary dental care shall be limited to diagnosis,

oral hygiene, restoration, and extractions and shall not include orthodontia, or other specialized care and treatment;

(3) The provision of liability insurance coverage shall not extend to acts outside the scope of rendering medical services pursuant to this section and RCW 43.70.460;

(4) The participating primary care provider shall limit the provision of health care services to primarily low-income persons provided that clinics may, but are not required to, provide means tests for eligibility as a condition for obtaining health care services;

(5) The participating primary care provider shall not accept compensation for providing health care services from patients served pursuant to this section and RCW 43.70.460, nor from clinics serving these patients. "Compensation" shall mean any remuneration of value to the participating primary care provider for services provided by the primary care provider, but shall not be construed to include any nominal copayments charged by the clinic, nor reimbursement of related expenses of a participating primary care provider authorized by the clinic in advance of being incurred; and

(6) The use of mediation or arbitration for resolving questions of potential liability may be used, however any mediation or arbitration agreement format shall be expressed in terms clear enough for a person with a sixth grade level of education to understand, and on a form no longer than one page in length. [1993 c 492 § 277; 1992 c 113 § 3.]

*Reviser's note: Chapter 18.88 RCW was repealed by 1994 1st sp.s. c 9 § 433, effective July 1, 1994.

Finding—1993 c 492: See note following RCW 28B.125.010.

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—1992 c 113: See note following RCW 43.70.460.

43.70.480 Emergency medical personnel—Futile treatment and natural death directives. The department of health shall adopt guidelines and protocols for how emergency medical personnel shall respond when summoned to the site of an injury or illness for the treatment of a person who has signed a written directive or durable power of attorney requesting that he or she not receive futile emergency medical treatment. [1992 c 98 § 14.]

Application—Severability—1992 c 98: See RCW 70.122.915 and 70.122.920.

43.70.500 Health care services practice indicators and risk management protocols. The department of health shall consult with health care providers and facilities, purchasers, health professional regulatory authorities under RCW 18.130.040, appropriate research and clinical experts, and consumers of health care services to identify specific practice areas where practice indicators and risk management protocols have been developed, including those that have been demonstrated to be effective among persons of color. Practice indicators shall be based upon expert consensus and best available scientific evidence. The department shall:

(1) Develop a definition of expert consensus and best available scientific evidence so that practice indicators can

serve as a standard for excellence in the provision of health care services.

(2) Establish a process to identify and evaluate practice indicators and risk management protocols as they are developed by the appropriate professional, scientific, and clinical communities.

(3) Recommend the use of practice indicators and risk management protocols in quality assurance, utilization review, or provider payment to the health services commission. [1993 c 492 § 410.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.510 Health care services coordinated quality improvement program. (1)(a) Health care institutions and medical facilities, other than hospitals, that are licensed by the department, professional societies or organizations, and certified health plans approved pursuant to RCW 43.72.100 may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200.

(b) All such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the institution, facility, professional societies or organizations, or certified health plan, unless an alternative quality improvement program substantially equivalent to RCW 70.41.200(1)(a) is developed. All such programs, whether complying with the requirement set forth in RCW 70.41.200(1)(a) or in the form of an alternative program, must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section shall apply. In reviewing plans submitted by licensed entities that are associated with physicians' offices, the department shall ensure that the discovery limitations of this section are applied only to information and documents related specifically to quality improvement activities undertaken by the licensed entity.

(2) Health care provider groups of ten or more providers may maintain a coordinated quality improvement program for the improvement of the quality of health care services rendered to patients and the identification and prevention of medical malpractice as set forth in RCW 70.41.200. All such programs shall comply with the requirements of RCW 70.41.200(1)(a), (c), (d), (e), (f), (g), and (h) as modified to reflect the structural organization of the health care provider group. All such programs must be approved by the department before the discovery limitations provided in subsections (3) and (4) of this section shall apply.

(3) Any person who, in substantial good faith, provides information to further the purposes of the quality improvement and medical malpractice prevention program or who, in substantial good faith, participates on the quality improvement committee shall not be subject to an action for civil damages or other relief as a result of such activity.

(4) Information and documents, including complaints and incident reports, created specifically for, and collected, and maintained by a quality improvement committee are not subject to discovery or introduction into evidence in any

civil action, and no person who was in attendance at a meeting of such committee or who participated in the creation, collection, or maintenance of information or documents specifically for the committee shall be permitted or required to testify in any civil action as to the content of such proceedings or the documents and information prepared specifically for the committee. This subsection does not preclude: (a) In any civil action, the discovery of the identity of persons involved in the medical care that is the basis of the civil action whose involvement was independent of any quality improvement activity; (b) in any civil action, the testimony of any person concerning the facts that form the basis for the institution of such proceedings of which the person had personal knowledge acquired independently of such proceedings; (c) in any civil action by a health care provider regarding the restriction or revocation of that individual's clinical or staff privileges, introduction into evidence information collected and maintained by quality improvement committees regarding such health care provider; (d) in any civil action, disclosure of the fact that staff privileges were terminated or restricted, including the specific restrictions imposed, if any and the reasons for the restrictions; or (e) in any civil action, discovery and introduction into evidence of the patient's medical records required by rule of the department of health to be made regarding the care and treatment received.

(5) The department of health shall adopt rules as are necessary to implement this section. [1993 c 492 § 417.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

43.70.520 Public health services improvement plan.

(1) The legislature finds that the public health functions of community assessment, policy development, and assurance of service delivery are essential elements in achieving the objectives of health reform in Washington state. The legislature further finds that the population-based services provided by state and local health departments are cost-effective and are a critical strategy for the long-term containment of health care costs. The legislature further finds that the public health system in the state lacks the capacity to fulfill these functions consistent with the needs of a reformed health care system.

(2) The department of health shall develop, in consultation with local health departments and districts, the state board of health, the health services commission, area Indian health service, and other state agencies, health services providers, and citizens concerned about public health, a public health services improvement plan. The plan shall provide a detailed accounting of deficits in the core functions of assessment, policy development, assurance of the current public health system, how additional public health funding would be used, and describe the benefits expected from expanded expenditures.

(3) The plan shall include:

(a) Definition of minimum standards for public health protection through assessment, policy development, and assurances:

(i) Enumeration of communities not meeting those standards;

(ii) A budget and staffing plan for bringing all communities up to minimum standards;

(iii) An analysis of the costs and benefits expected from adopting minimum public health standards for assessment, policy development, and assurances;

(b) Recommended strategies and a schedule for improving public health programs throughout the state, including:

(i) Strategies for transferring personal health care services from the public health system, into the uniform benefits package where feasible; and

(ii) Timing of increased funding for public health services linked to specific objectives for improving public health; and

(c) A recommended level of dedicated funding for public health services to be expressed in terms of a percentage of total health service expenditures in the state or a set per person amount; such recommendation shall also include methods to ensure that such funding does not supplant existing federal, state, and local funds received by local health departments, and methods of distributing funds among local health departments.

(4) The department shall coordinate this planning process with the study activities required in section 258, chapter 492, Laws of 1993.

(5) By March 1, 1994, the department shall provide initial recommendations of the public health services improvement plan to the legislature regarding minimum public health standards, and public health programs needed to address urgent needs, such as those cited in subsection (7) of this section.

(6) By December 1, 1994, the department shall present the public health services improvement plan to the legislature, with specific recommendations for each element of the plan to be implemented over the period from 1995 through 1997.

(7) Thereafter, the department shall update the public health services improvement plan for presentation to the legislature prior to the beginning of a new biennium.

(8) Among the specific population-based public health activities to be considered in the public health services improvement plan are: Health data assessment and chronic and infectious disease surveillance; rapid response to outbreaks of communicable disease; efforts to prevent and control specific communicable diseases, such as tuberculosis and acquired immune deficiency syndrome; health education to promote healthy behaviors and to reduce the prevalence of chronic disease, such as those linked to the use of tobacco; access to primary care in coordination with existing community and migrant health clinics and other not for profit health care organizations; programs to ensure children are born as healthy as possible and they receive immunizations and adequate nutrition; efforts to prevent intentional and unintentional injury; programs to ensure the safety of drinking water and food supplies; poison control; trauma services; and other activities that have the potential to improve the health of the population or special populations and reduce the need for or cost of health services. [1993 c 492 § 467.]

~~Findings—Intent—1993 c 492:~~ See notes following RCW 43.72.005.

~~Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492:~~ See RCW 43.72.910 through 43.72.915.

Additional contents: RCW 43.70.550.

43.70.525 Immunization assessment and enhancement proposals by local jurisdictions. (1) The department, in conjunction with local health jurisdictions, shall require each local health jurisdiction to submit an immunization assessment and enhancement proposal, consistent with the standards established in the public health [services] improvement plan, to provide immunization protection to the children of the state to further reduce vaccine-preventable diseases.

(2) These plans shall include, but not be limited to:

(a) A description of the population groups in the jurisdiction that are in the greatest need of immunizations;

(b) A description of strategies to use outreach, volunteer, and other local educational resources to enhance immunization rates; and

(c) A description of the capacity required to accomplish the enhancement proposal.

(3) This section shall be implemented consistent with available funding.

(4) The secretary shall report through the public health [services] improvement plan to the health care and fiscal committees of the legislature on the status of the program and progress made toward increasing immunization rates in population groups of greatest need. [1994 c 299 § 29.]

~~Intent—Finding—Severability—Conflict with federal requirements—1994 c 299:~~ See notes following RCW 74.12.400.

Immunization: RCW 28A.210.060.

43.70.530 Home visitor program. The department of health, the department of social and health services, the *department of community development, the superintendent of public instruction, and the employment security department shall, collectively and collaboratively, develop a plan for a home health visitor program that shall have as its primary purpose the prevention of child abuse and neglect through the provision of selected educational and supportive services to high risk parents of newborns.

(1) The program shall: (a) Be community-based; (b) include early hospital-based screening to identify high risk parents of newborns; (c) provide for an effective, in-home outreach and support program for high risk parents of newborns that involves: (i) Frequent home visits, (ii) parent training on early childhood development, parenting, and the stress factors that lead to abuse and neglect, and (iii) referrals to needed social and health services; and (d) demonstrate effective coordination among current community-based programs that may also serve high risk parents and their infants, including child abuse prevention programs, first steps, second steps, the early childhood education and assistance program, the healthy kids program, child welfare services, the women, infants, and child [children] program, the high priority infant tracking program, the birth to six program, local and state public health prevention and early intervention services, and other services as identified.

(2) The plan shall: (a) Include an estimate and a description of the high risk groups to be served; (b) detail the screening process and mechanisms to be used to identify high risk parents; (c) detail the services to be included in the in-home program; (d) describe staffing that may include the

use of teams of professionals, paraprofessionals, and volunteers; (e) describe how the program will be evaluated, including the measurable outcomes to be achieved; and (f) provide an estimate of the costs to fully implement the program state-wide, and for possible consideration, a series of pilot projects with a phased-in schedule.

(3) The plan shall be provided to the appropriate legislative committees by December 1, 1993. [1993 c 179 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Intent—1993 c 179: "The incidence of child abuse and neglect has reached epidemic proportions in the nation. In Washington state alone, there were sixty-two thousand five hundred reports of child abuse and neglect in 1991. That is one occurrence for every twenty-one children in this state. Research shows that most reported cases of physical abuse and neglect occurs among children under the age of five. Research also shows that child abuse and neglect can be prevented. One of the most effective strategies for preventing child abuse and neglect is to provide parents who are most at risk of abuse, with education and supportive services beginning at the time their infant is born and continuing in the home. Therefore, it is the legislature's intent to develop the home health visitor program in this state." [1993 c 179 § 1.]

Effective date—1993 c 179: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 30, 1993]." [1993 c 179 § 3.]

43.70.540 Data collection—Legislative finding and intent. The legislature recognizes that the state patrol, the office of the administrator for the courts, the sheriffs' and police chiefs' association, the department of social and health services, the department of community development, the sentencing guidelines commission, the department of corrections, and the superintendent of public instruction each have comprehensive data and analysis capabilities that have contributed greatly to our current understanding of crime and violence, and their causes.

The legislature finds, however, that a single health-oriented agency must be designated to provide consistent guidelines to all these groups regarding the way in which their data systems collect this important data. It is not the intent of the legislature by RCW 43.70.545 to transfer data collection requirements from existing agencies or to require the addition of major new data systems. It is rather the intent to make only the minimum required changes in existing data systems to increase compatibility and comparability, reduce duplication, and to increase the usefulness of data collected by these agencies in developing more accurate descriptions of violence. [1994 1st sp.s. c 7 § 201.]

Legislative finding and intent—1994 1st sp.s. c 7: "The legislature finds that the increasing violence in our society causes great concern for the immediate health and safety of our citizens and our social institutions. Youth violence is increasing at an alarming rate and young people between the ages of fifteen and twenty-four are at the highest risk of being perpetrators and victims of violence. Additionally, random violence, including homicide and the use of firearms, has dramatically increased over the last decade.

The legislature finds that violence is abhorrent to the aims of a free society and that it cannot be tolerated. State efforts at reducing violence must include changes in criminal penalties, reducing the unlawful use of and access to firearms, increasing educational efforts to encourage nonviolent means for resolving conflicts, and allowing communities to design their prevention efforts.

The legislature finds that the problem of violence can be addressed with many of the same approaches that public health programs have used to control other problems such as infectious disease, tobacco use, and traffic fatalities.

Addressing the problem of violence requires the concerted effort of all communities and all parts of state and local governments. It is the immediate purpose of chapter 7, Laws of 1994 1st sp. sess. to: (1) Prevent acts of violence by encouraging change in social norms and individual behaviors that have been shown to increase the risk of violence; (2) reduce the rate of at-risk children and youth, as defined in *RCW 70.190.010; (3) increase the severity and certainty of punishment for youth and adults who commit violent acts; (4) reduce the severity of harm to individuals when violence occurs; (5) empower communities to focus their concerns and allow them to control the funds dedicated to empirically supported preventive efforts in their region; and (6) reduce the fiscal and social impact of violence on our society." [1994 1st sp.s. c 7 § 101.]

***Reviser's note:** The governor vetoed 1994 1st sp.s. c 7 § 302, which amended RCW 70.190.010 to define "at-risk children and youth."

Severability—1994 1st sp.s. c 7: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 1st sp.s. c 7 § 913.]

Effective dates—Contingent expiration date—1994 1st sp.s. c 7: "(1) Sections 201 through 204, 302, 323, 411, 412, 417, and 418 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 6, 1994].

(2) Sections 904 through 908 of this act shall take effect July 1, 1995.

(3) Notwithstanding other provisions of this section, if sections 901 through 909 of this act are referred to the voters at the next succeeding general election and sections 901 through 909 of this act are rejected by the voters, then the amendments by sections 510 through 512, 519, 521, 525, and 527 of this act shall expire on July 1, 1995." [1994 1st sp.s. c 7 § 915.]

43.70.545 Data collection and reporting rules. (1) The department of health shall develop, based on recommendations in the public health services improvement plan and in consultation with affected groups or agencies, comprehensive rules for the collection and reporting of data relating to acts of violence, at-risk behaviors, and risk and protective factors. The data collection and reporting rules shall be used by any public or private entity that is required to report data relating to these behaviors and conditions. The department may require any agency or program that is state-funded or that accepts state funds and any licensed or regulated person or professional to report these behaviors and conditions. To the extent possible the department shall require the reports to be filed through existing data systems. The department may also require reporting of attempted acts of violence and of nonphysical injuries. For the purposes of this section "acts of violence" means self-directed and interpersonal behaviors that can result in suicide, homicide, and nonfatal intentional injuries. "At-risk behaviors," "protective factors," and "risk factors" have the same meanings as provided in *RCW 70.190.010. A copy of the data used by a school district to prepare and submit a report to the department shall be retained by the district and, in the copy retained by the district, identify the reported acts or behaviors by school site.

(2) The department is designated as the state-wide agency for the coordination of all information relating to violence and other intentional injuries, at-risk behaviors, and risk and protective factors.

(3) The department shall provide necessary data to the local health departments for use in planning by or evaluation of any community network authorized under RCW 70.190.060.

(4) The department shall publish annual reports on intentional injuries, unintentional injuries, rates of at-risk youth, and associated risk and protective factors. The reports shall be submitted to the governor, the legislature, and the Washington state institute for public policy.

(5) The department shall by rule establish requirements for local health departments to perform assessment related to at-risk behaviors and risk and protective factors and to assist community networks in policy development and in planning and other duties under chapter 7, Laws of 1994 1st sp. sess.

(6) The department may, consistent with its general authority and directives under RCW 43.70.540 through 43.70.560, contract with a college or university that has experience in data collection relating to the health and overall welfare of children to provide assistance to:

(a) State and local health departments in developing new sources of data to track acts of violence, at-risk behaviors, and risk and protective factors; and

(b) Local health departments to compile and effectively communicate data in their communities. [1994 1st sp.s. c 7 § 202.]

***Reviser's note:** The governor vetoed 1994 1st sp.s. c 7 § 302, which amended RCW 70.190.010 to define the terms quoted.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.70.550 Public health services improvement plan—Contents. The public health services improvement plan developed under RCW 43.70.520 shall include:

(1) Minimum standards for state and local public health assessment, performance measurement, policy development, and assurance regarding social development to reduce at-risk behaviors and risk and protective factors. The department in the development of data collection and reporting requirements for the superintendent of public instruction, schools, and school districts shall consult with the joint select committee on education restructuring and local school districts.

(2)(a) Measurable risk factors that are empirically linked to violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence; and

(b) An evaluation of other factors to determine whether they are empirically related risk factors, such as: Out-of-home placements, poverty, single-parent households, inadequate nutrition, hunger, unemployment, lack of job skills, gang affiliation, lack of recreational or cultural opportunities, school absenteeism, court-ordered parenting plans, physical, emotional, or behavioral problems requiring special needs assistance in K-12 schools, learning disabilities, and any other possible factors.

(3) Data collection and analysis standards on at-risk behaviors and risk and protective factors for use by the local public health departments and the state council and the local community networks to ensure consistent and interchangeable data.

(4) Recommendations regarding any state or federal statutory barriers affecting data collection or reporting.

The department shall provide an annual report to the Washington state institute for public policy on the implementation of this section. [1994 1st sp.s. c 7 § 203.]

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.70.555 Assessment standards. The department, in consultation with the family policy council created in chapter 70.190 RCW, shall establish, by rule, standards for local health departments and networks to use in assessment, performance measurement, policy development, and assurance regarding social development to prevent health problems caused by risk factors empirically linked to: Violent criminal acts by juveniles, teen substance abuse, teen pregnancy and male parentage, teen suicide attempts, dropping out of school, child abuse or neglect, and domestic violence. The standards shall be based on the standards set forth in the public health services improvement plan as required by RCW 43.70.550.

The department, in consultation with the family policy council, shall review the definitions of at-risk children and youth, protective factors, and risk factors contained in *RCW 70.190.010 and make any suggested recommendations for change to the legislature by January 1, 1995. [1994 1st sp.s. c 7 § 204.]

***Reviser's note:** The governor vetoed 1994 1st sp.s. c 7 § 302, which amended RCW 70.190.010 to define the terms referred to.

Finding—Intent—Severability—Effective dates—Contingent expiration date—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.70.560 Media violence—Reporting reduction efforts. The legislature encourages the use of a state-wide voluntary, socially responsible policy to reduce the emphasis, amount, and type of violence in all public media. The department shall develop a suggested reporting format for use by the print, television, and radio media in reporting their voluntary violence reduction efforts. Each area of the public media may carry out the policy in whatever manner that area deems appropriate. [1994 1st sp.s. c 7 § 205.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.70.900 References to the secretary or department of social and health services—1989 1st ex.s. c 9. All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.080, *15.36.005, 18.104.005, 19.32.005, 28A.210.005, 43.83B.005, 43.99D.005, 43.99E.005, **70.05.005, 70.08.005, **70.12.005, 70.22.005, 70.24.005, 70.40.005, 70.41.005, and 70.54.005. [1990 c 33 § 580; 1989 1st ex.s. c 9 § 801.]

Reviser's note: *(1) RCW 15.36.005 was recodified as RCW 15.36.471 pursuant to 1994 c 143 § 514.

** (2) RCW 70.05.005 and 70.12.005 were repealed by 1993 c 492 § 257, effective July 1, 1995.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

43.70.901 References to the director or department of licensing—1989 1st ex.s. c 9. All references to the director of licensing or department of licensing in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the

functions transferred in RCW 43.70.220. [1989 1st ex.s. c 9 § 802.]

43.70.902 References to the hospital commission—1989 1st ex.s. c 9. All references to the hospital commission in the Revised Code of Washington shall be construed to mean the secretary or the department of health. [1989 1st ex.s. c 9 § 803.]

43.70.910 Effective date—1989 1st ex.s. c 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989. [1989 1st ex.s. c 9 § 825.]

43.70.920 Severability—1989 1st ex.s. c 9. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 9 § 826.]

Chapter 43.72

HEALTH SYSTEM REFORM—HEALTH SERVICES COMMISSION

Sections

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43.72.005 Intent. The legislature intends that chapter 492, Laws of 1993 establish structures, processes, and specific financial limits to stabilize the overall cost of health services within the economy, reduce the demand for unneeded health services, provide access to essential health services, improve public health, and ensure that health system costs do not undermine the financial viability of nonhealth care businesses. [1993 c 492 § 401.]

Findings—1993 c 492: "The legislature finds that our health and financial security are jeopardized by our ever increasing demand for health care and by current health insurance and health system practices. Current health system practices encourage public demand for unneeded, ineffective, and sometimes dangerous health treatments. These practices often result in unaffordable cost increases that far exceed ordinary inflation for essential care. Current total health care expenditure rates should be sufficient to provide access to essential health care interventions to all within a reformed, efficient system.

The legislature finds that too many of our state's residents are without health insurance, that each year many individuals and families are forced into poverty because of serious illness, and that many must leave gainful employment to be eligible for publicly funded medical services. Additionally, thousands of citizens are at risk of losing adequate health insurance, have had insurance canceled recently, or cannot afford to renew existing coverage.

The legislature finds that businesses find it difficult to pay for health insurance and remain competitive in a global economy, and that individuals, the poor, and small businesses bear an inequitable health insurance burden.

The legislature finds that persons of color have significantly higher rates of mortality and poor health outcomes, and substantially lower numbers and percentages of persons covered by health insurance than the general population. It is intended that chapter 492, Laws of 1993 make provisions to address the special health care needs of these racial and ethnic populations in order to improve their health status.

The legislature finds that uncontrolled demand and expenditures for health care are eroding the ability of families, businesses, communities, and governments to invest in other enterprises that promote health, maintain independence, and ensure continued economic welfare. Housing, nutrition, education, and the environment are all diminished as we invest ever increasing shares of wealth in health care treatments.

The legislature finds that while immediate steps must be taken, a long-term plan of reform is also needed." [1993 c 492 § 101.]

Intent—1993 c 492: "(1) The legislature intends that state government policy stabilize health services costs, assure access to essential services for all residents, actively address the health care needs of persons of color, improve the public's health, and reduce unwarranted health services costs to preserve the viability of nonhealth care businesses.

(2) The legislature intends that:

(a) Total health services costs be stabilized and kept within rates of increase similar to the rates of personal income growth within a publicly regulated, private marketplace that preserves personal choice;

(b) State residents be enrolled in the certified health plan of their choice that meets state standards regarding affordability, accessibility, cost-effectiveness, and clinical efficaciousness;

(c) State residents be able to choose health services from the full range of health care providers, as defined in RCW 43.72.010(12), in a manner

consistent with good health services management, quality assurance, and cost effectiveness;

(d) Individuals and businesses have the option to purchase any health services they may choose in addition to those included in the uniform benefits package or supplemental benefits;

(e) All state residents, businesses, employees, and government participate in payment for health services, with total costs to individuals on a sliding scale based on income to encourage efficient and appropriate utilization of services;

(f) These goals be accomplished within a reformed system using private service providers and facilities in a way that allows consumers to choose among competing plans operating within budget limits and other regulations that promote the public good; and

(g) A policy of coordinating the delivery, purchase, and provision of health services among the federal, state, local, and tribal governments be encouraged and accomplished by chapter 492, Laws of 1993.

(3) Accordingly, the legislature intends that chapter 492, Laws of 1993 provide both early implementation measures and a process for overall reform of the health services system." [1993 c 492 § 102.]

Finding—1993 c 492: See note following RCW 28B.125.010.

43.72.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Certified health plan" or "plan" means a disability insurer regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, a health maintenance organization as defined in RCW 48.46.020, or an entity certified in accordance with RCW 48.43.020 through 48.43.120.

(2) "Chair" means the presiding officer of the Washington health services commission.

(3) "Commission" or "health services commission" means the Washington health services commission.

(4) "Community rate" means the rating method used to establish the premium for the uniform benefits package adjusted to reflect actuarially demonstrated differences in utilization or cost attributable to geographic region and family size as determined by the commission.

(5) "Continuous quality improvement and total quality management" means a continuous process to improve health services while reducing costs.

(6) "Employee" means a resident who is in the employment of an employer, as defined by chapter 50.04 RCW.

(7) "Enrollee" means any person who is a Washington resident enrolled in a certified health plan.

(8) "Enrollee point of service cost-sharing" means amounts paid to certified health plans directly providing services, health care providers, or health care facilities by enrollees for receipt of specific uniform benefits package services, and may include copayments, coinsurance, or deductibles, that together must be actuarially equivalent across plans and within overall limits established by the commission.

(9) "Enrollee premium sharing" means that portion of the premium that is paid by enrollees or their family members.

(10) "Federal poverty level" means the federal poverty guidelines determined annually by the United States department of health and human services or successor agency.

(11) "Health care facility" or "facility" means hospices licensed under chapter 70.127 RCW, hospitals licensed under chapter 70.41 RCW, rural health care facilities as defined in RCW 70.175.020, psychiatric hospitals licensed under chapter 71.12 RCW, nursing homes licensed under chapter 18.51 RCW, community mental health centers licensed under

chapter 71.05 or 71.24 RCW, kidney disease treatment centers licensed under chapter 70.41 RCW, ambulatory diagnostic, treatment or surgical facilities licensed under chapter 70.41 RCW, drug and alcohol treatment facilities licensed under chapter 70.96A RCW, and home health agencies licensed under chapter 70.127 RCW, and includes such facilities if owned and operated by a political subdivision or instrumentality of the state and such other facilities as required by federal law and implementing regulations, but does not include Christian Science sanatoriums operated, listed, or certified by the First Church of Christ Scientist, Boston, Massachusetts.

(12) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW and chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(13) "Health insurance purchasing cooperative" or "cooperative" means a member-owned and governed non-profit organization certified in accordance with RCW 43.72.080 and 48.43.160.

(14) "Long-term care" means institutional, residential, outpatient, or community-based services that meet the individual needs of persons of all ages who are limited in their functional capacities or have disabilities and require assistance with performing two or more activities of daily living for an extended or indefinite period of time. These services include case management, protective supervision, in-home care, nursing services, convalescent, custodial, chronic, and terminally ill care.

(15) "Major capital expenditure" means any project or expenditure for capital construction, renovations, or acquisition, including medical technological equipment, as defined by the commission, costing more than one million dollars.

(16) "Managed care" means an integrated system of insurance, financing, and health services delivery functions that: (a) Assumes financial risk for delivery of health services and uses a defined network of providers; or (b) assumes financial risk for delivery of health services and promotes the efficient delivery of health services through provider assumption of some financial risk including capitation, prospective payment, resource-based relative value scales, fee schedules, or similar method of limiting payments to health care providers.

(17) "Maximum enrollee financial participation" means the income-related total annual payments that may be required of an enrollee per family who chooses one of the three lowest priced uniform benefits packages offered by plans in a geographic region including both premium sharing and enrollee point of service cost-sharing.

(18) "Persons of color" means Asians/Pacific Islanders, African, Hispanic, and Native Americans.

(19) "Premium" means all sums charged, received, or deposited by a certified health plan as consideration for a uniform benefits package or the continuance of a uniform benefits package. Any assessment, or any "membership," "policy," "contract," "service," or similar fee or charge made by the certified health plan in consideration for the uniform benefits package is deemed part of the premium. "Premium"

shall not include amounts paid as enrollee point of service cost-sharing.

(20) "Qualified employee" means an employee who is employed at least thirty hours during a week or one hundred twenty hours during a calendar month.

(21) "Registered employer health plan" means a health plan established by a private employer of more than seven thousand active employees in this state solely for the benefit of such employees and their dependents and that meets the requirements of RCW 43.72.120. Nothing contained in this subsection shall be deemed to preclude the plan from providing benefits to retirees of the employer.

(22) "Supplemental benefits" means those appropriate and effective health services that are not included in the uniform benefits package or that expand the type or level of health services available under the uniform benefits package and that are offered to all residents in accordance with the provisions of RCW 43.72.160 and 43.72.170.

(23) "Technology" means the drugs, devices, equipment, and medical or surgical procedures used in the delivery of health services, and the organizational or supportive systems within which such services are provided. It also means sophisticated and complicated machinery developed as a result of ongoing research in the basic biological and physical sciences, clinical medicine, electronics, and computer sciences, as well as specialized professionals, medical equipment, procedures, and chemical formulations used for both diagnostic and therapeutic purposes.

(24) "Uniform benefits package" or "package" means those appropriate and effective health services, defined by the commission under RCW 43.72.130, that must be offered to all Washington residents through certified health plans.

(25) "Washington resident" or "resident" means a person who intends to reside in the state permanently or indefinitely and who did not move to Washington for the primary purpose of securing health services under RCW 43.72.090 through 43.72.240, 43.72.300, 43.72.310, 43.72.800, and chapters 48.43 and 48.85 RCW. "Washington resident" also includes people and their accompanying family members who are residing in the state for the purpose of engaging in employment for at least one month, who did not enter the state for the primary purpose of obtaining health services. The confinement of a person in a nursing home, hospital, or other medical institution in the state shall not by itself be sufficient to qualify such person as a resident. [1994 c 4 § 1; 1993 c 494 § 1; 1993 c 492 § 402.]

43.72.020 Washington health services commission—Generally. (Effective until January 1, 1995.) (1) There is created an agency of state government to be known as the Washington health services commission. The commission shall consist of five members reflecting ethnic and racial diversity, appointed by the governor, with the consent of the senate. One member shall be designated by the governor as chair and shall serve at the pleasure of the governor. The insurance commissioner shall serve as an additional nonvoting member. Of the initial members, one shall be appointed to a term of three years, two shall be appointed to a term of four years, and two shall be appointed to a term of five years. Thereafter, members shall be appointed to five-year terms. Vacancies shall be filled by appointment for the

remainder of the unexpired term of the position being vacated.

(2) Members of the commission shall have no pecuniary interest in any business subject to regulation by the commission and shall be subject to chapter 42.18 RCW, the executive branch conflict of interest act.

(3) Members of the commission shall occupy their positions on a full-time basis and are exempt from the provisions of chapter 41.06 RCW. Commission members and the professional commission staff are subject to the public disclosure provisions of chapter 42.17 RCW. Members shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. A majority of the members of the commission constitutes a quorum for the conduct of business. [1993 c 492 § 403.]

43.72.020 Washington health services commission—Generally. (Effective January 1, 1995.) (1) There is created an agency of state government to be known as the Washington health services commission. The commission shall consist of five members reflecting ethnic and racial diversity, appointed by the governor, with the consent of the senate. One member shall be designated by the governor as chair and shall serve at the pleasure of the governor. The insurance commissioner shall serve as an additional nonvoting member. Of the initial members, one shall be appointed to a term of three years, two shall be appointed to a term of four years, and two shall be appointed to a term of five years. Thereafter, members shall be appointed to five-year terms. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated.

(2) Members of the commission shall have no pecuniary interest in any business subject to regulation by the commission and shall be subject to chapter 42.52 RCW.

(3) Members of the commission shall occupy their positions on a full-time basis and are exempt from the provisions of chapter 41.06 RCW. Commission members and the professional commission staff are subject to the public disclosure provisions of chapter 42.17 RCW. Members shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. A majority of the members of the commission constitutes a quorum for the conduct of business. [1994 c 154 § 311; 1993 c 492 § 403.]

Parts and captions not law—Effective date—Severability—1994 c 154: See RCW 42.52.902, 42.52.904, and 42.52.905.

43.72.030 Chair—Powers and duties. The chair shall be the chief administrative officer and the appointing authority of the commission and has the following powers and duties:

(1) Direct and supervise the commission's administrative and technical activities in accordance with the provisions of this chapter and rules and policies adopted by the commission;

(2) Employ personnel of the commission in accordance with chapter 41.06 RCW, and prescribe their duties. With the approval of a majority of the commission, the chair may appoint persons to administer any entity established pursuant to subsection (8) of this section, and up to seven additional employees all of whom shall be exempt from the provisions of chapter 41.06 RCW;

(3) Enter into contracts on behalf of the commission;

(4) Accept and expend gifts, donations, grants, and other funds received by the commission;

(5) Delegate administrative functions of the commission to employees of the commission as the chair deems necessary to ensure efficient administration;

(6) Subject to approval of the commission, appoint advisory committees and undertake studies, research, and analysis necessary to support activities of the commission;

(7) Preside at meetings of the commission;

(8) Consistent with policies and rules established by the commission, establish such administrative divisions, offices, or programs as are necessary to carry out the purposes of chapter 492, Laws of 1993; and

(9) Perform such other administrative and technical duties as are consistent with chapter 492, Laws of 1993 and the rules and policies of the commission. [1993 c 492 § 405.]

43.72.040 Commission powers and duties. The commission has the following powers and duties:

(1) Ensure that all residents of Washington state are enrolled in a certified health plan to receive the uniform benefits package, regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment, or economic status.

(2) Endeavor to ensure that all residents of Washington state have access to appropriate, timely, confidential, and effective health services, and monitor the degree of access to such services. If the commission finds that individuals or populations lack access to certified health plan services, the commission shall:

(a) Authorize appropriate state agencies, local health departments, community or migrant health clinics, public hospital districts, or other nonprofit health service entities to take actions necessary to assure such access. This includes authority to contract for or directly deliver services described within the uniform benefits package to special populations; or

(b) Notify appropriate certified health plans and the insurance commissioner of such findings. The commission shall adopt by rule standards by which the insurance commissioner may, in such event, require certified health plans in closest proximity to such individuals and populations to extend their catchment areas to those individuals and populations and offer them enrollment.

(3) Adopt necessary rules in accordance with chapter 34.05 RCW to carry out the purposes of chapter 492, Laws of 1993. An initial set of draft rules establishing at least the commission's organization structure, the uniform benefits package, and standards for certified health plan certification, must be submitted in draft form to appropriate committees of the legislature by December 1, 1994.

(4) Establish and modify as necessary, in consultation with the state board of health and the department of health, and coordination with the planning process set forth in RCW 43.70.520 a uniform set of health services based on the recommendations of the health care cost control and access commission established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990.

(5) Establish and modify as necessary the uniform benefits package as provided in RCW 43.72.130, which shall be offered to enrollees of a certified health plan. The benefit package shall be provided at no more than the maximum premium specified in subsection (6) of this section.

(6)(a) Establish for each year a community-rated maximum premium for the uniform benefits package that shall operate to control overall health care costs. The maximum premium cost of the uniform benefits package in the base year 1995 shall be established upon an actuarial determination of the costs of providing the uniform benefits package and such other cost impacts as may be deemed relevant by the commission. Beginning in 1996, the growth rate of the premium cost of the uniform benefits package for each certified health plan shall be allowed to increase by a rate no greater than the average growth rate in the cost of the package between 1990 and 1993 as actuarially determined, reduced by two percentage points per year until the growth rate is no greater than the five-year rolling average of growth in Washington per capita personal income, as determined by the office of financial management.

(b) In establishing the community-rated maximum premium under this subsection, the commission shall review various methods for establishing the community-rated maximum premium and shall recommend such methods to the legislature by December 1, 1994.

The commission may develop and recommend a rate for employees that provides nominal, if any, variance between the rate for individual employees and employees with dependents to minimize any economic incentive to an employer to discriminate between prospective employees based upon whether or not they have dependents for whom coverage would be required.

(c) If the commission adds or deletes services or benefits to the uniform benefits package in subsequent years, it may increase or decrease the maximum premium to reflect the actual cost experience of a broad sample of providers of that service in the state, considering the factors enumerated in (a) of this subsection and adjusted actuarially. The addition of services or benefits shall not result in a redetermination of the entire cost of the uniform benefits package.

(d) The level of state expenditures for the uniform benefits package shall be limited to the appropriation of funds specifically for this purpose.

(7) Determine the need for medical risk adjustment mechanisms to minimize financial incentives for certified health plans to enroll individuals who present lower health risks and avoid enrolling individuals who present higher health risks, and to minimize financial incentives for employer hiring practices that discriminate against individuals who present higher health risks. In the design of medical risk distribution mechanisms under this subsection, the commission shall (a) balance the benefits of price competition with the need to protect certified health plans from any unsustainable negative effects of adverse selection; (b) consider the development of a system that creates a risk profile of each certified health plan's enrollee population that does not create disincentives for a plan to control benefit utilization, that requires contributions from plans that enjoy a low-risk enrollee population to plans that have a high-risk enrollee population, and that does not permit an adjustment of the premium charged for the uniform benefits package or

supplemental coverage based upon either receipt or contribution of assessments; and (c) consider whether registered employer health plans should be included in any medical risk adjustment mechanism. Proposed medical risk adjustment mechanisms shall be submitted to the legislature as provided in RCW 43.72.180.

(8) Design a mechanism to assure minors have access to confidential health care services as currently provided in RCW 70.24.110 and 71.34.030.

(9) Monitor the actual growth in total annual health services costs.

(10) Monitor the increased application of technology as required by chapter 492, Laws of 1993 and take necessary action to ensure that such application is made in a cost-effective and efficient manner and consistent with existing laws that protect individual privacy.

(11) Establish reporting requirements for certified health plans that own or manage health care facilities, health care facilities, and health care providers to periodically report to the commission regarding major capital expenditures of the plans. The commission shall review and monitor such reports and shall report to the legislature regarding major capital expenditures on at least an annual basis. The Washington health care facilities authority and the commission shall develop standards jointly for evaluating and approving major capital expenditure financing through the Washington health care facilities authority, as authorized pursuant to chapter 70.37 RCW. By December 1, 1994, the commission and the authority shall submit jointly to the legislature such proposed standards. The commission and the authority shall, after legislative review, but no later than June 1, 1995, publish such standards. Upon publication, the authority may not approve financing for major capital expenditures unless approved by the commission.

(12) Establish maximum enrollee financial participation levels. The levels shall be related to enrollee household income.

(13) Establish rules requiring employee enrollee premium sharing, as defined in RCW 43.72.010(9), be paid through deductions from wages or earnings.

(14) For health services provided under the uniform benefits package and supplemental benefits, adopt standards for enrollment, and standardized billing and claims processing forms. The standards shall ensure that these procedures minimize administrative burdens on health care providers, health care facilities, certified health plans, and consumers. Subject to federal approval or phase-in schedules whenever necessary or appropriate, the standards also shall apply to state-purchased health services, as defined in RCW 41.05.011.

(15) Propose that certified health plans adopt certain practice indicators or risk management protocols for quality assurance, utilization review, or provider payment. The commission may consider indicators or protocols recommended according to RCW 43.70.500 for these purposes.

(16) Propose other guidelines to certified health plans for utilization management, use of technology and methods of payment, such as diagnosis-related groups and a resource-based relative value scale. Such guidelines shall be voluntary and shall be designed to promote improved management of care, and provide incentives for improved efficiency and effectiveness within the delivery system.

(17) Adopt standards and oversee and develop policy for personal health data and information system as provided in chapter 70.170 RCW.

(18) Adopt standards that prevent conflict of interest by health care providers as provided in RCW 18.130.320.

(19) At the appropriate juncture and in the fullness of time, consider the extent to which medical research and health professions training activities should be included within the health service system set forth in chapter 492, Laws of 1993.

(20) Evaluate and monitor the extent to which racial and ethnic minorities have access to and receive health services within the state, and develop strategies to address barriers to access.

(21) Develop standards for the certification process to certify health plans and employer health plans to provide the uniform benefits package, according to the provisions for certified health plans and registered employer health plans under chapter 492, Laws of 1993.

(22) Develop rules for implementation of individual and employer participation under RCW 43.72.210 and 43.72.220 specifically applicable to persons who work in this state but do not live in the state or persons who live in this state but work outside of the state. The rules shall be designed so that these persons receive coverage and financial requirements that are comparable to that received by persons who both live and work in the state.

(23) After receiving advice from the health services effectiveness committee, adopt rules that must be used by certified health plans, disability insurers, health care service contractors, and health maintenance organizations to determine whether a procedure, treatment, drug, or other health service is no longer experimental or investigative.

(24) Establish a process for purchase of uniform benefits package services by enrollees when they are out-of-state.

(25) Develop recommendations to the legislature as to whether state and school district employees, on whose behalf health benefits are or will be purchased by the health care authority pursuant to chapter 41.05 RCW, should have the option to purchase health benefits through health insurance purchasing cooperatives on and after July 1, 1997. In developing its recommendations, the commission shall consider:

(a) The impact of state or school district employees purchasing through health insurance purchasing cooperatives on the ability of the state to control its health care costs; and

(b) Whether state or school district employees purchasing through health insurance purchasing cooperatives will result in inequities in health benefits between or within groups of state and school district employees.

(26) Establish guidelines for providers dealing with terminal or static conditions, taking into consideration the ethics of providers, patient and family wishes, costs, and survival possibilities.

(27) Evaluate the extent to which Taft-Hartley health care trusts provide benefits to certain individuals in the state; review the federal laws under which these trusts are organized; and make appropriate recommendations to the governor and the legislature on or before December 1, 1994, as to whether these trusts should be brought under the provisions of chapter 492, Laws of 1993 when it is fully

implemented, and if the commission recommends inclusion of the trusts, how to implement such inclusion.

(28) Evaluate whether Washington is experiencing a higher percentage in in-migration of residents from other states and territories than would be expected by normal trends as a result of the availability of unsubsidized and subsidized health care benefits for all residents and report to the governor and the legislature their findings.

(29) In developing the uniform benefits package and other standards pursuant to this section, consider the likelihood of the establishment of a national health services plan adopted by the federal government and its implications.

(30) Evaluate the effect of reforms under chapter 492, Laws of 1993 on access to care and economic development in rural areas.

To the extent that the exercise of any of the powers and duties specified in this section may be inconsistent with the powers and duties of other state agencies, offices, or commissions, the authority of the commission shall supersede that of such other state agency, office, or commission, except in matters of personal health data, where the commission shall have primary data system policy-making authority and the department of health shall have primary responsibility for the maintenance and routine operation of personal health data systems. [1994 c 4 § 3; 1993 c 494 § 2; 1993 c 492 § 406.]

Review of health care trusts—1993 c 458: "If chapter 492, Laws of 1993 is enacted into law, the provisions of chapter 48.62 RCW shall be reviewed to evaluate the extent to which health care trusts provide benefits to certain individuals in the state; and to review the federal laws that may constrain the organization or operation of these joint employee-employer entities. The health services commission shall make appropriate recommendations to the governor and the legislature as to how these trusts can be brought under the provisions of chapter 492, Laws of 1993." [1993 c 458 § 3.]

43.72.050 Economic viability of certified health plans threatened—Modification of maximum premium—Submission to legislature. Upon the recommendation of the insurance commissioner, and on the basis of evidence established by independent actuarial analysis, if the commission finds that the economic viability of a significant number of the state's certified health plans is seriously threatened, the commission may increase the maximum premium to the extent mandated by the Constitution, and must immediately thereafter submit to the legislature a proposal for a new formula for adjusting the maximum premium, which must be enacted into law by a sixty percent vote of each house of the legislature. [1993 c 492 § 407.]

43.72.060 Advisory committees and special committees. (1)(a) The chair shall appoint an advisory committee with balanced representation from consumers, business, government, labor, certified health plans, practicing health care providers, health care facilities, and health services researchers reflecting ethnic and racial diversity. In addition, the chair may appoint special committees for specified periods of time.

(b) The chair shall also appoint a five-member health services effectiveness committee whose members possess a breadth of experience and knowledge in the treatment, research, and public and private funding of health care services. The committee shall meet at the call of the chair.

The health services effectiveness committee shall advise the commission on: (i) Those health services that may be determined by the commission to be appropriate and effective; (ii) use of technology and practice indicators; (iii) the uniform benefits package; and (iv) rules that insurers and certified health plans must use to determine whether a procedure, treatment, drug, or other health service is no longer experimental or investigative.

(c) The commission shall also appoint a small business advisory committee composed of seven owners of businesses with twenty-five or fewer full-time equivalent employees reflecting ethnic and racial diversity, to assist the commission in development of the small business economic impact statement and the small business assistance program, as provided in RCW 43.72.140 and 43.72.240.

(d) The commission shall also appoint an organized labor advisory committee composed of seven representatives of employee organizations representing employees of public or private employers. The committee shall assist the commission in conducting the evaluation of Taft-Hartley health care trusts and self-insured employee health benefits plans, as provided in *RCW 43.72.040(26), and shall advise the commission on issues related to the impact of chapter 492, Laws of 1993 on negotiated health benefits agreements and other employee health benefits plans.

(e) The commission shall appoint a seasonal employment advisory committee composed of equal numbers of seasonal employee and employer representatives to assist the commission in development of coverage mechanisms for seasonal employees and employers and other related issues as provided in RCW 43.72.225.

(2) Members of committees and panels shall serve without compensation for their services but shall be reimbursed for their expenses while attending meetings on behalf of the commission in accordance with RCW 43.03.050 and 43.03.060. [1994 c 4 § 2; 1993 c 492 § 404.]

*Reviser's note: RCW 43.72.040 was amended by 1994 c 4 § 3 changing subsection (26) to subsection (27).

43.72.070 Continuous quality improvement and total quality management. To ensure the highest quality health services at the lowest total cost, the commission shall establish a total quality management system of continuous quality improvement. Such endeavor shall be based upon the recognized quality science for continuous quality improvement. The commission shall impanel a committee composed of persons from the private sector and related sciences who have broad knowledge and successful experiences in continuous quality improvement and total quality management applications. It shall be the responsibility of the committee to develop standards for a Washington state health services supplier certification process and recommend such standards to the commission for review and adoption. Once adopted, the commission shall establish a schedule, with full compliance no later than July 1, 1996, whereby all health service providers and health service facilities shall be certified prior to providing uniform benefits package services. [1993 c 492 § 409.]

43.72.080 Health insurance purchasing cooperatives—Designation of regions by commission—

Information systems—Minimum standards and rules. (1) The commission shall designate four geographic regions within the state in which health insurance purchasing cooperatives may operate, based upon population, assuming that each cooperative must serve no less than one hundred fifty thousand persons; geographic factors; market conditions; and other factors deemed appropriate by the commission. The commission shall designate one health insurance purchasing cooperative per region.

(2) In coordination with the commission and consistent with the provisions of chapter 70.170 RCW, the department of health shall establish an information clearinghouse for the collection and dissemination of information necessary for the efficient operation of cooperatives, including the establishment of a risk profile information system related to certified health plan enrollees that would permit the equitable distribution of losses among plans in accordance with RCW 43.72.040(7).

(3) Every health insurance purchasing cooperative shall:

(a) Admit all individuals, employers, or other groups wishing to participate in the cooperative;

(b) Make available for purchase by cooperative members every health care program offered by every certified health plan operating within the cooperative's region;

(c) Be operated as a member-governed and owned, nonprofit cooperative in which no certified health plan, health maintenance organization, health care service contractor, independent practice association, independent physician organization, or any individual with a pecuniary interest in any such organization, shall have any pecuniary interest in or management control of the cooperative;

(d) Provide for centralized enrollment and premium collection and distribution among certified health plans; and

(e) Serve as an ombudsman for its members to resolve inquiries, complaints, or other concerns with certified health plans.

(4) Every health insurance purchasing cooperative shall assist members in selecting certified health plans and for this purpose may devise a rating system or similar system to judge the quality and cost-effectiveness of certified health plans consistent with guidelines established by the commission. For this purpose, each cooperative and directors, officers, and other employees of the cooperative are immune from liability in any civil action or suit arising from the publication of any report, brochure, or guide, or dissemination of information related to the services, quality, price, or cost-effectiveness of certified plans unless actual malice, fraud, or bad faith is shown. Such immunity is in addition to any common law or statutory privilege or immunity enjoyed by such person, and nothing in this section is intended to abrogate or modify in any way such common law or statutory privilege or immunity.

(5) Every health insurance purchasing cooperative shall bear the full cost of its operations, including the costs of participating in the information clearinghouse, through assessments upon its members. Such assessments shall be billed and accounted for separately from premiums collected and distributed for the purchase of the uniform benefits package or any other supplemental insurance or health services program.

(6) No health insurance purchasing cooperative may bear any financial risk for the delivery of uniform benefits

package services, or for any other supplemental insurance or health services program.

(7) No health insurance purchasing cooperative may directly broker, sell, contract for, or provide any insurance or health services program. However, nothing contained in this section shall be deemed to prohibit the use or employment of insurance agents or brokers by the cooperative for other purposes or to prohibit the facilitation of the sale and purchase by members of supplemental insurance or health services programs.

(8) The commission may adopt rules necessary for the implementation of this section including rules governing charter and bylaw provisions of cooperatives and may adopt rules prohibiting or permitting other activities by cooperatives.

(9) The commission shall consider ways in which cooperatives can develop, encourage, and provide incentives for employee wellness programs. [1993 c 492 § 425.]

Certification: Chapter 48.43 RCW.

43.72.090 Uniform or supplemental benefits—Provision by certified health plan only—Uniform benefits package as minimum. (1) On and after July 1, 1995, no person or entity in this state shall provide the uniform benefits package and supplemental benefits as defined in RCW 43.72.010 without being certified as a certified health plan by the insurance commissioner.

(2) On and after July 1, 1995, no certified health plan may offer less than the uniform benefits package to residents of this state and no registered employer health plan may provide less than the uniform benefits package to its employees and their dependents. [1993 c 492 § 427.]

Certification: Chapter 48.43 RCW.

43.72.100 Certified health plans—Duties. A certified health plan shall:

(1) Provide the benefits included in the uniform benefits package to enrolled Washington residents for a prepaid per capita community-rated premium not to exceed the maximum premium established by the commission and provide such benefits through managed care in accordance with rules adopted by the commission;

(2) Offer supplemental benefits to enrolled Washington residents for a prepaid per capita community-rated premium and provide such benefits through managed care in accordance with rules adopted by the commission;

(3) Accept for enrollment any state resident within the plan's service area and provide or assure the provision of all services within the uniform benefits package and offer supplemental benefits regardless of age, sex, family structure, ethnicity, race, health condition, geographic location, employment status, socioeconomic status, other condition or situation, or the provisions of RCW 49.60.174(2). The insurance commissioner may grant a temporary exemption from this subsection, if, upon application by a certified health plan, the commissioner finds that the clinical, financial, or administrative capacity to serve existing enrollees will be impaired if a certified health plan is required to continue enrollment of additional eligible individuals;

(4) If the plan provides benefits through contracts with, ownership of, or management of health care facilities and

contracts with or employs health care providers, demonstrate to the satisfaction of the insurance commissioner in consultation with the department of health and the commission that its facilities and personnel are adequate to provide the benefits prescribed in the uniform benefits package and offer supplemental benefits to enrolled Washington residents, and that it is financially capable of providing such residents with, or has made adequate contractual arrangements with health care providers and facilities to provide enrollees with such benefits;

(5) Comply with portability of benefits requirements prescribed by the commission;

(6) Comply with administrative rules prescribed by the commission, the insurance commissioner, and other state agencies governing certified health plans;

(7) Provide all enrollees with instruction and informational materials to increase individual and family awareness of injury and illness prevention; encourage assumption of personal responsibility for protecting personal health; and stimulate discussion about the use and limits of medical care in improving the health of individuals and communities;

(8) Disclose to enrollees the charity care requirements under chapter 70.170 RCW;

(9) Include in all of its contracts with health care providers and health care facilities a provision prohibiting such providers and facilities from billing enrollees for any amounts in excess of applicable enrollee point of service cost-sharing obligations for services included in the uniform benefits package and supplemental benefits;

(10) Include in all of its contracts issued for uniform benefits package and supplemental benefits coverage a subrogation provision that allows the certified health plan to recover the costs of uniform benefits package and supplemental benefits services incurred to care for an enrollee injured by a negligent third party. The costs recovered shall be limited to:

(a) If the certified health plan has not intervened in the action by an injured enrollee against a negligent third party, then the amount of costs the certified health plan can recover shall be limited to the excess remaining after the enrollee has been fully compensated for his or her loss minus a proportionate share of the enrollee's costs and fees in bringing the action. The proportionate share shall be determined by:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client that established fees and costs when fees and costs are not addressed by the court.

When fees and costs have been approved by a court, after notice to the certified health plan, the certified health plan shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share;

(b) If the certified health plan has intervened in the action by an injured enrollee against a negligent third party, then the amount of costs the certified health plan can recover shall be the excess remaining after the enrollee has been fully compensated for his or her loss or the amount of the plan's incurred costs, whichever is less;

(11) Establish and maintain a grievance procedure approved by the commissioner, to provide a reasonable and effective resolution of complaints initiated by enrollees concerning any matter relating to the provision of benefits

under the uniform benefits package and supplemental benefits, access to health care services, and quality of services. Each certified health plan shall respond to complaints filed with the insurance commissioner within fifteen working days. The insurance commissioner in consultation with the commission shall establish standards for resolution of grievances;

(12) Comply with the provisions of chapter 48.30 RCW prohibiting unfair and deceptive acts and practices to the extent such provisions are not specifically modified or superseded by the provisions of chapter 492, Laws of 1993 and be prohibited from offering or supplying incentives that would have the effect of avoiding the requirements of subsection (3) of this section;

(13) Have culturally sensitive health promotion programs that include approaches that are specifically effective for persons of color and accommodating to different cultural value systems, gender, and age;

(14) Permit every category of health care provider to provide health services or care for conditions included in the uniform benefits package to the extent that:

(a) The provision of such health services or care is within the health care providers' permitted scope of practice; and

(b) The providers agree to abide by standards related to:

(i) Provision, utilization review, and cost containment of health services;

(ii) Management and administrative procedures; and

(iii) Provision of cost-effective and clinically efficacious health services;

(15) Establish the geographic boundaries in which they will obligate themselves to deliver the services required under the uniform benefits package and include such information in their application for certification, but the commissioner shall review such boundaries and may disapprove, in conformance with guidelines adopted by the commission, those that have been clearly drawn to be exclusionary within a health care catchment area;

(16) Annually report the names and addresses of all officers, directors, or trustees of the certified health plan during the preceding year, and the amount of wages, expense reimbursements, or other payments to such individuals;

(17) Annually report the number of residents enrolled and terminated during the previous year. Additional information regarding the enrollment and termination pattern for a certified health plan may be required by the commissioner to determine compliance with the open enrollment and free access requirements of chapter 492, Laws of 1993; and

(18) Disclose any financial interests held by officers and directors in any facilities associated with or operated by the certified health plan. [1993 c 492 § 428.]

43.72.110 Limited certified dental plan. (1) For the purposes of this section "limited certified dental plan" or "dental plan" means a limited health [care] service contractor governed by RCW 48.44.035 offering dental care services only and that complies with all certified health plan requirements for managed care, community rating, portability, and nondiscrimination as provided in RCW 43.72.100.

(2) A dental plan may provide coverage for dental services directly to individuals or to employers for the

benefit of employees. If an individual or an employer purchases dental care services from a dental plan, the certified health plan covering the individual or the employees need not provide dental services required under the uniform benefits package. A certified health plan may subcontract with a dental plan to provide the dental benefits required under the uniform benefits package. [1993 c 492 § 429.]

43.72.120 Registered employer health plans.

Consistent with the provisions of RCW 43.72.220, a registered employer health plan shall:

(1) Register with the insurance commissioner by filing its plan of management and operation including but not limited to information required by the commissioner sufficient for a determination by the commissioner that such plan meets the requirements of this section and any rules adopted by the health services commission and the insurance commissioner pertaining to such plans.

(2) Provide the benefits included in the uniform benefits package to employees and their dependents for a prepaid, community-rated premium not to exceed the maximum premium established by the commission and provide such benefits through managed care in accordance with rules adopted by the commission.

(3) Offer supplemental benefits to employees and their dependents for a prepaid, community-rated premium and provide such benefits through managed care in accordance with rules adopted by the commission. Benefits offered by such plan need not comply with the provisions of RCW 43.72.160 and 43.72.170.

(4) Provide or assure the provision of all services within the uniform benefits package and offer supplemental benefits regardless of age, sex, family structure, ethnicity, race, health condition, socioeconomic status, or other condition or situation, or the provisions of RCW 49.60.174(2).

(5) If the plan provides benefits through contracts with, ownership of, or management of health care facilities and contracts with or employs health care providers, demonstrate to the satisfaction of the insurance commissioner in consultation with the department of health and the commission that its facilities and personnel are adequate to provide the uniform benefits package and any supplemental benefits or has made adequate contractual arrangements with health care providers and facilities to provide employees and their dependents with such benefits.

(6) Comply with portability of benefits requirements prescribed by the commission for registered employer health plans.

(7) Comply with administrative rules prescribed by the commission, the insurance commissioner, and other state agencies governing registered employer health plans.

(8) Provide all employees and their dependents enrolled in the plan with instruction and informational materials to increase individual and family awareness of injury and illness prevention; encourage assumption of personal responsibility for protecting personal health; and stimulate discussion about the use and limits of medical care in improving the health of individuals and communities.

(9) Include in all of its contracts with health care providers and health care facilities a provision prohibiting such providers and facilities from billing employees and their

dependents enrolled in the plan for any amounts in excess of applicable enrollee point of service, cost-sharing obligations for services included in the uniform benefits package and supplemental benefits.

(10) Include in all of its contracts issued for uniform benefits package and supplemental benefits coverage a subrogation provision that allows the plan to recover the costs of uniform benefits package and supplemental benefit services incurred to care for a plan enrollee injured by a negligent third party. The costs recovered shall be limited to:

(a) If the plan has not intervened in the action by an injured plan enrollee against a negligent third party, then the amount of costs the plan can recover shall be limited to the excess remaining after the plan enrollee has been fully compensated for his or her loss minus a proportionate share of the enrollee's costs and fees in bringing the action. The proportionate share shall be determined by:

(i) The fees and costs approved by the court in which the action was initiated; or

(ii) The written agreement between the attorney and client that established fees and costs when fees and costs are not addressed by the court.

When fees and costs have been approved by a court, after notice to the plan, the plan shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share;

(b) If the plan has intervened in the action by an injured enrollee against a negligent third party, then the amount of costs the plan can recover shall be the excess remaining after the enrollee has been fully compensated for his or her loss or the amount of the plan's incurred costs, whichever is less.

(11) Establish and maintain a grievance procedure approved by the insurance commissioner, to provide a reasonable and effective resolution of complaints initiated by plan enrollees concerning any matter relating to the provision of benefits under the uniform benefits package and supplemental benefits, access to health care services, and quality of services. Each plan shall respond to complaints filed with the insurance commissioner within fifteen working days. The insurance commissioner in consultation with the commission shall establish standards for resolution of grievances by enrollees of registered employer health plans.

(12) Have culturally sensitive health promotion programs that include approaches that are specifically effective for persons of color and accommodating to different cultural value systems, gender, and age.

(13) Permit every category of health care provider to provide health services or care for conditions included in the uniform benefits package to the extent that:

(a) The provision of such health services or care is within the health care providers' permitted scope of practice; and

(b) The providers agree to abide by standards related to:

(i) Provision, utilization review, and cost containment of health services;

(ii) Management and administrative procedures; and

(iii) Provision of cost-effective and clinically efficacious health services.

(14) Pay to the state treasurer a tax equivalent to the tax applied to taxpayers under RCW 48.14.0201 in accordance with rules adopted by the department of revenue.

(15) File their uniform benefits package and supplemental benefits with the insurance commissioner who may disapprove and order a modification of such package or benefits if such package or benefits fail to meet any standards or rules adopted by the commission pertaining to maximum premiums, enrollee financial participation, point of service cost-sharing, benefit design, or health service delivery.

(16) Comply with and shall be subject to RCW 48.43.170, 43.72.300, and 43.72.310.

(17) Pay an annual fee to the insurance commissioner's office in an amount established by rule of the commissioner necessary for the performance of the commissioner's responsibilities under this section consistent with and subject to the collection, depositing, and spending provisions applicable to fees collected pursuant to RCW 48.02.190.

(18) File an annual report with the commissioner containing such information as the commissioner may require to determine compliance with this section.

(19) In addition to any other penalties prescribed by law, be subject to the penalties contained in RCW 48.43.010 for violations of this section. [1993 c 492 § 430.]

43.72.130 Uniform benefits package design. (1) The commission shall define the uniform benefits package, which shall include those health services that, consistent with the goals and intent of chapter 492, Laws of 1993, are effective and necessary on a societal basis for the maintenance of the health of citizens of the state, weighed against the need to control state health services expenditures.

(2) The schedule of covered health services shall emphasize proven preventive and primary health care and shall be composed of the following essential health services: (a) Primary and specialty health services; (b) inpatient and outpatient hospital services; (c) prescription drugs and medications; (d) reproductive services; (e) services necessary for maternity and well-child care, including preventive dental services for children; and (f) case-managed chemical dependency, mental health, short-term skilled nursing facility, home health, and hospice services, to the extent that such services reduce inappropriate utilization of more intensive or less efficacious medical services. The commission shall determine the specific schedule of health services within the uniform benefits package, including limitations on scope and duration of services. The schedule shall be the benefit and actuarial equivalent of the schedule of benefits offered by the basic health plan on January 1, 1993, including any additions that may result from the inclusion of the services listed in (c) through (f) of this subsection. The commission shall consider the recommendations of health services effectiveness panels [committee] established pursuant to RCW 43.72.060 in defining the uniform benefits package.

(3) The uniform benefits package shall not limit coverage for preexisting or prior conditions, except that the commission shall establish exclusions for preexisting or prior conditions to the extent necessary to prevent residents from waiting until health services are needed before enrolling in a certified health plan.

(4) The commission shall establish enrollee point of service cost-sharing for nonpreventive health services, related to enrollee household income, such that financial consider-

ations are not a barrier to access for low-income persons, but that, for those of means, the uniform benefits package provides for moderate point of service cost-sharing. All point of service cost-sharing and cost control requirements shall apply uniformly to all health care providers providing substantially similar uniform benefits package services. The schedule shall provide for an alternate and lower schedule of cost-sharing applicable to enrollees with household income below the federal poverty level.

(5) The commission shall adopt rules related to coordination of benefits and premium payments. The rules shall not have the effect of eliminating enrollee financial participation. The commission shall endeavor to assure an equitable distribution, among both employers and employees, of the costs of coverage for those households composed of more than one member in the work force.

(6) In determining the uniform benefits package, the commission shall endeavor to seek the opinions of and information from the public. The commission shall consider the results of official public health assessment and policy development activities including recommendations of the department of health in discharging its responsibilities under this section.

(7) The commission shall submit the following to the legislature by December 1, 1994, and by December 1 of the year preceding any year in which the commission proposes to significantly modify the uniform benefits package: (a) The uniform benefits package; and (b) an independent actuarial analysis of the cost of the proposed package, giving consideration to the factors considered under RCW 43.72.040(6). The commission shall not modify the services included in the uniform benefits package before January 1, 1999. [1993 c 492 § 449.]

43.72.140 Small business economic impact statement. (1) In conjunction with submission of the uniform benefits package as provided in RCW 43.72.130(7), the commission also shall submit a small business economic impact statement, prepared in consultation with the small business advisory committee. The impact statement shall address the economic impact on businesses with twenty-five or fewer full-time equivalent employees of participating in the cost of the uniform benefits package for their employees and employees' dependents. As an aid in preparing the small business economic impact statement, the commission shall conduct a survey of a statistically valid sample of small businesses.

(2) If the small business economic impact statement indicates a need to address the economic consequences of mandating employer participation in the cost of uniform benefits package coverage for employees and their dependents, the commission shall submit proposed strategies to address such consequences. Strategies may include: The level of employer participation in uniform benefits package costs; coverage of dependents; application of the uniform benefits package as the minimum benefits package offered to employees or dependents; and any other strategies deemed appropriate by the commission. [1993 c 492 § 450.]

43.72.150 Household income analysis. In conjunction with submission of the uniform benefits package as

provided in RCW 43.72.130(7), the commission shall submit an analysis of the impact of employee premium contributions on individuals with household income of less than two hundred percent of the federal poverty level. The analysis shall include estimates of the cost of varying levels of premium subsidies for these individuals and their families. [1993 c 492 § 451.]

43.72.160 Certified health plan benefit packages—Offering, filing, and approval of forms. No uniform benefits package or supplemental benefits may be offered, delivered, or issued for delivery to any person in this state unless it otherwise complies with chapter 492, Laws of 1993, and complies with the following:

(1) All certified health plan forms for uniform and supplemental benefits issued by the plan to enrollees and such other marketing documents purporting to describe the plan's benefits shall comply with the minimum standards the commissioner deems reasonable and necessary to carry out the purposes and provisions of this chapter and consistent with health services commission standards. The plan's forms and documents shall fully inform enrollees of the health services to which they are entitled, and shall fully disclose any limitations, exclusions, rights, responsibilities, and duties required of either the enrollee or the certified health plan. No form or document may be issued, delivered, or issued for delivery unless it has been filed with and approved by the commissioner.

(2) Every form or document filing containing a certification, in a manner approved by the commissioner, by either the chief executive officer of the plan or by an actuary who is a member of the American academy of actuaries, attesting that the filing complies with Title 48 RCW, Title 284 WAC, and this chapter, may be used by such certified health plan immediately after filing with the commissioner. The commissioner may order a plan to cease using a certified form or document upon the grounds set forth in subsection (6) of this section.

(3) Every filing that does not contain a certification pursuant to subsection (2) of this section shall be made not less than thirty days in advance of any such issuance, delivery, or use. At the expiration of such thirty days the form or document filed shall be deemed approved unless affirmatively approved or disapproved by the commissioner within the thirty-day period. The commissioner may extend by not more than an additional fifteen days the period within which the commissioner may review such filing, by notifying the plan of the extension before expiration of the initial thirty-day period. At the expiration of any extension period and in the absence of prior affirmative approval or disapproval, any such form or document shall be deemed approved. The commissioner may withdraw approval at any time for cause. By approval of any filing for immediate use, the commissioner may waive any unexpired portion of the initial thirty-day waiting period.

(4) Whenever the commissioner disapproves a filing or withdraws a previous approval, the commissioner shall state the grounds for disapproval.

(5) The commissioner may exempt from the requirements of this section any plan document or form that, in the commissioner's opinion, may not practicably be applied to,

or the filing and approval of which are, in the commissioner's opinion, not desirable or necessary for the protection of the public.

(6) The commissioner shall disapprove any form or document or shall withdraw any previous approval, only:

(a) If it is in any respect in violation of or does not comply with Title 48 RCW, Title 284 WAC, and this chapter, or any applicable order of the commissioner;

(b) If it does not comply with any controlling filing previously made and approved;

(c) If it contains or incorporates by reference any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions that unreasonably or deceptively affect the health services purported to be offered or provided;

(d) If it has any title, heading, or other indication of its provisions that is misleading;

(e) If purchase of health services under the form or document is being solicited by deceptive advertising; or

(f) If the health service benefits provided in the form or document are unreasonable in relation to the premium charged. [1993 c 492 § 452.]

43.72.170 Uniform and supplemental benefits—Rates—Filing and approval. (1) Premium rates for uniform benefits package and supplemental benefits shall not be excessive or inadequate, and shall not discriminate in a manner prohibited by RCW 43.72.100(3). Premium rates, enrollee point of service cost-sharing, or maximum enrollee financial participation amounts for a uniform benefits package may not exceed the limits established by the health services commission in accordance with RCW 43.72.040. Premium rates for uniform benefits package and supplemental benefits shall be developed on a community-rated basis as determined by the health services commission.

(2) Prior to using, every certified health plan shall file with the commissioner its enrollee point of service, cost-sharing amounts, enrollee financial participation amounts, rates, its rating plan, and any other information used to determine the specific premium to be charged any enrollee and every modification of any of the foregoing.

(3) Every such filing shall indicate the type and extent of the health services contemplated and must be accompanied by sufficient information to permit the commissioner to determine whether it meets the requirements of this chapter. A plan shall offer in support of any filing:

(a) Any historical data and actuarial projections used to establish the rate filed;

(b) An exhibit detailing the major elements of operating expense for the types of health services affected by the filing;

(c) An explanation of how investment income has been taken into account in the proposed rates;

(d) Any other information that the plan deems relevant; and

(e) Any other information that the commissioner requires by rule.

(4) If a plan has insufficient loss experience to support its proposed rates, it may submit loss experience for similar exposures of other plans within the state.

(5) Every filing shall state its proposed effective date.

(6) Actuarial formulas, statistics, and assumptions submitted in support of a rate or form filing by a plan or submitted to the commissioner at the commissioner's request shall be withheld from public inspection in order to preserve trade secrets or prevent unfair competition.

(7) No plan may make or issue a benefits package except in accordance with its filing then in effect.

(8) The commissioner shall review a filing as soon as reasonably possible after made, to determine whether it meets the requirements of this section.

(9)(a) No filing may become effective within thirty days after the date of filing with the commissioner, which period may be extended by the commissioner for an additional period not to exceed fifteen days if the commissioner gives notice within such waiting period to the plan that the commissioner needs additional time to consider the filing.

(b) A filing shall be deemed to meet the requirements of this section unless disapproved by the commissioner within the waiting period or any extension period.

(c) If within the waiting or any extension period, the commissioner finds that a filing does not meet the requirements of this section, the commissioner shall disapprove the filing, shall notify the plan of the grounds for disapproval, and shall prohibit the use of the disapproved filing.

(10) If at any time after the applicable review period provided in this section, the commissioner finds that a filing does not meet the requirements of this section, the commissioner shall, after notice and hearing, issue an order specifying in what respect the commissioner finds that such filing fails to meet the requirements of this section, and stating when, within a reasonable period thereafter, the filings shall be deemed no longer effective.

The order shall not affect any benefits package made or issued prior to the expiration of the period set forth in the order. [1993 c 492 § 453.]

43.72.180 Legislative approval—Uniform benefits package and medical risk adjustment mechanisms. The legislature may disapprove of the uniform benefits package developed under RCW 43.72.130 and medical risk adjustment mechanisms developed under RCW 43.72.040(7) by an act of law at any time prior to the thirtieth day of the following regular legislative session. If such disapproval action is taken, the commission shall resubmit a modified package to the legislature within fifteen days of the disapproval. If the legislature does not disapprove or modify the package by an act of law by the end of that regular session, the package is deemed approved. [1993 c 492 § 454.]

43.72.190 Supplemental and additional benefits negotiation. (1) Nothing in chapter 492, Laws of 1993 shall preclude insurers, health care service contractors, health maintenance organizations, or certified health plans from insuring, providing, or contracting for benefits not included in the uniform benefits package or in supplemental benefits.

(2) Nothing in chapter 492, Laws of 1993 shall restrict the right of an employer to offer, an employee representative to negotiate for, or an individual to purchase supplemental or additional benefits not included in the uniform benefits package.

(3) Nothing in chapter 492, Laws of 1993 shall restrict the right of an employer to offer or an employee representative to negotiate for payment of up to one hundred percent of the premium of the lowest priced uniform benefits package available in the geographic area where the employer is located.

(4) Nothing in chapter 492, Laws of 1993 shall be construed to affect the collective bargaining rights of employee organizations to the extent that federal law specifically restricts the ability of states to limit collective bargaining rights of employee organizations.

(5) After July 1, 1999, no property or casualty insurance policy issued in this state may provide first-party coverage for health services to the extent that such services are provided under a uniform benefits package covering the resident to whom such property or casualty insurance policy is issued. [1993 c 492 § 455.]

43.72.200 Conscience or religion. (1) No certified health plan or health care provider may be required by law or contract in any circumstances to participate in the provision of any uniform benefit if they object to so doing for reason of conscience or religion. No person may be discriminated against in employment or professional privileges because of such objection.

(2) The provisions of this section are not intended to result in an enrollee being denied timely access to any service included in the uniform benefits package. Each certified health plan shall:

(a) Provide written notice to certified health plan enrollees, upon enrollment with the plan and upon enrollee request thereafter, listing, by provider, services that any provider refuses to perform for reason of conscience or religion;

(b) Develop written information describing how an enrollee may directly access, in an expeditious manner, services that a provider refuses to perform; and

(c) Ensure that enrollees refused services under this section have prompt access to the information developed pursuant to (b) of this subsection. [1993 c 492 § 456.]

43.72.210 Individual participation. (1) All residents of the state of Washington are required to purchase a uniform benefits package from a certified health plan no later than July 1, 1999. This participation requirement shall be waived if imposition of the requirement would constitute a violation of the freedom of religion provisions set forth in the First Amendment, United States Constitution or Article I, section 11 of the state Constitution. Residents of the state of Washington who work in another state for an out-of-state employer shall be deemed to have satisfied the requirements of this section if they receive health insurance coverage through such employer.

(2) The commission shall monitor the enrollment of individuals into certified health plans and shall make public periodic reports concerning the number of persons enrolled and not enrolled, the reasons why individuals are not enrolled, recommendations to reduce the number of persons not enrolled, and recommendations regarding enforcement of this provision. [1993 c 492 § 463.]

43.72.220 Employer participation. (1) The legislature recognizes that small businesses play an essential and increasingly important role in the state's economy. The legislature further recognizes that many of the state's small business owners provide health insurance to their employees through small group policies at a cost that directly affects their profitability. Other small business owners are prevented from providing health benefits to their employees by the lack of access to affordable health insurance coverage. The legislature intends that the provisions of chapter 492, Laws of 1993 make health insurance more available and affordable to small businesses in Washington state through strong cost control mechanisms and the option to purchase health benefits through the basic health plan, the Washington state group purchasing association, and health insurance purchasing cooperatives.

(2) On July 1, 1995, every employer employing more than five hundred qualified employees shall:

(a) Offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest cost available package within their geographic region, and for employers who have established a registered employer health plan, one of which may be its own registered employer health plan, to all qualified employees. The employer shall be required to pay no less than fifty percent of the premium cost of the lowest cost available package within their geographic region. On July 1, 1996, all dependents of qualified employees of these firms shall be offered a choice of packages as provided in this section with the employer paying no less than fifty percent of the premium of the lowest cost package within their geographic region.

(b) For employees who work fewer than thirty hours during a week or one hundred twenty hours during a calendar month, three hundred sixty hours during a calendar quarter or one thousand four hundred forty hours during a calendar year, and their dependents, pay, for the period of time adopted by the employer under this subsection, the amount resulting from application of the following formula: The number of hours worked by the employee in a month is multiplied by the amount of a qualified employee's premium, and that amount is then divided by one hundred twenty.

(c) If an employee under (b) of this subsection is the dependent of a qualified employee, and is therefore covered as a dependent by the qualified employee's employer, then the employer of the employee under (b) of this subsection shall not be required to participate in the cost of the uniform benefits package for that employee.

(d) If an employee working on a seasonal basis is a qualified employee of another employer, and therefore has uniform benefits package coverage through that primary employer, then the seasonal employer of the employee shall not be required to participate in the cost of the uniform benefits package for that employee.

(3) By July 1, 1996, every employer employing more than one hundred qualified employees shall:

(a) Offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest cost available package within their geographic region, to all qualified employees. The employer shall be required to pay no less than fifty percent of the premium cost of the lowest cost available package

within their geographic region. On July 1, 1997, all dependents of qualified employees in these firms shall be offered a choice of packages as provided in this section with the employer paying no less than fifty percent of the premium of the lowest cost package within their geographic region.

(b) For employees who work fewer than thirty hours during a week or one hundred twenty hours during a calendar month, three hundred sixty hours during a calendar quarter or one thousand four hundred forty hours during a calendar year, and their dependents, pay, for the period of time adopted by the employer under this subsection, the amount resulting from application of the following formula: The number of hours worked by the employee in a month is multiplied by the amount of a qualified employee's premium, and that amount is then divided by one hundred twenty.

(c) If an employee under (b) of this subsection is the dependent of a qualified employee, and is therefore covered as a dependent by the qualified employee's employer, then the employer of the employee under (b) of this subsection shall not be required to participate in the cost of the uniform benefits package for that employee.

(d) If an employee working on a seasonal basis is a qualified employee of another employer, and therefore has uniform benefits package coverage through that primary employer, then the seasonal employer of the employee shall not be required to participate in the cost of the uniform benefits package for that employee.

(4) By July 1, 1997, every employer shall:

(a) Offer a choice of the uniform benefits package as provided by at least three available certified health plans, one of which shall be the lowest cost available package within their geographic region, to all qualified employees. The employer shall be required to pay no less than fifty percent of the premium cost of the lowest cost available package within their geographic region. On July 1, 1999, all dependents of qualified employees in all firms shall be offered a choice of packages as provided in this section with the employer paying no less than fifty percent of the premium of the lowest cost package within their geographic region.

(b) For employees who work fewer than thirty hours during a week or one hundred twenty hours during a calendar month, three hundred sixty hours during a calendar quarter or one thousand four hundred forty hours during a calendar year, and their dependents, pay, for the period of time adopted by the employer under this subsection, the amount resulting from application of the following formula: The number of hours worked by the employee in a month is multiplied by the amount of a qualified employee's premium, and that amount is then divided by one hundred twenty.

(c) If an employee under (b) of this subsection is the dependent of a qualified employee, and is therefore covered as a dependent by the qualified employee's employer, then the employer of the employee under (b) of this subsection shall not be required to participate in the cost of the uniform benefits package for that employee.

(d) If an employee working on a seasonal basis is a qualified employee of another employer, and therefore has uniform benefits package coverage through that primary employer, then the seasonal employer of the employee shall not be required to participate in the cost of the uniform benefits package for that employee.

(5) This employer participation requirement shall be waived if imposition of the requirement would constitute a violation of the freedom of religion provisions of the First Amendment of the United States Constitution or Article I, section 11, of the state Constitution. In such case the employer shall, pursuant to commission rules, set aside an amount equal to the applicable employer contribution level in a manner that would permit his or her employee to fully comply with the requirements of this chapter.

(6) In lieu of offering the uniform benefits package to employees and their dependents through direct contracts with certified health plans, an employer may combine the employer contribution with that of the employee's contribution and enroll in the basic health plan as provided in chapter 70.47 RCW or a health insurance purchasing cooperative established under RCW 43.72.080 and 48.43.160. Any subsidy that may be provided according to the provisions of chapter 70.47 RCW shall not lessen the employer's obligation to pay a minimum of fifty percent of the premium and the full amount of the direct subsidy shall be for the benefit of the employee or the dependent.

(7) For purposes of determining the financial obligation of an employer who enrolls employees or employees and their adult dependents in the basic health plan, the premium shall be the per adult, per month, cost of coverage in the plan, including administration. [1993 c 494 § 3; 1993 c 492 § 464.]

43.72.225 Seasonal employment. (1) As used in this section, "seasonal employer" means an employer whose business is in one or more of the following standard industry classifications: Cash grains, field crops except cash grains, vegetables and melons, fruits and nuts, dairy farms, horticulture specialties, general farms-primarily crops, crop services, animal services except veterinary, timber tracts, forestry services, canned, frozen, and preserved fruits and vegetables, farm produce-raw material, and fresh fruits and vegetables. Additional industry classifications may be included by the commission.

(2) The commission shall, in consultation with the seasonal employment advisory committee established pursuant to RCW 43.72.060(1)(e):

(a) Define seasonal employee;

(b) Conduct an analysis of the financial impact of health insurance coverage on seasonal employees and their employers, including analysis of the extent to which existing funding sources that currently subsidize health services costs for low-income seasonal workers can be utilized, and the feasibility of establishing a centralized pool or depository to finance such coverage;

(c) Determine the extent to which the coverage mechanisms of this chapter should be modified, if at all, to meet the unique characteristics and needs of seasonal employees and their employers. In making the determination under this subsection:

(i) Seasonal employees shall have the same base level of benefits, and be subject to the same point of service cost-sharing and premium contribution policies as other employees, consistent with the income-sensitive requirements developed by the commission pursuant to RCW 43.72.130;

(ii) Employers and employees should contribute to the costs of health benefits coverage for seasonal employees and their dependents at a rate that is as affordable for seasonal employees and their employers as for nonseasonal employers and employees. The minimum hourly rate paid by seasonal employers towards their seasonal employees' health insurance coverage shall not have the effect of increasing the employers' monthly contribution toward seasonal employees' health insurance coverage to more than the required fifty percent of the cost of the lowest priced uniform benefits package. The minimum hourly payment rate shall be calculated on the basis of a one hundred twenty hour month, and shall be paid by employers on the first thirty hours of each week worked by a seasonal employee;

(iii) The following principles shall guide the commission's deliberations with respect to development of a mechanism to determine the date upon which an employer's participation under RCW 43.72.220 begins:

(A) The clear legislative intent of this chapter is to minimize any adverse economic impact of employer participation on small employers, as evidenced by establishment of the small business advisory committee in RCW 43.72.060, establishment of the small firm financial assistance program in RCW 43.72.240, the requirement in RCW 43.72.140 that a small business economic impact statement be prepared by the commission, and phased-in implementation of employer participation requirements based on employer size;

(B) The unique nature of seasonal industries results in great variations in the number of individuals employed in those industries over the course of a year. Any mechanism developed by the commission shall attempt to address this issue in a manner that: Minimizes the potential for peaks and valleys in employment to disproportionately influence the date upon which an employer's participation under RCW 43.72.220 begins; does not result in overcounting or undercounting qualified employees; and ensures equitable treatment of employers and employees across industries;

(iv) Consideration shall be given to health services access and delivery issues unique to seasonal employees;

(v) Consider the appropriateness of using the depository established pursuant to RCW 43.72.230 to administer all or part of the system of seasonal employees' health insurance coverage.

(3) In undertaking these tasks, the commission shall give strong consideration to the following principles:

(a) Every effort shall be made to minimize the administrative burden on seasonal employees and seasonal employers; and

(b) No new state agency should be created. [1994 c 4 § 4.]

43.72.230 Depository. (1) The health care authority shall establish a depository where payments under RCW 43.72.220 can be made and held in safekeeping for the benefit of employees working less than the number of hours worked by a qualified employee.

(2) The authority shall adopt appropriate rules for operation of the depository, in consultation with representatives of employees and employers, especially those that are seasonal or employ large numbers of part-time workers. The rules shall address the means through which payments will

be properly deposited to the credit of employees and the means through which employees can access payments made on their behalf. On and after July 1, 1995, payments deposited by employers on behalf of employees may be used by employees only for purchase of the uniform benefits package. Prior to July 1, 1995, payments may be used for purchase of any health insurance coverage. [1993 c 492 § 465.]

43.72.240 Small firm financial assistance. (1) Beginning July 1, 1997, firms with fewer than twenty-five workers that face barriers to providing health insurance for their employees may, upon application, be eligible to receive financial assistance with funds set aside from the health services account. Firms with the following characteristics shall be given preference in the distribution of funds: (a) New firms, (b) employers with low average wages, (c) employers with low profits, and (d) firms in economically distressed areas.

(2) All employers in existence on or before July 1, 1997, who meet the criteria set forth in this section, and rules adopted under this section, may apply to the health services commission for assistance. Such employers may not receive premium assistance beyond July 1, 2001. New employers, who come into existence after July 1, 1997, may apply for and receive premium assistance for a limited period of time, as determined by the commission.

(3) The total funds available for small business assistance shall be the lesser of (a) one hundred fifty million dollars or (b) twenty-five percent of the cost of the uniform benefits package per the eligible applicants' insured employee or dependents as the case may be, for the biennium beginning July 1, 1997. Thereafter, the amount of total funds available for premium assistance shall be determined by the office of financial management, based on a forecast of inflation, employment, and the number of eligible firms.

(4) By July 1, 1997, the health services commission, with assistance from the small business advisory committee established in RCW 43.72.060, shall develop specific definitions, rules, and procedures governing all aspects of the small business assistance program, including application procedures, thresholds regarding firm size, wages, profits, and age of firm, and rules governing duration of assistance. The health services commission will endeavor to design a system for the distribution of assistance that will create minimal burdens on businesses seeking financial assistance.

(5) Final determination of the amount of the premium assistance to be dispensed to an employer shall be made by the commission based on rules, definitions, and procedures developed under this section. If total claims for assistance are above the amount of total funds available for such purposes, the commission shall have the authority to prorate employer claims so that the amount of available funds is not exceeded.

(6) The office of financial management, in consultation with the commission, shall establish appropriate criteria for monitoring and evaluating the economic and labor market impacts of the premium assistance program and report its findings to the commission annually through July 1, 2001. [1993 c 494 § 4; 1993 c 492 § 466.]

43.72.300 Managed competition—Findings and intent. (1) The legislature recognizes that competition among health care providers, facilities, payers, and purchasers will yield the best allocation of health care resources, the lowest prices for health care, and the highest quality of health care when there exists a large number of buyers and sellers, easily comparable health care plans and services, minimal barriers to entry and exit into the health care market, and adequate information for buyers and sellers to base purchasing and production decisions. However, the legislature finds that purchasers of health care services and health care coverage do not have adequate information upon which to base purchasing decisions; that health care facilities and providers of health care services face legal and market disincentives to develop economies of scale or to provide the most cost-efficient and efficacious service; that health insurers, contractors, and health maintenance organizations face market disincentives in providing health care coverage to those Washington residents with the most need for health care coverage; and that potential competitors in the provision of health care coverage bear unequal burdens in entering the market for health care coverage.

(2) The legislature therefore intends to exempt from state anti-trust laws, and to provide immunity from federal anti-trust laws through the state action doctrine for activities approved under this chapter that might otherwise be constrained by such laws and intends to displace competition in the health care market: To contain the aggregate cost of health care services; to promote the development of comprehensive, integrated, and cost-effective health care delivery systems through cooperative activities among health care providers and facilities; to promote comparability of health care coverage; to improve the cost-effectiveness in providing health care coverage relative to health promotion, disease prevention, and the amelioration or cure of illness; to assure universal access to a publicly determined, uniform package of health care benefits; and to create reasonable equity in the distribution of funds, treatment, and medical risk among purchasers of health care coverage, payers of health care services, providers of health care services, health care facilities, and Washington residents. To these ends, any lawful action taken pursuant to chapter 492, Laws of 1993 by any person or entity created or regulated by chapter 492, Laws of 1993 are declared to be taken pursuant to state statute and in furtherance of the public purposes of the state of Washington.

(3) The legislature does not intend and unless explicitly permitted in accordance with RCW 43.72.310 or under rules adopted pursuant to chapter 492, Laws of 1993, does not authorize any person or entity to engage in activities or to conspire to engage in activities that would constitute per se violations of state and federal anti-trust laws including but not limited to conspiracies or agreements:

(a) Among competing health care providers not to grant discounts, not to provide services, or to fix the price of their services;

(b) Among certified health plans as to the price or level of reimbursement for health care services;

(c) Among certified health plans to boycott a group or class of health care service providers;

(d) Among purchasers of certified health plan coverage to boycott a particular plan or class of plans;

(e) Among certified health plans to divide the market for health care coverage; or

(f) Among certified health plans and purchasers to attract or discourage enrollment of any Washington resident or groups of residents in a certified health plan based upon the perceived or actual risk of loss in including such resident or group of residents in a certified health plan or purchasing group. [1993 c 492 § 447.]

43.72.310 Managed competition—Competitive oversight—Attorney general duties—Anti-trust immunity.

(1) A certified health plan, health care facility, health care provider, or other person involved in the development, delivery, or marketing of health care or certified health plans may request, in writing, that the commission obtain an informal opinion from the attorney general as to whether particular conduct is authorized by chapter 492, Laws of 1993. The attorney general shall issue such opinion within thirty days of receipt of a written request for an opinion or within thirty days of receipt of any additional information requested by the attorney general necessary for rendering an opinion unless extended by the attorney general for good cause shown. If the attorney general concludes that such conduct is not authorized by chapter 492, Laws of 1993, the person or organization making the request may petition the commission for review and approval of such conduct in accordance with subsection (3) of this section.

(2) After obtaining the written opinion of the attorney general and consistent with such opinion, the health services commission:

(a) May authorize conduct by a certified health plan, health care facility, health care provider, or any other person that could tend to lessen competition in the relevant market upon a strong showing that the conduct is likely to achieve the policy goals of chapter 492, Laws of 1993 and a more competitive alternative is impractical;

(b) Shall adopt rules governing conduct among providers, health care facilities, and certified health plans including rules governing provider and facility contracts with certified health plans, rules governing the use of "most favored nation" clauses and exclusive dealing clauses in such contracts, and rules providing that certified health plans in rural areas contract with a sufficient number and type of health care providers and facilities to ensure consumer access to local health care services;

(c) Shall adopt rules permitting health care providers within the service area of a plan to collectively negotiate the terms and conditions of contracts with a certified health plan including the ability of providers to meet and communicate for the purposes of these negotiations; and

(d) Shall adopt rules governing cooperative activities among health care facilities and providers.

(3) A certified health plan, health care facility, health care provider, or any other person involved in the development, delivery, and marketing of health services or certified health plans may file a written petition with the commission requesting approval of conduct that could tend to lessen competition in the relevant market. Such petition shall be filed in a form and manner prescribed by rule of the commission.

The commission shall issue a written decision approving or denying a petition filed under this section within ninety days of receipt of a properly completed written petition unless extended by the commission for good cause shown. The decision shall set forth findings as to benefits and disadvantages and conclusions as to whether the benefits outweigh the disadvantages.

(4) In authorizing conduct and adopting rules of conduct under this section, the commission with the advice of the attorney general, shall consider the benefits of such conduct in furthering the goals of health care reform including but not limited to:

(a) Enhancement of the quality of health services to consumers;

(b) Gains in cost efficiency of health services;

(c) Improvements in utilization of health services and equipment;

(d) Avoidance of duplication of health services resources; or

(e) And as to (b) and (c) of this subsection: (i) Facilitates the exchange of information relating to performance expectations; (ii) simplifies the negotiation of delivery arrangements and relationships; and (iii) reduces the transactions costs on the part of certified health plans and providers in negotiating more cost-effective delivery arrangements.

These benefits must outweigh disadvantages including and not limited to:

(i) Reduced competition among certified health plans, health care providers, or health care facilities;

(ii) Adverse impact on quality, availability, or price of health care services to consumers; or

(iii) The availability of arrangements less restrictive to competition that achieve the same benefits.

(5) Conduct authorized by the commission shall be deemed taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(6) With the assistance of the attorney general's office, the commission shall actively supervise any conduct authorized under this section to determine whether such conduct or rules permitting certain conduct should be continued and whether a more competitive alternative is practical. The commission shall periodically review petitioned conduct through, at least, annual progress reports from petitioners, annual or more frequent reviews by the commission that evaluate whether the conduct is consistent with the petition, and whether the benefits continue to outweigh any disadvantages. If the commission determines that the likely benefits of any conduct approved through rule, petition, or otherwise by the commission no longer outweigh the disadvantages attributable to potential reduction in competition, the commission shall order a modification or discontinuance of such conduct. Conduct ordered discontinued by the commission shall no longer be deemed to be taken pursuant to state statute and in the furtherance of the public purposes of the state of Washington.

(7) Nothing contained in chapter 492, Laws of 1993 is intended to in any way limit the ability of rural hospital districts to enter into cooperative agreements and contracts pursuant to RCW 70.44.450 and chapter 39.34 RCW. [1993 c 492 § 448.]

43.72.800 Long-term care integration plan. (1) To meet the health needs of the residents of Washington state, it is critical to finance and provide long-term care and support services through an integrated, comprehensive system that promotes human dignity and recognizes the individuality of all functionally disabled persons. This system shall be available, accessible, and responsive to all residents based upon an assessment of their functional disabilities. The governor and the legislature recognize that families, volunteers, and community organizations are essential for the delivery of effective and efficient long-term care and support services, and that this private and public service infrastructure should be supported and strengthened. Further, it is important to provide benefits without requiring family or program beneficiary impoverishment for service eligibility.

(2) To realize the need for a strong long-term care system and to carry out the November 30, 1992, final recommendations of the Washington health care cost control and access commission, established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990, related to long-term care, the commission shall:

(a) Engage in a planning process, in conjunction with an advisory committee appointed for this purpose, for the inclusion of long-term care services in the uniform benefits package established under RCW 43.72.130 by July 1999;

(b) Include in its planning process consideration of the scope of services to be covered, the cost of and financing of such coverage, the means through which existing long-term care programs and delivery systems can be coordinated and integrated, and the means through which family members can be supported in their role as informal caregivers for their parents, spouses, or other relatives.

(3) The commission shall submit recommendations concerning any necessary statutory changes or modifications of public policy to the governor and the legislature by January 1, 1995.

(4) The departments of health, retirement systems, revenue, social and health services, and veterans' affairs, the offices of financial management, insurance commissioner, and state actuary, along with the health care authority, shall participate in the review of the long-term care needs enumerated in this section and provide necessary supporting documentation and staff expertise as requested by the commission.

(5) The commission shall include in its planning process, the development of two social health maintenance organization long-term care pilot projects. The two pilot projects shall be referred to as the Washington life care pilot projects. Each life care pilot program shall be a single-entry system administered by an individual organization that is responsible for bringing together a full range of medical and long-term care services. The commission, in coordination with the appropriate agencies and departments, shall establish a Washington life care benefits package that shall include the uniform benefits package established in chapter 492, Laws of 1993 and long-term care services. The Washington life care benefits package shall include, but not be limited to, the following long-term care services: Case management, intake and assessment, nursing home care, adult family home care, home health and home health aide care, hospice, chore services/homemaker/personal care, adult day care, respite

care, and appropriate social services. The pilot project shall develop assessment and case management protocol that emphasize home and community-based care long-term care options.

(a) In designing the pilot projects, the commission shall address the following issues: Costs for the long-term care benefits, a projected case-mix based upon disability, the required federal waiver package, reimbursement, capitation methodology, marketing and enrollment, management information systems, identification of the most appropriate case management models, provider contracts, and the preferred organizational design that will serve as a functioning model for efficiently and effectively transitioning long-term care services into the uniform benefits package established in chapter 492, Laws of 1993. The commission shall also be responsible for establishing the size of the two membership pools.

(b) Each program shall enroll applicants based on their level of functional disability and personal care needs. The distribution of these functional level categories and ethnicity within the enrolled program population shall be representative of their distribution within the community, using the best available data to estimate the community distributions.

(c) The two sites selected for the Washington life care pilot program[s] shall be drawn from the largest urban areas and include one site in the eastern part of the state and one site in the western part of the state. The two organizations selected to manage and coordinate the life care services shall have the proven ability to provide ambulatory care, personal care/chore services, dental care, case management and referral services, must be accredited and licensed to provide long-term care for home health services, and may be licensed to provide nursing home care.

(d) The report on the development and establishment date of the two social health maintenance organizations shall be submitted to the governor and appropriate committees of the legislature by September 16, 1994. If the necessary federal waivers cannot be secured by January 1, 1995, the commission may elect to not establish the two pilot programs. [1993 c 492 § 457.]

43.72.810 Code revisions and waivers. (1) The commission shall determine the state and federal laws that would need to be repealed, amended, or waived to implement chapter 492, Laws of 1993, and report its recommendations, with proposed revisions to the Revised Code of Washington, to the governor, and appropriate committees of the legislature by July 1, 1994.

(2) The governor, in consultation with the commission, shall take the following steps in an effort to receive waivers or exemptions from federal statutes necessary to fully implement chapter 492, Laws of 1993 to include, but not be limited to:

(a) Negotiate with the United States congress and the federal department of health and human services, health care financing administration to obtain a statutory or regulatory waiver of provisions of the medical assistance statute, Title XIX of the federal social security act that currently constitute barriers to full implementation of provisions of chapter 492,

Laws of 1993 related to access to health services for low-income residents of Washington state. Such waivers shall include any waiver needed to require that: (i) Medical assistance recipients enroll in managed care systems, as defined in chapter 492, Laws of 1993; and (ii) enrollee point of service, cost-sharing levels adopted pursuant to RCW 43.72.130 be applied to medical assistance recipients. In negotiating the waiver, consideration shall be given to the degree to which supplemental benefits should be offered to medicaid recipients, if at all. Waived provisions may include and are not limited to: Categorical eligibility restrictions related to age, disability, blindness, or family structure; income and resource limitations tied to financial eligibility requirements of the federal aid to families with dependent children and supplemental security income programs; administrative requirements regarding single state agencies, choice of providers, and fee for service reimbursement; and other limitations on health services provider payment methods.

(b) Negotiate with the United States congress and the federal department of health and human services, health care financing administration to obtain a statutory or regulatory waiver of provisions of the medicare statute, Title XVIII of the federal social security act that currently constitute barriers to full implementation of provisions of chapter 492, Laws of 1993 related to access to health services for elderly and disabled residents of Washington state. Such waivers shall include any waivers needed to implement managed care programs. Waived provisions include and are not limited to: Beneficiary cost-sharing requirements; restrictions on scope of services; and limitations on health services provider payment methods.

(c) Negotiate with the United States congress and the federal department of health and human services to obtain any statutory or regulatory waivers of provisions of the United States public health services act necessary to ensure integration of federally funded community and migrant health clinics and other health services funded through the public health services act into the health services system established pursuant to chapter 492, Laws of 1993. The commission shall request in the waiver that funds from these sources continue to be allocated to federally funded community and migrant health clinics to the extent that such clinics' patients are not yet enrolled in certified health plans.

(d) Negotiate with the United States congress to obtain a statutory exemption from provisions of the employee retirement income security act that limit the state's ability to ensure that all employees and their dependents in the state comply with the requirement to enroll in certified health plans, and have their employers participate in financing their enrollment in such plans.

(e) Request that the United States congress amend the internal revenue code to treat employee premium contributions to plans, such as the basic health plan or the uniform benefits package offered through a certified health plan, as fully deductible from adjusted gross income.

(3) On or before December 1, 1995, the commission shall report the following to the appropriate committees of the legislature:

(a) The status of its efforts to obtain the waivers provided in subsection (2) of this section;

(b) If all federal statutory or regulatory waivers necessary to fully implement chapter 492, Laws of 1993 have not been obtained:

(i) The extent to which chapter 492, Laws of 1993 can be implemented without receipt of all of such waivers; and

(ii) Changes in chapter 492, Laws of 1993 necessary to implement a residency-based health services system using one or a limited number of sponsors, or an alternative system that will ensure access to care and control health services costs. [1993 c 492 § 474.]

43.72.820 Reports of health care cost control and access commission. In carrying out its powers and duties under chapter 492, Laws of 1993, the design of the uniform benefits package, and the development of guidelines and standards, the commission shall consider the reports of the health care cost control and access commission established under House Concurrent Resolution No. 4443 adopted by the legislature in 1990. Nothing in chapter 492, Laws of 1993 requires the commission to follow any specific recommendation contained in those reports except as it may also be included in chapter 492, Laws of 1993 or other law. [1993 c 492 § 475.]

43.72.830 Legislative budget committee evaluations, plans, and studies. (1) By July 1, 1997, the legislative budget committee either directly or by contract shall conduct the following study:

A study to determine the desirability and feasibility of consolidating the following programs, services, and funding sources into the delivery and financing of uniform benefits package services through certified health plans:

(a) State and federal veterans' health services;

(b) Civilian health and medical program of the uniformed services (CHAMPUS) of the federal department of defense and other federal agencies; and

(c) Federal employee health benefits.

(2) The legislative budget committee shall evaluate the implementation of the provisions of chapter 492, Laws of 1993. The study shall determine to what extent chapter 492, Laws of 1993 has been implemented consistent with the principles and elements set forth in chapter 492, Laws of 1993 and shall report its findings to the governor and appropriate committees of the legislature by July 1, 2003. [1993 c 492 § 476.]

43.72.840 Reform effort evaluation. The office of financial management may undertake or facilitate evaluations of health care reform, including analysis of fiscal and economic impacts, the effectiveness of managed care and managed competition, and effects of reform on access and quality of service. [1993 c 492 § 478.]

43.72.850 Workers' compensation medical benefits. On or before January 1, 1995, the health services commission, in coordination with the department of labor and industries and the workers' compensation advisory committee, shall study and make an interim report, and on or before January 1, 1996, a final report, to the governor and appropriate committees of the legislature on the provision of medical benefits for injured workers under a consolidated health care

system. The study shall include a review of options and recommendations for modifying the industrial insurance system to provide medical services for injured workers in a more cost-effective manner under a consolidated system, and may include consideration of the purchase of industrial insurance medical benefits through the health care authority or the inclusion of industrial insurance medical benefits in the services offered by certified health plans or other appropriate options. The commission should also give consideration to at least the following issues: The use of managed care and the effect of managed care options on the injured workers' choice of health services provider; the potential cost savings or other impacts of various consolidation options; the benefit structure required under industrial insurance; the potential for consolidation to meet or exceed existing medical cost management of the medical aid fund; the impact of separating the medical management of claims from the disability management of claims; the relationship between return-to-work efforts, medical services, and disability prevention; the relationship between medical services and rehabilitation services; and the effects of the quasi-judicial system that determines industrial insurance rights and obligations. In addition, the final report shall include a proposed plan and timeline for including the medical benefits of the industrial insurance system in the services offered by certified health plans. The proposed plan shall assure that:

(1) The plan shall not take effect until at least ninety-seven percent of state residents have access to the uniform benefits package as required in chapter 492, Laws of 1993;

(2) The uniform benefits package of the certified health plan will provide benefits for injured workers that are at least equivalent to the medical benefits provided to injured workers under Title 51 RCW as determined by the department of labor and industries as of the effective date of the plan, including payments for services that are ancillary to industrial insurance medical benefits, such as but not limited to medical examinations for permanent disabilities;

(3) Other nonmedical benefits required to be provided under Title 51 RCW, such as but not limited to total or partial disability benefits or vocational rehabilitation benefits, are not affected;

(4) Employers who do not choose to become certified health plans under chapter 492, Laws of 1993, will continue to be required to provide industrial insurance medical benefits under Title 51 RCW;

(5) Employees participating in the plan shall not be required to pay deductibles, copayments, or other point of service charges for services related to industrial insurance injuries or diseases, such costs to be paid by the department of labor and industries or self-insured employer, as applicable;

(6) The plan includes a mechanism to return to workers and employers, in equal shares, any savings that are realized in the costs of medical services for injured workers, as identified by the department of labor and industries;

(7) The majority of the employer's employees or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative voluntarily agree to the employer's participation in the plan. [1993 c 492 § 485.]

Crime victims' compensation medical benefits—1993 c 492: "(1) On or before January 1, 1995, the department of labor and industries in coordination with the [health services] commission, shall complete a study

related to the medical services component of the crime victims' compensation program of the department of labor and industries. The goal of the study shall be to determine whether and how the medical services component of the crime victims' compensation program can be modified to provide appropriate medical services to crime victims in a more cost-effective manner. In conducting the study, consideration shall be given to at least the following factors: Required benefit design, necessary statutory changes, and the use of managed care to provide services to crime victims. The study shall evaluate at least the following options:

(a) Whether the medical services component of the crime victims' compensation program should be maintained within the department of labor and industries, and its purchasing and other practices modified to control costs and increase efficacy of health services provided to crime victims;

(b) Whether the medical services component of the crime victims' compensation program should be administered by the health care authority as the state health care purchasing agent;

(c) Whether the medical services component of the crime victims' compensation program should be included in the services offered by certified health plans.

(2) The department of labor and industries shall present the recommendations to the governor and the appropriate committees of the legislature by January 1, 1995." [1993 c 492 § 483.]

43.72.860 Managed care pilot projects. (1) The department of labor and industries, in consultation with the workers' compensation advisory committee, may conduct pilot projects to purchase medical services for injured workers through managed care arrangements. The projects shall assess the effects of managed care on the cost and quality of, and employer and employee satisfaction with, medical services provided to injured workers.

(2) The pilot projects may be limited to specific employers. The implementation of a pilot project shall be conditioned upon a participating employer and a majority of its employees, or, if the employees are represented for collective bargaining purposes, the exclusive bargaining representative, voluntarily agreeing to the terms of the pilot. Unless the project is terminated by the department, both the employer and employees are bound by the project agreements for the duration of the project.

(3) Solely for the purpose and duration of a pilot project, the specific requirements of Title 51 RCW that are identified by the department as otherwise prohibiting implementation of the pilot project shall not apply to the participating employers and employees to the extent necessary for conducting the project. Managed care arrangements for the pilot projects may include the designation of doctors responsible for the care delivered to injured workers participating in the projects.

(4) The projects shall conclude no later than January 1, 1996. The department shall present the results of the pilot projects and any recommendations related to the projects to the governor and appropriate committees of the legislature on or before October 1, 1996. [1993 c 492 § 486.]

43.72.870 Tax credits—Recommend legislation. No later than January 1, 1997, the commission shall recommend legislation establishing a program for tax credits under chapter 82.04 RCW for employers with fewer than five hundred full-time equivalent employees, that provides a credit against the amount of employer tax. The credit shall be in an amount equal to a proportion of the cost of premium contributions made by such employer on behalf of dependents of employees under chapter 492, Laws of 1993. The proposed legislation shall limit the tax credit based on

the criteria set forth in RCW 43.72.240. The tax credit shall not exceed forty percent of the employer's actual premium paid on behalf of dependents of employees. [1993 c 494 § 5.]

43.72.900 Health services account. The health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and expanding health services access for low-income residents, maintaining and expanding the public health system, maintaining and improving the capacity of the health care system, managing health care costs, and the regulation, planning, and administering of the health care system. [1993 c 492 § 469.]

43.72.902 Public health services account. The public health services account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended only for maintaining and improving the health of Washington residents through the public health system. For purposes of this section, the public health system shall consist of the state board of health, the state department of health, and local health departments and districts. Funds appropriated from this account to local health departments and districts shall be distributed ratably based on county population as last determined by the office of financial management. [1993 c 492 § 470.]

43.72.904 Health system capacity account. The health system capacity account is created in the state treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the following purposes: Health data systems; health systems and public health research; health system regulation; health system planning, development, and administration; and improving the supply and geographic distribution of primary health service providers. [1993 c 492 § 471.]

43.72.906 Personal health services account. The personal health services account is created in the [state] treasury. Moneys in the account may be spent only after appropriation. Moneys in the account may be expended for the support of subsidized personal health services for low-income Washington residents. [1993 c 492 § 472.]

43.72.910 Short title—1993 c 492. This act may be known and cited as the Washington health services act of 1993. [1993 c 492 § 487.]

43.72.911 Severability—1993 c 492. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 492 § 490.]

43.72.912 Savings—1993 c 492. The enactment of this act does not have the effect of terminating, or in any way modifying, any obligation or any liability, civil or

criminal, which was already in existence on the effective date of this act. [1993 c 492 § 491.]

43.72.913 Captions not law—1993 c 492. Captions used in this act do not constitute any part of the law. [1993 c 492 § 492.]

43.72.914 Reservation of legislative power—1993 c 492. The legislature reserves the right to amend or repeal all or any part of this act at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this act or any acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time. [1993 c 492 § 494.]

43.72.915 Effective dates—1993 sp.s. c 25; 1993 c 492 §§ 301-303. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993, except for:

- (1) Sections 234 through 257 of this act, which shall take effect July 1, 1995; and
- (2) Sections 301 through 303 of this act, which shall take effect January 1, 1994. [1993 sp.s. c 25 § 603; 1993 c 492 § 495.]

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

43.72.916 Effective date—1993 c 494. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 494 § 8.]

Chapter 43.75

STATE BUILDING AUTHORITY— INDEBTEDNESS—REFUNDING—BOND ISSUE

Sections

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| 43.75.200 | General obligation bonds—Refunding—Amount—Authority of state finance committee to issue. |
| 43.75.205 | General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption. |
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| 43.75.910 | Effective date—1973 c 9. |

43.75.200 General obligation bonds—Refunding—Amount—Authority of state finance committee to issue. The state finance committee shall issue general obligation bonds of the state in the amount of seventy-two million one hundred sixty-seven thousand, six hundred fifty dollars, or so much thereof as may be required to refund, at or prior to maturity, all indebtedness, including any premium payable with respect thereto and all interest thereon, incurred by the Washington state building authority and to pay all costs incidental thereto and to the issuance of such bonds. Such

refunding bonds shall not constitute an indebtedness of the state of Washington within the meaning of the debt limitation contained in section 1 of Article VIII of the Washington state Constitution, as amended by a vote of the people pursuant to HJR 52, 1971 regular session. [1973 c 9 § 1; 1971 ex.s. c 154 § 1.]

43.75.205 General obligation bonds—Form, terms, covenants, etc.—Sale—Redemption. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds. Such bonds shall be payable at such places as the committee may provide.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due.

The proceeds from the sale of bonds authorized by this chapter and any interest earned on the interim investment of such proceeds, shall be used exclusively for the purposes specified in this chapter. [1973 c 9 § 2.]

43.75.215 General obligation bonds—Redemption—Enforcement. The state finance committee shall on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet retirement and interest requirements of such bonds, and on July 1st of each year the state treasurer shall deposit from any general state revenues such amount in the state building authority bond redemption fund hereby created in the state treasury. The owner and holder of each of the bonds or the trustee for any of the bondholders may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed by this section. [1973 c 9 § 3.]

43.75.225 Rescission of leases and agreements authorized. The Washington state building authority and the state institutions of higher learning and other state agencies are hereby authorized to rescind leases and other agreements entered into prior to February 21, 1973, pursuant to chapter 43.75 RCW at such time as all indebtedness incurred by the authority has been paid. [1973 c 9 § 5.]

43.75.230 Legislature may provide additional means for paying bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized by this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1973 c 9 § 6.]

43.75.235 Bonds legal investment for state and other public body funds. The bonds authorized by this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 c 9 § 7.]

43.75.900 Severability—1973 c 9. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 c 9 § 9.]

43.75.910 Effective date—1973 c 9. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions and, except as otherwise specifically provided, shall take effect immediately. [1973 c 9 § 10.]

Chapter 43.78

PUBLIC PRINTER—PUBLIC PRINTING

Sections	
43.78.010	Appointment of public printer.
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43.78.030	Duties—Exceptions.
43.78.040	Requisitions.
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43.78.130	Public printing for municipal corporations must be done in state—Exceptions.
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43.78.160	Public printing for municipal corporations must be done in state—Quality and workmanship requirements.
43.78.170	Recycled content requirement.

43.78.010 Appointment of public printer. There shall be a public printer appointed by the governor with the advice and consent of the senate, who shall hold office at the pleasure of the governor and until his successor is appointed and qualified. [1981 c 338 § 6; 1965 c 8 § 43.78.010. Prior: 1905 c 168 § 1; RRS § 10323.]

43.78.020 Bond. Before entering upon the duties of his office, the public printer shall execute to the state a bond in the sum of ten thousand dollars conditioned for the faithful and punctual performance of all duties and trusts of his office. [1965 c 8 § 43.78.020. Prior: 1933 c 97 § 4; 1905 c 168 § 2; RRS § 10324.]

43.78.030 Duties—Exceptions. The public printer shall print and bind the session laws, the journals of the two houses of the legislature, all bills, resolutions, documents, and other printing and binding of either the senate or house, as the same may be ordered by the legislature; and such

forms, blanks, record books, and printing and binding of every description as may be ordered by all state officers, boards, commissions, and institutions, and the supreme court, and the court of appeals and officers thereof, as the same may be ordered on requisition, from time to time, by the proper authorities. This section shall not apply to the printing of the supreme court and the court of appeals reports, to the printing of bond certificates or bond offering disclosure documents, to the printing of educational publications of the state historical societies, or to any printing done or contracted for by institutions of higher education: PROVIDED, That institutions of higher education, in consultation with the public printer, develop vendor selection procedures comparable to those used by the public printer for contracted printing jobs. Where any institution or institution of higher learning of the state is or may become equipped with facilities for doing such work, it may do any printing: (1) For itself, or (2) for any other state institution when such printing is done as part of a course of study relative to the profession of printer. Any printing and binding of whatever description as may be needed by any institution or agency of the state department of social and health services not at Olympia, or the supreme court or the court of appeals or any officer thereof, the estimated cost of which shall not exceed one thousand dollars, may be done by any private printing company in the general vicinity within the state of Washington so ordering, if in the judgment of the officer of the agency so ordering, the saving in time and processing justifies the award to such local private printing concern.

Beginning on July 1, 1989, and on July 1 of each succeeding odd-numbered year, the dollar limit specified in this section shall be adjusted as follows: The office of financial management shall calculate such limit by adjusting the previous biennium's limit by an appropriate federal inflationary index reflecting the rate of inflation for the previous biennium. Such amounts shall be rounded to the nearest fifty dollars. [1994 c 82 § 1; 1993 c 379 § 104; 1988 c 102 § 1; 1987 c 72 § 1; 1982 c 164 § 2; 1971 c 81 § 114; 1965 c 8 § 43.78.030. Prior: 1959 c 88 § 1; 1917 c 129 § 1; 1915 c 27 § 2; 1905 c 168 § 3; RRS § 10325.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

Commission on supreme court reports, member: RCW 2.32.160.

Promotional printing for

apple advertising commission, exemption: RCW 15.24.085.

beef commission, exemption: RCW 16.67.170.

dairy products commission, exemption: RCW 15.24.085.

fruit commission, exemption: RCW 15.24.085.

honey bee commission, exemption: RCW 15.62.190.

Session laws, legislative journals, delivery to law librarian: RCW 40.04.030.

43.78.040 Requisitions. All printing and binding shall be done under the general superintendence of the authorities ordering it, and when completed shall be delivered to such authorities, who shall sign receipts therefor.

Before the public printer shall execute any printing or binding for any office, board, commission, or institution, the proper officer thereof shall apply therefor by requisition. [1965 c 8 § 43.78.040. Prior: 1905 c 168 § 4; RRS § 10326.]

43.78.050 Itemized statement of charges. Upon delivering a printing or binding job and receiving a receipt therefor the public printer shall make out, and deliver to the requesting agency an itemized statement of charges. [1965 c 8 § 43.78.050. Prior: 1905 c 168 § 5, part; RRS § 10327.]

43.78.070 Use of state plant—Conditions—Public printer's salary. The public printer shall use the state printing plant upon the following conditions, to wit:

(1) He shall do the public printing, and charge therefor the fees as provided by law. He may print the Washington Reports for the publishers thereof under a contract approved in writing by the governor.

(2) The gross income of the public printer shall be deposited in an account designated "state printing plant revolving fund" in depositaries approved by the state treasurer, and shall be disbursed by the public printer by check and only as follows:

First, in payment of the actual cost of labor, material, supplies, replacements, repairs, water, light, heat, telephone, rent, and all other expenses necessary in the operation of the plant: PROVIDED, That no machinery shall be purchased except on written approval of the governor;

Second, in payment of the cost of reasonable insurance upon the printing plant, payable to the state and of all fidelity bonds required by law of the public printer;

Third, in payment to the public printer of a salary which shall be fixed by the governor in accordance with the provisions of RCW 43.03.040;

Fourth, in remitting the balance to the state treasurer for the general fund: PROVIDED, That a reasonable sum to be determined by the governor, the public printer, and the director of financial management shall be retained in the fund for working capital for the public printer. [1979 c 151 § 134; 1965 c 8 § 43.78.070. Prior: 1961 c 307 § 5; 1955 c 340 § 12; 1951 c 151 § 1; 1933 c 97 § 3; RRS § 10327-2.]

43.78.080 Printing specifications. All printing, ruling, binding, and other work done or supplies furnished by the state printing plant for the various state departments, commissions, institutions, boards, and officers shall be paid for on an actual cost basis as determined from a standard cost finding system to be maintained by the state printing plant. In no event shall the price charged the various state departments, commissions, institutions, boards, and officers exceed those established by the Porte Publishing Company's Franklin Printing Catalogue for similar and comparable work. All bills for printing, ruling, binding, and other work done or for supplies furnished by the state printing plant shall be certified and sworn to by the public printer.

The public printing shall be divided into the following classes:

FIRST CLASS. The bills, resolutions, and other matters that may be ordered by the legislature, or either branch thereof, in bill form, shall constitute the first class, and shall be printed in such form as the legislature shall provide.

SECOND CLASS. The second class shall consist of printing and binding of journals of the senate and house of

representatives, and the annual and biennial reports of the several state officers, state commissions, boards, and institutions, with the exception of the reports of the attorney general and the governor's message to the legislature, which shall be printed and bound in the same style as heretofore. Said journals and reports shall be printed in such form as the senate and house of representatives and the various state officers, commissions, boards, and institutions shall respectively provide.

THIRD CLASS. The third class shall consist of all reports, communications, and all other documents that may be ordered printed in book form by the legislature or either branch thereof, and all reports, books, pamphlets, and other like matter printed in book form required by all state officers, boards, commissions, and institutions shall be printed in such form and style, and set in such size type, and printed on such grade of paper as may be desired by the state officer, board, commission, or institution ordering them, and which they think will best serve the purpose for which intended.

FOURTH CLASS. The fourth class shall consist of the session laws, and shall be printed and bound in such form as the statute law committee shall provide.

FIFTH CLASS. The fifth class shall consist of the printing of all stationery blanks, record books, and circulars, and all printing and binding required by the respective state officers, boards, commissions, and institutions not covered by classes one, two, three, and four. [1972 ex.s. c 1 § 1; 1969 c 6 § 7; 1965 c 8 § 43.78.080. Prior: 1955 c 16 § 1; 1943 c 124 § 1; 1935 c 130 § 1; 1919 c 37 § 1; 1917 c 129 § 3; 1905 c 168 § 6; RRS § 10329.]

43.78.090 Reprinting. Whenever required by law or by the legislature or by any state officer, board, commission, or institution the public printer shall keep the type used in printing any matter forming a part of the first, second, third, and fourth classes standing for a period not exceeding sixty days for use in reprinting such matter. [1965 c 8 § 43.78.090. Prior: 1935 c 130 § 2; 1919 c 37 § 2; 1907 c 174 § 1; RRS § 10330.]

43.78.100 Stock to be furnished. The public printer shall furnish all paper, stock, and binding materials required in all public work, and shall charge the same to the state, as it is actually used, at the actual price at which it was purchased plus five percent for waste, insurance, storage, and handling. This section does not apply to institutions of higher education. [1993 c 379 § 106; 1965 c 8 § 43.78.100. Prior: 1917 c 129 § 5; 1905 c 168 § 9; RRS § 10333.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.105 Printing for institutions of higher education—Interlocal agreements. The public printer may use the state printing plant for the purposes of printing or furnishing materials under RCW 43.78.100 if an interlocal agreement under chapter 39.34 RCW has been executed between an institution of higher education and the public printer. [1993 c 379 § 105.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.110 Securing printing from private sources—Farming out. Whenever in the judgment of the public printer certain printing, ruling, binding, or supplies can be secured from private sources more economically than by doing the work or preparing the supplies in the state printing plant, the public printer may obtain such work or supplies from such private sources.

In event any work or supplies are secured on behalf of the state under this section the state printing plant shall be entitled to add up to five percent to the cost thereof to cover the handling of the orders which shall be added to the bills and charged to the respective authorities ordering the work or supplies. The five percent handling charge shall not apply to contracts with institutions of higher education. [1993 c 379 § 107; 1982 c 164 § 3; 1969 c 79 § 1; 1965 c 8 § 43.78.110. Prior: 1935 c 130 § 3; RRS § 10333-1.]

Intent—Severability—Effective date—1993 c 379: See notes following RCW 28B.10.029.

43.78.130 Public printing for municipal corporations must be done in state—Exceptions. All printing, binding, and stationery work done for any county, city, town, port district, or school district in this state shall be done within the state, and all proposals, requests, or invitations to submit bids, prices, or contracts thereon, and all contracts for such work, shall so stipulate: PROVIDED, That whenever it is established that any such work cannot be executed within the state, or that the lowest charge for which it can be procured within the state, exceeds the charge usually and customarily made to private individuals and corporations for work of similar character and quality, or that all bids for the work or any part thereof are excessive and not reasonably competitive, the officers of any such public corporation may have the work done outside the state. [1965 c 8 § 43.78.130. Prior: 1919 c 80 § 1; RRS § 10335.]

43.78.140 Public printing for municipal corporations must be done in state—Allowance of claims. No bill or claim for any such work shall be allowed by any officer of a public corporation or be paid out of its funds, unless it appears that the work was executed within the state or that the execution thereof within the state could not have been procured, or procured at reasonable and competitive rates, and no action shall be maintained against such corporation or its officers upon any contract for such work unless it is alleged and proved that the work was done within the state or that the bids received therefor were unreasonable or not truly competitive. [1965 c 8 § 43.78.140. Prior: 1919 c 80 § 2; RRS § 10336.]

43.78.150 Public printing for municipal corporations must be done in state—Contracts for out-of-state work. All contracts for such work to be done outside the state shall require that it be executed under conditions of employment which shall substantially conform to the laws of this state respecting hours of labor, the minimum wage scale, and the rules and regulations of the department of labor and industries regarding conditions of employment, hours of labor, and minimum wages, and shall be favorably comparable to the labor standards and practices of the lowest competent bidder within the state, and the violation of any

such provision of any contract shall be ground for cancellation thereof. [1994 c 164 § 12; 1973 1st ex.s. c 154 § 86; 1965 c 8 § 43.78.150. Prior: 1953 c 287 § 1; 1919 c 80 § 3; RRS § 10337.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

43.78.160 Public printing for municipal corporations must be done in state—Quality and workmanship requirements. Nothing in RCW 43.78.130, 43.78.140 and 43.78.150 shall be construed as requiring any public official to accept any such work of inferior quality or workmanship. [1965 c 8 § 43.78.160. Prior: 1919 c 80 § 4; RRS § 10338.]

43.78.170 Recycled content requirement. The public printer shall take all actions consistent with the plan under RCW 43.19A.050 to ensure that seventy-five percent or more of the total dollar amount of printing paper stock used by the printer is recycled content paper by January 1, 1995. [1991 c 297 § 10.]

Captions not law—1991 c 297: See RCW 43.19A.900.

Chapter 43.79 STATE FUNDS

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- 43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University.
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- 43.79.445 Death investigations account—Disbursal.
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Access roads revolving fund: RCW 79.38.050.

- Accounting for: RCW 43.88.160.
- Aeronautics account created, aircraft fuel tax proceeds deposited in: RCW 82.42.090.
- Antitrust revolving fund: RCW 43.10.215.
- Arbitration of labor disputes: RCW 49.08.060.
- Auditing services revolving fund: RCW 43.09.410.
- Basic data fund: RCW 43.21.140, 43.21.141.
- Capitol building construction account: Chapter 79.24 RCW.
- Capitol purchase and development account
deposit of moneys received from management of east capitol site in: RCW 79.24.570.
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- Cemetery fund: Chapter 68.05 RCW.
- Central operating fund: RCW 74.08.278.
- Central stores revolving fund: RCW 43.19.1925.
- Cerebral palsy: RCW 70.82.021, 70.82.022.
- Community and economic development fee account: RCW 43.330.155.
- Community services revolving fund: RCW 9.95.360.
- Contingency fire suppression account: RCW 76.04.620.
- Department of general administration facilities and services revolving fund: RCW 43.19.500.
- Department of personnel service fund: RCW 41.06.280.
- Department of retirement systems expense fund: RCW 41.50.110.
- Depositaries, state moneys or funds defined for purposes of: RCW 43.85.200.
- Disbursement by warrant or check: RCW 43.88.160.
- Distribution to annexed areas, basis for: RCW 35.13.260.
- Electrical license account, designation of: RCW 19.28.330.
- Environmental and forest restoration account: RCW 43.21.020.
- Fair fund
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moneys from lease of state lands by director of agriculture to go into: RCW 15.04.090.
- Federal forest revolving fund: RCW 28A.520.010 and 28A.520.020.
- Ferries revolving fund: RCW 47.60.170.
- Flood control contributions: Chapter 86.18 RCW.
- Forest development account: Chapter 76.12 RCW.
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- General administration funds: Chapter 43.82 RCW.
- General fund
aircraft dealers license and certificate fees deposited in: RCW 14.20.060.
aircraft registration fees deposited in: RCW 47.68.250.
appropriations by legislature (for common school purposes): RCW 28A.150.380.
architects license account created in: RCW 18.08.240.
boxing, sparring, and wrestling contests: RCW 67.08.050.
camping resort fines deposited in: RCW 19.105.380.
cerebral palsy: RCW 70.82.021, 70.82.022.
commercial feed account: RCW 15.53.9044.
commission merchants' account, fees paid into: RCW 20.01.130.
electrical licenses account: RCW 19.28.330.
elevators, escalators and dumbwaiter fees deposited in: RCW 70.87.210.
escheats, sale of property deposited in: RCW 11.08.120.
forest development account: Chapter 76.12 RCW.
horse racing money paid into: RCW 67.16.100.
liquor excise taxes paid into: RCW 82.08.160.
marine fuel tax refund account: RCW 43.99.040.
moneys collected under chapter 15.36 RCW to go into: RCW 15.36.491.
monthly financial report of state treasurer as to: RCW 43.08.150.
motor vehicle excise taxes, apportionment and distribution: RCW 82.44.150.
motor vehicle use tax revenues deposited in: RCW 82.12.045.
old age assistance grants charged against: RCW 74.08.370.
optometry account created, disposition of fees into: RCW 18.53.050.
outdoor recreation account: RCW 43.99.060.
parks and parkways, fund for, deposits in: RCW 36.82.210.
pilotage account: RCW 88.16.061.
proceeds from sale of insurance code: RCW 48.02.180.
professional engineers' account established, disposition of fees into: RCW 18.43.080, 18.43.150.
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real estate commission account, license fees: RCW 18.85.220.
reclamation revolving account, generally: RCW 89.16.020 through 89.16.040, 90.16.090.
school apportionment from: RCW 28A.510.250.
seed account, moneys collected under seed law to go into: RCW 15.49.470.
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state educational grant account: RCW 28B.10.821.
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state general fund support to public schools—School district reimbursement programs: Chapter 28A.150 RCW.
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- Grain inspection revolving fund: RCW 22.09.830.
- Highway bond retirement funds: Chapter 47.10 RCW.
- Highway equipment fund: RCW 47.08.120, 47.08.121.
- Highway safety fund
ability to respond in damages abstract fee deposited in: RCW 46.29.050.
county road and bridge violations, fines paid into: RCW 36.82.210.
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fees for copies of motor vehicle licensing records to go into: RCW 46.01.250.
for-hire motor vehicle certificates and operators' permits, moneys from to go into: RCW 46.72.110.
moneys accruing from fees for motor vehicle operators' licenses to go into: RCW 46.68.041.
moneys for abstracts of operating records to go into: RCW 46.52.130.
operating record abstract fee deposited in: RCW 46.29.050.
- Hop inspection fund: RCW 22.09.830.
- Horticultural inspection trust fund, use: RCW 15.04.100.
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- Juvenile correctional institution building bond redemption fund: RCW 72.19.100.
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- Liability account: RCW 4.92.130.
- Liquor excise tax fund: RCW 82.08.160, 82.08.170.
- Liquor revolving fund: RCW 66.08.170.
- Log patrol revolving fund, brand and mark registration fees deposited in: RCW 76.36.160.
- Manufactured home installation training account: RCW 43.63B.080.
- Marine fuel tax refund account: RCW 43.99.040.
- Marketing act revolving fund: RCW 15.65.460.
- Medical aid fund: RCW 51.44.020.
- Monthly financial report of state treasurer as to: RCW 43.08.150.
- Morrill fund: RCW 28B.30.275.
- Motor vehicle fund
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vehicle license proceeds, deposits in: RCW 46.68.030.
- Municipal revolving fund: RCW 43.09.282.
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- OASI contribution account: RCW 41.48.060.
- Outdoor recreation account, disposition of outdoor recreational bond issue proceeds in: RCW 43.99.060.
- Oyster reserve fund, proceeds from sale or lease of oyster reserves paid into: RCW 79.96.110.

Parks and parkways account abolished: RCW 43.79.405.

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disposition of outdoor recreational facilities bond issue proceeds in: RCW 43.98.020.

Permanent common school fund: State Constitution Art. 9 § 2.
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banks and trust companies, liquidation and winding up dividends unclaimed deposited in: RCW 30.44.150, 30.44.180.
personal property, proceeds deposited in: RCW 30.44.220.

credit union unclaimed funds on liquidation escheat to: Chapter 31.12 RCW.

defalcation, fraud or mismanagement losses borne by state, interest: RCW 28A.515.310.

enlargement authorized: State Constitution Art. 9 § 3.

game and game fish lands, withdrawn from lease, payment of amount of lease into: RCW 77.12.360.

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to be applied to common schools: State Constitution Art. 9 § 2.
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investment, what securities: State Constitution Art. 16 § 5.

losses from, how made good: State Constitution Art. 9 § 5.

permanent and irreducible: State Constitution Art. 9 § 3; RCW 28A.515.300.

proceeds of lands and property reverting to state: RCW 28A.515.300.

safe deposit box contents, unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30.44.220.

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acquired, lease and sale of, proceeds to go into: RCW 79.01.612.
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Printing revolving fund: RCW 43.78.070.

Professional engineers' account established, disposition of fees into: RCW 18.43.080, 18.43.150.

Public assistance, central operating fund: RCW 74.08.278.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

Public safety and education account: RCW 43.08.250.

Public schools building bond redemption funds: Chapter 28A.525 RCW.

Public service revolving fund: RCW 80.01.080.

Puget Sound reserve account

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Resource management cost account: RCW 79.64.020.

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Revolving funds: RCW 43.88.180, 43.88.190.

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State building and higher education construction account, redemption fund: RCW 43.83.074.

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State school equalization fund, motor vehicle excise fund, apportionment and distribution to: RCW 82.44.150.

State trade fair fund

allocations to state trade fairs from: Chapter 43.31 RCW.

horse racing money: RCW 67.16.100.

State treasurer's service fund: RCW 43.08.190.

Statute law committee publications account: RCW 1.08.0392.

Stream gauging fund abolished: RCW 43.21.141.

Surplus property purchase revolving fund: RCW 39.32.030.

Teachers' retirement fund: RCW 41.50.200.

Teachers' retirement pension reserve fund: RCW 41.50.200.

Thurston county capital facilities account: RCW 43.19.501.

Toll bridge authority trust fund for revenues from sale of Puget Sound ferry and toll bridge system bonds: RCW 47.60.150.

Toll bridge funds: Chapter 47.56 RCW.

Traffic safety education account—Moneys from juvenile agricultural driving permits to go into: RCW 46.20.070.

Undistributed receipts account: RCW 43.01.050.

Unemployment compensation funds, generally: RCW 50.16.010, 50.16.020.

University of Washington

bond retirement fund: RCW 28B.20.720.

building account: RCW 28B.15.210.

Volunteer fire fighters' relief and pension principal and administrative funds: RCW 41.24.030.

Washington State University

bond retirement fund: RCW 28B.30.740.

bond retirement fund of 1977—Created—Purpose: RCW 28B.31.060.

building account: RCW 28B.30.730.

Morrill fund: RCW 28B.30.275.

Wildlife fund: Chapter 77.12 RCW.

43.79.010 General fund, how constituted. All moneys paid into the state treasury, except moneys received from taxes levied for specific purposes, and the several permanent and irreducible funds of the state and the moneys derived therefrom, shall be paid into the general fund of the state. [1965 c 8 § 43.79.010. Prior: 1907 c 8 § 1; RRS § 5509.]

43.79.015 Accounts in general fund designated as accounts in state treasury—Credit of earnings to general fund. On and after July 1, 1985, all accounts heretofore or hereafter created in the state general fund shall be designated and treated as accounts in the state treasury. Unless otherwise designated by statute, all earnings on balances of such accounts shall be credited to the general fund. [1985 c 57 § 89.]

Effective date—1985 c 57: See note following RCW 18.04.105.

43.79.020 License fees to general fund. Except as otherwise provided by law, all moneys received as fees for the issuance of licenses upon examination, and the renewal thereof, and paid into the state treasury, shall be credited to the general fund; and all expenses incurred in connection with the examination of applicants for licenses, and the issuance and renewal of licenses upon examination shall be paid by warrants drawn against the general fund. [1965 c 8 § 43.79.020. Prior: 1921 c 81 § 1; RRS § 5511.]

43.79.060 University permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "state university permanent fund," into which shall be paid all moneys derived from the sale of lands granted, held, or devoted to state university purposes. [1965 c 8 § 43.79.060. Prior: 1907 c 168 § 1; RRS § 5518.]

43.79.071 University of Washington fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the University of Washington fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the University of Washington fund, shall be and are hereby transferred to

and placed in the general fund. [1965 c 8 § 43.79.071. Prior: 1955 c 332 § 1.]

43.79.072 University of Washington fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the University of Washington fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.072. Prior: 1955 c 332 § 2.]

43.79.073 University of Washington fund—Abolished. From and after the first day of May, 1955, the University of Washington fund is abolished. [1965 c 8 § 43.79.073. Prior: 1955 c 332 § 3.]

43.79.074 University of Washington fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the University of Washington fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.074. Prior: 1955 c 332 § 4.]

43.79.075 University of Washington fund—Other revenue for support of university. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the University of Washington fund, shall be used for any purpose except the support of the University of Washington. [1965 c 8 § 43.79.075. Prior: 1955 c 332 § 5.]

43.79.080 University building fund. There shall be in the state treasury a fund known and designated as the "University of Washington building account". [1985 c 57 § 36; 1965 c 8 § 43.79.080. Prior: 1915 c 66 § 1; RRS § 5535.]

Effective date—1985 c 57: See note following RCW 18.04.105.

43.79.090 Rentals to building fund—Use of fund. All rentals received on account of that certain lease of the former university site in the city of Seattle, known as the "old university grounds," made and entered into on the first day of February, 1907, by and between the state of Washington, lessor, and James A. Moore, lessee, and thereafter assigned by said lessee to the Metropolitan Building Company, a corporation, shall be paid into and credited to the University of Washington building account in the general fund, to be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings at the state university. [1965 c 8 § 43.79.090. Prior: 1915 c 66 § 7; RRS § 5536.]

43.79.100 Scientific school grant to Washington State University. The one hundred thousand acres of land granted by the United States government to the state for a scientific school in section 17 of the enabling act, are assigned to the support of Washington State University. [1965 c 8 § 43.79.100. Prior: 1917 c 11 § 1; RRS § 5525.]

43.79.110 Scientific permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "scientific permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for a scientific school. The income derived from investments pursuant to RCW 43.84.080 shall be credited to the Washington State University building account less the allocation to the state treasurer's service fund pursuant to RCW 43.08.190. [1991 sp.s. c 13 § 96; 1965 c 8 § 43.79.110. Prior: 1901 c 81 § 4; RRS § 5526.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.79.120 Agricultural college grant to Washington State University. The ninety thousand acres of land granted by the United States government to the state for an agricultural college in section 16 of the enabling act are assigned to the support of Washington State University. [1965 c 8 § 43.79.120.]

43.79.130 Agricultural permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "agricultural permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for an agricultural college. The income derived from investments pursuant to RCW 43.84.080 shall be credited to the Washington State University building account less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190. [1991 sp.s. c 13 § 94; 1965 c 8 § 43.79.130.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.79.140 Washington State University—Moneys paid into general fund for support of. There shall be paid into the state general fund for the support of Washington State University the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the agricultural college and school of science;

(2)—All interest or income arising from the proceeds of the sale of any of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1965 c 8 § 43.79.140. Prior: 1905 c 43 § 2; RRS § 5521.]

43.79.150 Normal school grant to former state colleges of education and The Evergreen State College. The one hundred thousand acres of land granted by the United States government to the state for state normal schools in section 17 of the enabling act are assigned to the support of the regional universities, which were formerly the state colleges of education and to The Evergreen State College. [1993 c 411 § 3; 1977 ex.s. c 169 § 104; 1965 c 8 § 43.79.150.]

Finding—1993 c 411: See note following RCW 28B.35.751.

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.160 Normal school permanent fund. There shall be in the state treasury a permanent and irreducible fund known as the "normal school permanent fund," into which shall be paid all moneys derived from the sale of lands set apart by the enabling act or otherwise for state normal schools. [1965 c 8 § 43.79.160.]

43.79.180 Former state colleges of education—Moneys paid into general fund for support of. There shall be paid into the state general fund for the use and support of the regional universities (formerly state colleges of education) the following moneys:

(1)—All moneys collected from the lease or rental of lands set apart by the enabling act or otherwise for the state normal schools;

(2)—All interest or income arising from the proceeds of the sale of such lands;

(3)—All moneys received or collected as interest on deferred payments on contracts for the sale of such lands. [1977 ex.s. c 169 § 105; 1965 c 8 § 43.79.180. Prior: 1905 c 43 § 4; RRS § 5523.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.201 C.E.P. & R.I. account—Moneys transferred to charitable, educational, penal and reformatory institutions account—Exception. (1) The charitable, educational, penal and reformatory institutions account is hereby created, in the state treasury, into which account there shall be deposited all moneys arising from the sale, lease or transfer of the land granted by the United States government to the state for charitable, educational, penal and reformatory institutions by section 17 of the enabling act, or otherwise set apart for such institutions, except all moneys arising from the sale, lease, or transfer of that certain one hundred thousand acres of such land assigned for the support of the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893.

(2) If feasible, not less than one-half of all income to the charitable, educational, penal, and reformatory institutions account shall be appropriated for the purpose of providing housing, including repair and renovation of state institutions, for persons who are mentally ill, developmentally disabled, or youth who are blind, deaf, or otherwise disabled. If moneys are appropriated for community-based housing, the moneys shall be appropriated to the *department of community development for the housing assistance program under chapter 43.185 RCW. [1991 sp.s. c 13 § 39; 1991 c 204 § 3; 1985 c 57 § 37; 1965 ex.s. c 135 § 2; 1965 c 8 § 43.79.201. Prior: 1961 c 170 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Income potential: RCW 79.01.007.

Inventory of land: RCW 79.01.006.

43.79.202 C.E.P. & R.I. fund—Abolished—Appropriations to be paid from and warrants drawn on

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account in general fund. On and after March 20, 1961, the C.E.P. & R.I. fund is abolished; all appropriations made by the thirty-seventh legislature from such abolished fund shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund and all warrants drawn on the C.E.P. & R.I. fund prior to March 20, 1961 and not theretofore presented for payment shall be paid from the charitable, educational, penal and reformatory institutions account in the general fund. [1965 c 8 § 43.79.202. Prior: 1961 c 170 § 2.]

43.79.210 Federal cooperative extension fund. There shall be in the state treasury a fund known as the federal cooperative agricultural extension fund, and all moneys paid into the state treasury for, or to the credit of, the Smith-Lever and Capper-Ketcham funds shall be placed in the federal cooperative agricultural extension fund. [1965 c 8 § 43.79.210. Prior: 1935 c 63 § 1; RRS § 5536-4.]

43.79.260 Governor designated state's agent. The governor is designated the agent of the state to accept and receive all funds from federal and other sources not otherwise provided for by law and to deposit them in the state treasury to the credit of the appropriate fund or account. [1973 c 144 § 1; 1965 c 8 § 43.79.260. Prior: 1945 c 243 § 3; Rem. Supp. 1945 § 5517-12.]

43.79.270 Unanticipated receipts—Duty of department heads. Whenever any money, from the federal government, or from other sources, which was not anticipated in the budget approved by the legislature has actually been received and is designated to be spent for a specific purpose, the head of any department, agency, board, or commission through which such expenditure shall be made is to submit to the governor a statement which may be in the form of a request for an allotment amendment setting forth the facts constituting the need for such expenditure and the estimated amount to be expended: PROVIDED, That no expenditure shall be made in excess of the actual amount received, and no money shall be expended for any purpose except the specific purpose for which it was received. A copy of any proposal submitted to the governor to expend money from an appropriated fund or account in excess of appropriations provided by law which is based on the receipt of unanticipated revenues shall be submitted to the legislative budget committee and also to the standing committees on ways and means of the house and senate if the legislature is in session at the same time as it is transmitted to the governor. [1973 c 144 § 2; 1965 c 8 § 43.79.270. Prior: 1945 c 243 § 4; Rem. Supp. 1945 § 5517-13.]

43.79.280 Unanticipated receipts—Duty of governor on approval. If the governor approves such estimate in whole or part, he shall endorse on each copy of the statement his approval, together with a statement of the amount approved in the form of an allotment amendment, and transmit one copy to the head of the department, agency, board, or commission authorizing the expenditure. An identical copy of the governor's statement of approval and a statement of the amount approved for expenditure shall be transmitted simultaneously to the legislative budget commit-

tee and also to the standing committee on ways and means of the house and senate of all executive approvals of proposals to expend money in excess of appropriations provided by law. [1973 c 144 § 3; 1965 c 8 § 43.79.280. Prior: 1945 c 243 § 5; Rem. Supp. 1945 § 5517-14.]

43.79.282 Compliance with RCW 43.79.260 through 43.79.280. No state department, agency, board, or commission shall expend money in excess of appropriations provided by law based on the receipt of unanticipated revenues without complying with the provisions of RCW 43.79.260 through 43.79.280. [1973 c 144 § 4.]

43.79.300 Central College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Central College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Central College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.300. Prior: 1955 c 333 § 1.]

43.79.301 Central College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Central College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.301. Prior: 1955 c 333 § 2.]

43.79.302 Central College fund—Abolished. From and after the first day of May, 1955, the Central College fund is abolished. [1965 c 8 § 43.79.302. Prior: 1955 c 333 § 3.]

43.79.303 Central College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Central College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.303. Prior: 1955 c 333 § 4.]

43.79.304 Central College fund—Other revenue for support of Central Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Central College fund, shall be used for any purpose except the support of the Central Washington University (formerly Central Washington State College). [1977 ex.s. c 169 § 106; 1965 c 8 § 43.79.304. Prior: 1955 c 333 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.310 Eastern College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Eastern College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Eastern College fund, shall be and are hereby transferred to and placed in the

general fund. [1965 c 8 § 43.79.310. Prior: 1955 c 334 § 1.]

43.79.311 Eastern College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Eastern College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.311. Prior: 1955 c 334 § 2.]

43.79.312 Eastern College fund—Abolished. From and after the first day of May, 1955, the Eastern College fund is abolished. [1965 c 8 § 43.79.312. Prior: 1955 c 334 § 3.]

43.79.313 Eastern College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Eastern College fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.313. Prior: 1955 c 334 § 4.]

43.79.314 Eastern College fund—Other revenue for support of Eastern Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Eastern College fund, shall be used for any purpose except the support of the Eastern Washington University (formerly Eastern Washington State College). [1977 ex.s. c 169 § 107; 1965 c 8 § 43.79.314. Prior: 1955 c 334 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.320 Western College fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the Western College fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the Western College fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.320. Prior: 1955 c 335 § 1.]

43.79.321 Western College fund—Appropriations to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the Western College fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.321. Prior: 1955 c 335 § 2.]

43.79.322 Western College fund—Abolished. From and after the first day of May, 1955, the Western College fund is abolished. [1965 c 8 § 43.79.322. Prior: 1955 c 335 § 3.]

43.79.323 Western College fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the Western College fund and not presented for payment shall be paid from the general

fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.323. Prior: 1955 c 335 § 4.]

43.79.324 Western College fund—Other revenue for support of Western Washington University. No revenue from any source other than the general fund, which, except for the provisions hereof, would have been paid into the Western College fund, shall be used for any purpose except the support of the Western Washington University (formerly Western Washington State College). [1977 ex.s. c 169 § 108; 1965 c 8 § 43.79.324. Prior: 1955 c 335 § 5.]

Severability—Nomenclature—Savings—1977 ex.s. c 169: See notes following RCW 28B.10.016.

43.79.330 Miscellaneous state funds—Moneys transferred to accounts in the state treasury. All moneys to the credit of the following state funds on the first day of August, 1955, and all moneys thereafter paid to the state treasurer for or to the credit of such funds, are hereby transferred to the following accounts in the state treasury, the creation of which is hereby authorized:

(1) Capitol building construction fund moneys, to the capitol building construction account;

(2) Cemetery fund moneys, to the cemetery account;

(3) Feed and fertilizer fund moneys, to the feed and fertilizer account;

(4) Forest development fund moneys, to the forest development account;

(5) Harbor improvement fund moneys, to the harbor improvement account;

(6) Millersylvania Park current fund moneys, to the Millersylvania Park current account;

(7) Puget Sound pilotage fund moneys, to the Puget Sound pilotage account;

(8) Real estate commission fund moneys, to the real estate commission account;

(9) Reclamation revolving fund moneys, to the reclamation revolving account;

(10) University of Washington building fund moneys, to the University of Washington building account; and

(11) State College of Washington building fund moneys, to the Washington State University building account. [1991 sp.s. c 13 § 3; 1985 c 57 § 38; 1981 c 242 § 3; 1980 c 32 § 3; 1979 ex.s. c 67 § 3; 1965 c 8 § 43.79.330. Prior: 1959 c 273 § 6; 1957 c 115 § 6; 1955 c 370 § 1.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Effective dates—1981 c 242: "Sections 1, 2, and 4 of this act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981. Section 3 of this act shall take effect September 1, 1981." [1981 c 242 § 5.] Sections 1, 2, and 3 of this act are the 1981 c 242 amendments to RCW 43.33A.160, 43.84.090, and 43.79.330, respectively. Section 4 of this act consists of the enactment of RCW 43.79.435.

Effective date—1980 c 32 § 3: "Section 3 of this act shall take effect September 1, 1981." [1980 c 32 § 4.]

Severability—1979 ex.s. c 67: See note following RCW 19.28.330.

43.79.331 Miscellaneous state funds—Abolished. From and after the first day of May, 1955, all funds from which moneys are transferred to general fund accounts pursuant to RCW 43.79.330, are abolished. [1965 c 8 § 43.79.331. Prior: 1955 c § 370 § 2.]

43.79.332 Miscellaneous state funds—Appropriations of 34th legislature to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from any of the funds abolished by RCW 43.79.331, shall be paid from the general fund from the account to which the moneys of the abolished fund have been transferred by RCW 43.79.330. [1965 c 8 § 43.79.332. Prior: 1955 c 370 § 3.]

43.79.333 Miscellaneous state funds—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on any fund abolished by RCW 43.79.331 and not theretofore presented for payment, shall be paid from the general fund from the account to which the moneys of the abolished fund are directed by RCW 43.79.330 to be transferred. [1965 c 8 § 43.79.333. Prior: 1955 c 370 § 4.]

43.79.334 Miscellaneous state funds—Expenditures—Revenue from other than general fund. Expenditures from any account described in RCW 43.79.330 shall be limited to the moneys credited to the account. No revenue from any source other than the general fund, which, except for the provisions of RCW 43.79.330 through 43.79.334, would have been paid into any fund other than the general fund, shall be used for any purpose except those purposes for which such moneys were authorized prior to the enactment hereof. [1965 c 8 § 43.79.334. Prior: 1955 c 370 § 5.]

43.79.335 Miscellaneous state funds—Washington State University building account. Upon and after June 30, 1961 the account in the state treasury known as the "State College of Washington Building Account" shall be known and referred to as the "Washington State University Building Account." This section shall not be construed as effecting any change in such fund other than the name thereof and as otherwise provided by law. [1985 c 57 § 39; 1965 c 8 § 43.79.335. Prior: 1961 ex.s. c 11 § 3.]

Effective date—1985 c 57: See note following RCW 18.04.105.

43.79.336 Puget Sound pilotage account redesignated as pilotage account. See RCW 88.16.061.

43.79.340 General obligation bond retirement fund—Moneys transferred to general fund. All moneys in the state treasury to the credit of the general obligation bond retirement fund on the first day of May, 1955, and all moneys thereafter paid into the state treasury for or to the credit of the general obligation bond retirement fund, shall be and are hereby transferred to and placed in the general fund. [1965 c 8 § 43.79.340. Prior: 1955 c 330 § 1.]

43.79.341 General obligation bond retirement fund—Appropriations of 34th legislature to be paid from general fund. From and after the first day of April, 1955, all appropriations made by the thirty-fourth legislature from the general obligation bond retirement fund shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.341. Prior: 1955 c 330 § 2.]

43.79.342 General obligation bond retirement fund—Abolished. From and after the first day of May, 1955, the general obligation bond retirement fund is abolished. [1965 c 8 § 43.79.342. Prior: 1955 c 330 § 3.]

43.79.343 General obligation bond retirement fund—Warrants to be paid from general fund. From and after the first day of May, 1955, all warrants drawn on the general obligation bond retirement fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.343. Prior: 1955 c 330 § 4.]

43.79.350 Suspense account. There is established in the state treasury a special account to be known as the suspense account. All moneys which heretofore have been deposited with the state treasurer in the state treasurer's suspense fund, and moneys hereafter received which are contingent on some future action, or which cover overpayments and are to be refunded to the sender in part or whole, and any other moneys of which the final disposition is not known, shall be transmitted to the state treasurer and deposited in the suspense account. [1985 c 57 § 40; 1981 2nd ex.s. c 4 § 6; 1965 c 8 § 43.79.350. Prior: 1955 c 226 § 1.]

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.79.370 Suspense account—Disbursements—Vouchers—Warrants. Disbursement from the suspense account (not to exceed receipts), shall be by warrant issued against the account by the state treasurer, upon a properly authenticated voucher presented by the state department or office which deposited the moneys in the account. [1981 2nd ex.s. c 4 § 7; 1965 c 8 § 43.79.370. Prior: 1955 c 226 § 3.]

Severability—1981 2nd ex.s. c 4: See note following RCW 43.85.130.

43.79.381 Penitentiary revolving account abolished. From and after the first day of August, 1957, the penitentiary revolving account is abolished. [1965 c 8 § 43.79.381. Prior: 1957 c 115 § 2.]

43.79.390 United States vocational education account—Moneys transferred to general fund. All moneys in the state treasury to the credit of the United States vocational education account in the general fund on August 1, 1957, and all moneys thereafter paid into the state treasury for or to said account, shall be and are hereby transferred to

and placed in the general fund. [1965 c 8 § 43.79.390. Prior: 1957 c 226 § 1.]

43.79.391 United States vocational education account—Appropriations to be paid from general fund. From and after the first day of July, 1957, all appropriations made by the thirty-fifth legislature from the United States vocational education account shall be paid out of moneys in the general fund. [1965 c 8 § 43.79.391. Prior: 1957 c 226 § 2.]

43.79.392 United States vocational education account—Abolished. From and after the first day of August, 1957, the United States vocational education account in the general fund is abolished. [1965 c 8 § 43.79.392. Prior: 1957 c 226 § 3.]

43.79.393 United States vocational education account—Warrants to be paid from general fund. From and after the first day of August, 1957, all warrants drawn on the United States vocational education account in the general fund and not presented for payment shall be paid from the general fund, and it shall be the duty of the state treasurer and he is hereby directed to pay such warrants when presented from the general fund. [1965 c 8 § 43.79.393. Prior: 1957 c 226 § 4.]

43.79.400 State payroll revolving account, agency payroll revolving fund—Created—Utilization. See RCW 42.16.011.

43.79.405 Parks and parkways account abolished—Funds transferred to general fund. The state parks and parkways account created under section 43.79.330(15), chapter 8, Laws of 1965, is hereby abolished and all funds remaining therein at August 1, 1969, transferred to the state general fund. [1969 c 99 § 4.]

Effective date—1969 c 99: The effective date of this section is July 1, 1969; see note following RCW 43.51.060.

43.79.410 Legal services revolving fund—Created—Purpose—Uses. See RCW 43.10.150 through 43.10.200.

43.79.420 Miscellaneous state funds—Moneys transferred to basic state general fund. All moneys to the credit of the following state funds or accounts on the first day of July, 1973, are hereby transferred to the basic state general fund:

- (1) Mass transit trust moneys;
- (2) Probation services moneys;
- (3) Columbia river gorge commission moneys;
- (4) Washington state song proceeds moneys;
- (5) Juvenile correction institution building construction fund moneys. [1973 1st ex.s. c 59 § 3.]

Effective date—1973 1st ex.s. c 59: "This 1973 amendatory act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973." [1973 1st ex.s. c 59 § 7.]

43.79.421 Miscellaneous state funds—Abolished. From and after the first day of July, 1973, all funds from

which moneys are transferred to the basic state general fund pursuant to subsections (1), (2), (4), and (5) of RCW 43.79.420 are abolished. [1973 1st ex.s. c 59 § 4.]

Effective date—1973 1st ex.s. c 59: See note following RCW 43.79.420.

43.79.422 Miscellaneous state funds—Warrants to be paid from basic state general fund. From and after the first day of July, 1973, all warrants drawn on any fund abolished by RCW 43.79.421 and not theretofore presented for payment, shall be paid from the basic state general fund. [1973 1st ex.s. c 59 § 5.]

Effective date—1973 1st ex.s. c 59: See note following RCW 43.79.420.

43.79.423 Miscellaneous state funds or accounts—Moneys transferred to state general fund. All moneys to the credit of the following state funds or accounts as of September 8, 1975 are transferred to the state general fund on that date:

(1) The public school building construction account of the general fund created under RCW 43.79.330; and

(2) The general administration construction fund in the general fund created under *RCW 43.82.090. [1975 1st ex.s. c 91 § 1.]

***Reviser's note:** RCW 43.82.090 was repealed by 1994 c 219 § 20.

43.79.425 Current state school fund—Abolished—Moneys transferred. On and after June 12, 1980, the current state school fund is abolished and the state treasurer shall transfer any moneys in such account on such June 12, 1980, or any moneys thereafter received for such account, to the common school construction fund as referred to in RCW 28A.515.320. [1990 c 33 § 581; 1980 c 6 § 6.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Severability—1980 c 6: See note following RCW 28A.515.320.

43.79.430 Moneys from Inland Power & Light company to be deposited in general fund. All monies received from the Inland Power & Light company, its successors and assigns, in virtue of an agreement made and entered into between said company and the State of Washington on August 31, 1932, relating to a fish hatchery on Lewis river, shall be deposited in the general fund. [1980 c 32 § 1; 1933 c 123 § 1.]

Effective date—1980 c 32 § 1: "Section 1 of this act shall take effect September 1, 1981." [1980 c 32 § 2.]

43.79.435 Investment reserve account abolished—Deposit of moneys. The investment reserve account is hereby abolished. All moneys in the investment reserve account on *the effective date of this act shall be deposited in the general fund. [1981 c 242 § 4.]

***Reviser's note:** For "the effective date of this act," see note following RCW 43.79.330.

Effective dates—1981 c 242: See note following RCW 43.79.330.

43.79.440 Loan principal and interest fund. In order to alleviate temporary cash flow deficiencies in the general fund, it has been and will continue to be necessary

to borrow funds through issuance of certificates of indebtedness and to pay interest costs on outstanding certificates of indebtedness and to retire the principal thereof. In order to account for the interest cost of the loans and to pay the principal thereof, there is hereby created in the state treasury the loan principal and interest fund. All principal and interest payments required on certificates of indebtedness will be withdrawn from any general state revenues in the treasury and deposited in the loan principal and interest fund at the time or times required by the terms thereof and such loan principal and interest shall be paid from the loan principal and interest fund according to the terms and schedules established for such certificates. [1983 c 189 § 8.]

Severability—1983 c 189: See note following RCW 82.24.260.

43.79.441 Transfer of moneys from certain school bond and state building construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the general fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by sections 1 and 4, chapter 189, Laws of 1983 and not presented for payment shall be paid from the general fund, and the state treasurer shall pay such warrants when presented from the general fund. [1983 c 189 § 5.]

Severability—1983 c 189: See note following RCW 82.24.260.

43.79.442 Transfer of moneys from certain highway construction accounts and funds to general fund—Payment of warrants. After July 24, 1983, all moneys to the credit of any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and all moneys thereafter paid to the state treasurer for or to the credit of such fund or account shall be transferred to the motor vehicle fund. After July 24, 1983, any warrant drawn on any fund or account described in the sections being repealed by section 6, chapter 189, Laws of 1983 and not presented for payment shall be paid from the motor vehicle fund, and the state treasurer shall pay such warrants when presented from the motor vehicle fund. [1983 c 189 § 7.]

Severability—1983 c 189: See note following RCW 82.24.260.

43.79.445 Death investigations account—Disbursal. There is established an account in the state treasury referred to as the "death investigations' account" which shall exist for the purpose of receiving, holding, investing, and disbursing funds appropriated or provided in RCW 70.58.107 and any moneys appropriated or otherwise provided thereafter.

Moneys in the death investigations' account shall be disbursed by the state treasurer once every year on December 31 and at any other time determined by the treasurer. The treasurer shall make disbursements to: The state toxicology laboratory, counties for the cost of autopsies, the University of Washington to fund the state forensic pathology fellowship program, the state patrol for providing partial funding for the state dental identification system, the criminal justice training commission for training county

coroners, medical examiners and their staff, and the state death investigations council.

The University of Washington and the Washington state death investigations council shall jointly determine the yearly amount for the state forensic pathology fellowship program established by RCW 28B.20.426. [1991 sp.s. c 13 § 21; 1991 c 176 § 4; 1986 c 31 § 2; 1985 c 57 § 41; 1983 1st ex.s. c 16 § 18.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1986 c 31: See note following RCW 28B.20.426.

Effective date—1985 c 57: See note following RCW 18.04.105.

Severability—Effective date—1983 1st ex.s. c 16: See RCW 43.103.900 and 43.103.901.

43.79.455 Capitol purchase and development account. The capitol purchase and development account is hereby created in the state treasury. [1987 c 350 § 2.]

Effective date—1987 c 350: See note following RCW 79.24.580.

Chapter 43.79A TREASURER'S TRUST FUND

Sections

43.79A.010 Purpose.

43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions.

43.79A.030 Segregation—Withdrawals.

43.79A.040 Management—Income—Investment income account—Distribution (as amended by 1993 c 500).

43.79A.040 Management—Income—Distribution (as amended by 1993 sp.s. c 8).

Investment accounting: RCW 43.33A.180.

43.79A.010 Purpose. This chapter shall apply to all trust funds which are in the official custody of the state treasurer but are not required by law to be maintained in the state treasury. The purpose of this chapter is to establish a system for the centralized management, protection and control of such funds, hereinafter referred to as nontreasury trust funds, and to assure their investment in such a manner as to realize the maximum possible return consistent with safe and prudent fiscal management. [1973 1st ex.s. c 15 § 1.]

43.79A.020 Treasurer's trust fund—Created—Nontreasury trust funds to be placed in—Exceptions. There is created a trust fund outside the state treasury to be known as the "treasurer's trust fund." All nontreasury trust funds which are in the custody of the state treasurer on April 10, 1973, shall be placed in the treasurer's trust fund and be subject to the terms of this chapter. Funds of the state department of transportation shall be placed in the treasurer's trust fund only if mutually agreed to by the state treasurer and the department. In order to assure an orderly transition to a centralized management system, the state treasurer may place each of such trust funds in the treasurer's trust fund at such times as he deems advisable. Except for department of transportation trust funds, all such funds shall be incorporated in the treasurer's trust fund by June 30, 1975. Other funds in the custody of state officials or state agencies may, upon their request, be established as accounts in the

treasurer's trust fund with the discretionary concurrence of the state treasurer. All income received from the treasurer's trust fund investments shall be deposited in the investment income account pursuant to RCW 43.79A.040. [1991 sp.s. c 13 § 81; 1984 c 7 § 47; 1973 1st ex.s. c 15 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1984 c 7: See note following RCW 47.01.141.

43.79A.030 Segregation—Withdrawals. The state treasurer shall be responsible for maintaining segregated accounts of moneys of each fund which is deposited in the treasurer's trust fund. Except as provided by law, all money deposited in the treasurer's trust fund shall be held in trust by the state treasurer and may be withdrawn only upon the order of the depositing agency or its disbursing officer. [1973 1st ex.s. c 15 § 3.]

43.79A.040 Management—Income—Investment income account—Distribution (as amended by 1993 c 500). (1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The American Indian scholarship endowment fund, the energy account, the game farm alternative account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service ~~((account {fund}))~~ fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the ferry system account, the ferry system insurance claim reserve account, the ferry system operation and maintenance account, the ferry system revenue account, the ferry system revenue bond account, the high occupancy vehicle account, and the local rail service assistance account.

~~((3))~~ (5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 500 § 5; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.79A.040 Management—Income—Distribution (as amended by 1993 sp.s. c 8). (1) Money in the treasurer's trust fund may be deposited, invested and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2)(a) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account. Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except ~~((+))~~ under (b) of this subsection.

~~((a))~~ (b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The American Indian scholarship endowment

fund, the energy account, the game farm alternative account, and the self-insurance revolving fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service (~~account~~ fund) pursuant to RCW 43.08.190.

~~((b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right of way revolving fund, the federal narcotics asset forfeitures account, the ferry system account, the ferry system insurance claim reserve account, the ferry system operation and maintenance account, the ferry system revenue account, the ferry system revenue bond account, the high occupancy vehicle account, and the local rail service assistance account.))~~

(3) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 sp.s. c 8 § 2; 1991 sp.s. c 13 § 82; 1973 1st ex.s. c 15 § 4.]

Reviser's note: RCW 43.79A.040 was amended twice during the 1993 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—Application—1993 sp.s. c 8: See note following RCW 43.84.092.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Chapter 43.80 FISCAL AGENCIES

Sections

- 43.80.100 Definitions.
- 43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds.
- 43.80.120 Designation of fiscal agencies—Qualifications—Duration of designation—Compensation.
- 43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services.
- 43.80.130 Receipts—Payment procedure—Cremation—Certificate of destruction.
- 43.80.140 Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies.
- 43.80.150 Treasurers not responsible for funds remitted.
- 43.80.160 Return of funds remitted to redeem bonds and coupons which remain unredeemed.
- 43.80.900 Effective date—1969 ex.s. c 80.

Highway bonds, registration: Chapter 47.10 RCW.

Registration of bonds with fee: RCW 39.44.130.

State treasurer, fiscal agent of the state: RCW 43.08.090.

Trust companies, power to act as fiscal agent for public bodies: RCW 30.08.150.

43.80.100 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Fiscal agencies" means those banks or trust companies as designated in RCW 43.80.110 and 43.80.120.

(2) "Subdivision" means governmental agencies, counties, cities and towns, metropolitan municipal corporations, port districts, school districts, townships, public colleges and universities, public community colleges, municipal corporations, quasi municipal corporations, and all other such governmental agencies authorized to borrow and issue tenders of indebtedness therefor. Subdivision does not mean housing authorities and public utility districts.

(3) "Cremation" means the destruction of canceled bonds or coupons by any approved method, including but not limited to, cremation facilities, incineration facilities,

shredding facilities, or dissolving in acid facilities. [1984 c 7 § 48; 1969 ex.s. c 80 § 1.]

Severability—1984 c 7: See note following RCW 47.01.141.

43.80.110 Appointment of fiscal agencies—Location—Places for payment of bonds. Fiscal agencies shall be appointed for the payment of bonds and any coupons issued by this state or by any subdivision thereof. The appointed fiscal agencies may be located in any major city of the country. No bonds hereafter issued by this state or by any affected subdivision thereof, shall be by their terms made payable at a specific place other than: (1) The office of the designated fiscal agencies; (2) offices of the state or local treasurers or fiscal offices of any affected subdivision; or (3) the offices of trustees if provided for in the indenture, as provided for by the terms of the bonds. As used in this chapter, bonds do not include short-term obligations. Fiscal agencies may be authorized to register bonds in accordance with RCW 39.46.030.

Bonds and any coupons of subdivisions may be paid at one or more of the state's fiscal agents and/or at the office of the state treasurer or offices of local treasurers as provided for in the terms of the bonds. [1983 c 167 § 117; 1982 c 216 § 1; 1969 ex.s. c 80 § 2.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

Issuance of short-term obligations by municipal corporations: Chapter 39.50 RCW.

43.80.120 Designation of fiscal agencies—Qualifications—Duration of designation—Compensation. The state finance committee shall designate responsible banks or trust companies as fiscal agencies, each having a paid-up capital and surplus of not less than five million dollars. The state finance committee shall designate fiscal agencies by any method deemed appropriate to the best interests of this state and its subdivisions.

The state finance committee shall make duplicate certificates of such designations, cause them to be attested under the seal of the state, and file one copy of each certification in the office of the secretary of state and transmit the other to the bank or trust company designated.

The banks or trust companies so designated shall continue to be such fiscal agencies for the term of four years from and after the filing of the certificate of its designation, and thereafter until the designation of other banks or trust companies as such fiscal agencies.

Until successors have been appointed, the banks or trust companies named shall act as the fiscal agencies of the state of Washington in accordance with such terms as shall be agreed upon between the state finance committee and the fiscal agencies so designated. The manner and amount of compensation of the fiscal agents shall be matters specifically left for the state finance committee to determine.

If no such banks or trust companies are willing to accept appointment as fiscal agencies, or if the state finance committee considers unsatisfactory the terms under which such banks or trust companies are willing so to act, the bonds and bond interest coupons normally payable at the fiscal agency, shall thereupon become payable at the state treasury or at the office of the treasurer or fiscal officer of

the subdivision concerned, as the case may be. [1969 ex.s. c 80 § 3.]

43.80.125 Appointment of fiscal agencies in connection with registered bonds—Contracting of services. (1) The fiscal agencies designated pursuant to RCW 43.80.110 and 43.80.120 may be appointed by the state treasurer or a local treasurer to act as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the issuance by the state or local government of registered bonds or other obligations pursuant to a system of registration as provided by RCW 39.46.030 and may establish and maintain on behalf of the state or local government a central depository system for the transfer or pledge of bonds or other obligations. The term "local government" shall be as defined in RCW 39.46.020.

(2) Whenever in the judgment of the fiscal agencies, certain services as registrar, authenticating agent, transfer agent, paying agent, or other agent in connection with the establishment and maintenance of a central depository system for the transfer or pledge of registered public obligations, or in connection with the issuance by any public entity of registered public obligations pursuant to a system of registration as provided in chapter 39.46 RCW, can be secured from private sources more economically than by carrying out such duties themselves, they may contract out all or any of such services to such private entities as such fiscal agencies deem capable of carrying out such duties in a responsible manner. [1994 c 301 § 14; 1985 c 84 § 3; 1983 c 167 § 11.]

Liberal construction—Severability—1983 c 167: See RCW 39.46.010 and note following.

43.80.130 Receipts—Payment procedure—Cremation—Certificate of destruction. The fiscal agencies, on the receipt of any moneys transmitted to them by or for this state, or for any affected subdivision, for the purpose of paying therewith any of its bonds or coupons by their terms made payable at the situs of the state of Washington fiscal agencies, shall transmit forthwith to the sender of such moneys a proper receipt therefor; pay such bonds or coupons upon presentation thereof for payment at the office of the fiscal agencies at or after the maturity thereof, in the order of their presentation insofar as the moneys received for that purpose suffice therefor; and cancel all such bonds and coupons upon payment thereof, and thereupon forthwith return the same to the proper officers of this state or affected subdivisions which issued them; and, concerning the same, report to the state and/or affected subdivision within thirty days following a maturity date the amount of bonds and coupons presented and paid to that date: PROVIDED, That nothing herein shall prevent the state or any of the subdivisions thereof from designating its fiscal agencies, or the trustee of any revenue bond issue, or both, also as its agencies for cremation and to provide by agreement therewith, that after one year any general or revenue obligation bonds or interest coupons that have been canceled or paid, may be destroyed as directed by the proper officers of the state or other subdivisions hereinbefore mentioned: PROVIDED FURTHER, That a certificate of destruction giving full descriptive reference to the instruments destroyed shall

be made by the person or persons authorized to perform such destruction and one copy of the certificate shall be filed with the treasurer of the state or local subdivisions as applicable. Whenever said treasurer has redeemed any of the bonds or coupons referred to in this section through his local office, or whenever such redemption has been performed by the trustee of any revenue bond issue, and the canceled instruments or certificates of transmittal thereafter have been forwarded to said treasurer for recording, such canceled instruments may be forwarded to the fiscal agents designated as agents for cremation for destruction pursuant to any agreements therefor, or said treasurer may, notwithstanding any provision of state statute to the contrary, himself destroy such canceled instruments in the presence of the public officers or boards or their authorized representatives, which by law perform the auditing functions within the state or such political subdivisions as hereinbefore specified: PROVIDED, That he and the said auditing officers or boards shall execute a certificate of destruction, giving full descriptive reference to the instruments destroyed, which certificates shall be filed with those of the agencies for cremation herein designated. No certificate required by this section shall be destroyed until all of the bonds and coupons of the issue or series described thereon shall have matured and been paid or canceled. [1969 ex.s. c 80 § 4.]

43.80.140 Notice of establishment of fiscal agencies—Publication—Bonds and coupons paid at fiscal agencies. The state finance committee shall, immediately after the establishment of fiscal agencies, publish a notice thereof, once a week for two consecutive weeks, in some financial newspaper of general circulation in cities designated as headquarters of the fiscal agents. All bonds and coupons of this state or of any affected subdivision thereafter issued shall be paid at the designated fiscal agencies or at such other place as allowed by law and provided for in the bonds. [1969 ex.s. c 80 § 5.]

43.80.150 Treasurers not responsible for funds remitted. Neither the state treasurer nor the treasurer or other fiscal officer of any subdivision thereof shall be held responsible for funds remitted to the fiscal agencies. [1969 ex.s. c 80 § 6.]

43.80.160 Return of funds remitted to redeem bonds and coupons which remain unredeemed. Upon the written request of the state or local treasurer, after a period of one year after the last legal payment date on matured bonds of the state of Washington and of its subdivisions, the funds remitted to fiscal agencies to redeem coupons and bonds which are subsequently unredeemed by the holders of the bonds and coupons, shall herewith be returned to the state treasurer or the local treasurer as the case may be. The state or local treasurer shall remain obligated for the final redemption of the unredeemed bonds or coupons. [1969 ex.s. c 80 § 7.]

43.80.900 Effective date—1969 ex.s. c 80. This act shall take effect on April 1, 1971, or at such time that the present fiscal agent agreement, contracted through April 1, 1971, is abrogated. [1969 ex.s. c 80 § 8.]

Chapter 43.81

STATE-OWNED LIVING FACILITIES

Sections

- 43.81.010 Legislative declaration.
 43.81.020 Availability of state-owned or leased living facilities.
 43.81.030 Rent—Custodial housekeeping—Damages.
 43.81.040 Maintenance in safe, healthful condition.

43.81.010 Legislative declaration. The legislature recognizes that significant benefits accrue to the state and that certain types of state operations are more efficient when personnel services are available on an extended basis. Such operations include certain types of facilities managed by agencies such as the departments of natural resources, corrections, fish and wildlife, social and health services, transportation, and veterans affairs, and the parks and recreation commission.

The means of assuring that such personnel are available on an extended basis is through the establishment of on-site state-owned or leased living facilities. The legislature also recognizes the restrictions and hardship placed upon those personnel who are required to reside in such state-owned or leased living facilities in order to provide extended personnel services.

The legislature further recognizes that there are instances where it is to the benefit of the state to have state-owned or leased living facilities occupied even though such occupancy is not required by the agency as a condition of employment. [1994 c 264 § 27; 1988 c 36 § 19; 1985 c 463 § 1.]

43.81.020 Availability of state-owned or leased living facilities. (1) Whenever an agency requires that an employee reside in state-owned or leased living facilities as a condition of employment, such living facilities shall be made available to the employee under the conditions set forth in RCW 43.81.030 and 43.81.040.

(2) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) it would be to the agency's benefit to have the facility occupied by an employee of the agency whose duties involve extended personnel services associated with the work site upon which the living facility is located or at work site near to where the living facility is located, the agency may make the facility available to such employee.

(3) Whenever an agency determines that (a) a living facility owned or leased by the agency is not occupied by employees under subsection (1) of this section and (b) the facility has been made available to employees under subsection (2) of this section and that no such employees have opted to reside in the facility, the agency may make the facility available for occupancy to other interested parties. [1985 c 463 § 2.]

43.81.030 Rent—Custodial housekeeping—Damages. (1) No rent may be charged to persons living in facilities provided under RCW 43.81.020(1). Such employees shall pay the costs of utilities associated with the living facility.

(2) Any person occupying state-owned or leased living facilities shall do so with the understanding that he or she assumes custodial housekeeping responsibility as directed by the agency. Such responsibility shall not include maintenance, repairs, or improvements to the facilities. An occupant of a state-owned or leased facility is liable for damages to the facility in excess of normal wear and tear. [1989 c 11 § 16; 1985 c 463 § 3.]

Severability—1989 c 11: See note following RCW 9A.56.220.

43.81.040 Maintenance in safe, healthful condition. The state shall maintain living facilities occupied under RCW 43.81.020 in a safe, healthful condition. [1985 c 463 § 4.]

Chapter 43.82

STATE AGENCY HOUSING

Sections

- 43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Collocation and consolidation—Studies—Delegation of functions—Exemptions.
 43.82.020 Approval by capitol committee when real estate located in Thurston county.
 43.82.030 Acquisition of property and rights declared public use—Eminent domain.
 43.82.110 Lease of space—Surplus space.
 43.82.120 General administration management fund—Rental income.
 43.82.125 Authorized uses for general administration management fund—Surplus to general fund.
 43.82.130 Powers and duties of director.
 43.82.140 Insurance on buildings.
 43.82.150 Inventory of state-owned or leased facilities.

Agricultural commodity commissions exempt: RCW 15.04.200.

43.82.010 Acquisition, lease, and disposal of real estate for state agencies—Long-range planning—Collocation and consolidation—Studies—Delegation of functions—Exemptions. (1) The director of general administration, on behalf of the agency involved, shall purchase, lease, lease purchase, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section. Facilities acquired or held pursuant to this chapter, and any improvements thereon, shall conform to standards adopted by the director and approved by the office of financial management governing facility efficiency unless a specific exemption from such standards is provided by the director of general administration. The director of general administration shall report to the office of financial management annually on any exemptions granted pursuant to this subsection.

(3) The director of general administration may fix the terms and conditions of each lease entered into under this chapter, except that no lease shall extend greater than twenty years in duration. The director of general administration may enter into a long-term lease greater than five years in duration upon a determination by the director of the office of financial management that the long-term lease provides a more favorable rate than would otherwise be available, it appears to a substantial certainty that the facility is necessary for use by the state for the full length of the lease term, and the facility meets the standards adopted pursuant to subsection (2) of this section. The director of general administration may enter into a long-term lease greater than ten years in duration if an analysis shows that the life-cycle cost of leasing the facility is less than the life-cycle cost of purchasing or constructing a facility in lieu of leasing the facility.

(4) It is the policy of the state to encourage the collocation and consolidation of state services into single or adjacent facilities, whenever appropriate, to improve public service delivery, minimize duplication of facilities, increase efficiency of operations, and promote sound growth management planning.

(5) The director of general administration shall provide coordinated long-range planning services to identify and evaluate opportunities for collocating and consolidating state facilities. Upon the renewal of any lease, the inception of a new lease, or the purchase of a facility, the director of general administration shall determine whether an opportunity exists for collocating the agency or agencies in a single facility with other agencies located in the same geographic area. If a collocation opportunity exists, the director of general administration shall consult with the affected state agencies and the office of financial management to evaluate the impact collocation would have on the cost and delivery of agency programs, including whether program delivery would be enhanced due to the centralization of services. The director of general administration, in consultation with the office of financial management, shall develop procedures for implementing collocation and consolidation of state facilities.

(6) The director of general administration is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director of general administration shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(7) If the director of general administration determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsection (1) or (6) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his or her office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improve-

ment in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(8) In order to obtain maximum utilization of space, the director of general administration shall make space utilization studies, and shall establish standards for use of space by state agencies. Such studies shall include the identification of opportunities for collocation and consolidation of state agency office and support facilities.

(9) The director of general administration may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his or her management. Prior to the construction of new buildings or major improvements to existing facilities or acquisition of facilities using a lease purchase contract, the director of general administration shall conduct an evaluation of the facility design and budget using life-cycle cost analysis, value-engineering, and other techniques to maximize the long-term effectiveness and efficiency of the facility or improvement.

(10) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director of general administration or the director's designee, and recorded with the county auditor of the county in which the property is located.

(11) The director of general administration may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(12) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fish and wildlife, the department of transportation, and the state parks and recreation commission for purposes other than the leasing of offices, warehouses, and real estate for similar purposes.

(13) Notwithstanding any provision in this chapter to the contrary, the department of general administration may negotiate ground leases for public lands on which property is to be acquired under a financing contract pursuant to chapter 39.94 RCW under terms approved by the state finance committee. [1994 c 264 § 28; 1994 c 219 § 7; 1990 c 47 § 1; 1988 c 36 § 20; 1982 c 41 § 1; 1969 c 121 § 1; 1967 c 229 § 1; 1965 c 8 § 43.82.010. Prior: 1961 c 184 § 1; 1959 c 255 § 1.]

Reviser's note: This section was amended by 1994 c 219 § 7 and by 1994 c 264 § 28, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—1994 c 219: See note following RCW 43.88.030.

Effective dates—1982 c 41: "This act shall take effect July 1, 1982, with the exception of section 2 of this act, which shall take effect July 1, 1983." [1982 c 41 § 3.] "Section 2 of this act" consists of the 1982 c 41 amendment to RCW 43.19.500.

Departments to share occupancy costs—Capital projects surcharge: RCW 43.01.090.

East capitol site, acquisition and development: RCW 79.24.500 through 79.24.530.

Public works: Chapter 39.04 RCW.

Use of department of general administration facilities and services revolving fund in acquiring real estate: RCW 43.19.500.

43.82.020 Approval by capitol committee when real estate located in Thurston county. The acquisition of real estate, and use thereof, shall be subject to the approval of the state capitol committee when the real estate is located in Thurston county. [1965 c 8 § 43.82.020. Prior: 1961 c 184 § 2; 1959 c 255 § 2.]

43.82.030 Acquisition of property and rights declared public use—Eminent domain. The acquisition of any real property or any rights or interests therein for the purpose of this chapter is hereby declared to be for a public use. In furtherance of the purposes of this chapter, the right of eminent domain may be exercised as provided for in chapter 8.04 RCW. [1965 c 8 § 43.82.030. Prior: 1959 c 255 § 3.]

43.82.110 Lease of space—Surplus space. All office or other space made available through the provisions of this chapter shall be leased by the director to such state or federal agencies, for such rental, and on such terms and conditions as he or she deems advisable: PROVIDED, HOWEVER, If space becomes surplus, the director is authorized to lease office or other space in any project to any person, corporation or body politic, for such period as the director shall determine said space is surplus, and upon such other terms and conditions as he or she may prescribe. [1994 c 219 § 13; 1969 c 121 § 2; 1965 c 8 § 43.82.110. Prior: 1961 c 184 § 4; 1959 c 255 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.82.120 General administration management fund—Rental income. All rental income collected by the department of general administration from rental of state buildings shall be deposited in the general administration management fund, the creation of which is hereby authorized. [1994 c 219 § 14; 1965 c 8 § 43.82.120. Prior: 1961 c 184 § 5; 1959 c 255 § 12.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.82.125 Authorized uses for general administration management fund—Surplus to general fund. The general administration management fund shall be used to pay all costs incurred by the department in the operation of real estate managed under the terms of this chapter. Moneys received into the general administration management fund shall be used to pay rent to the owner of the space for occupancy of which the charges have been made and to pay utility and operational costs of the space utilized by the occupying agency: PROVIDED, That moneys received into the fund for occupancy of space owned by the state where utilities and other operational costs are covered by appropriation to the department of general administration shall be immediately transmitted to the general fund: PROVIDED FURTHER, That the director may expend not to exceed fifty thousand dollars per biennium from the general administration management fund to cover unusual or unexpected expenses connected with space occupancy or management

that cannot be charged directly to any specific state agency. In the event the director determines that there is a surplus in this fund, he shall transfer such surplus to the general fund. [1965 c 8 § 43.82.125. Prior: 1961 c 184 § 6.]

43.82.130 Powers and duties of director. The director of the department of general administration is authorized to do all acts and things necessary or convenient to carry out the powers and duties expressly provided in this chapter. [1965 c 8 § 43.82.130. Prior: 1959 c 255 § 13.]

43.82.140 Insurance on buildings. The director may, in his discretion, obtain fire or other hazard insurance on any building under his management. [1965 c 8 § 43.82.140. Prior: 1961 c 184 § 7.]

43.82.150 Inventory of state-owned or leased facilities. (1) The office of financial management shall develop and maintain an inventory system to account for all owned or leased facilities utilized by state government. At a minimum, the inventory system must include the location, type, and size of each facility. In addition, for owned facilities, the inventory system must include the date and cost of original construction and the cost of any major remodeling or renovation. The system must be developed by January 1, 1994, and the initial inventory must be completed by June 30, 1994. The inventory must be updated by June 30 of each subsequent year.

(2) All agencies, departments, boards, commissions, and institutions of the state of Washington shall provide to the office of financial management a complete inventory of owned and leased facilities by May 30, 1994. The inventory must be updated and submitted to the office of financial management by May 30 of each subsequent year. The inventories required under this subsection must be submitted in a standard format prescribed by the office of financial management.

(3) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof. "Facilities" does not mean roads, bridges, parking areas, utility systems, and other similar improvements to real property. [1993 c 325 § 1.]

Historic properties: RCW 27.34.310.

Chapter 43.83

CAPITAL IMPROVEMENTS

Sections

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- 43.83.070 General obligation bonds—Authorized—Issuance, sale, form, payment, etc.
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- 43.83.200 Deposit of proceeds in state building construction account—Use.
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Indian cultural and educational facility bond issue: Chapter 37.14 RCW. Washington State University Tree Fruit Research Center office-laboratory facility, financing: RCW 28B.30.600 through 28B.30.619.

1959-1961 BOND ISSUE

43.83.010 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy. For the purpose of furnishing funds to finance projects in the 1959-1961 capital budget, as adopted by the legisla-

ture, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of ten million eighty-nine thousand dollars to be paid and discharged not more than twenty years after date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 43.83.010 through 43.83.050 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1965 c 8 § 43.83.010. Prior: 1959 ex.s. c 9 § 1.]

43.83.020 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account which is hereby established in the state treasury and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation acts, and for payment of the expense incurred in the printing, issuance, and sale of such bonds. [1991 sp.s. c 13 § 46; 1987 1st ex.s. c 3 § 9; 1985 c 57 § 43; 1965 c 8 § 43.83.020. Prior: 1959 ex.s. c 9 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Severability—1987 1st ex.s. c 3: See RCW 43.99G.901.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83.030 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.010 through 43.83.050 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June 30th of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.010 through 43.83.050. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and

such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to the charges thereon created by chapters 229 and 230, Laws of 1949, and chapter 298, Laws of 1957. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.010 through 43.83.050, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.010 through 43.83.050 shall have been paid. [1975 1st ex.s. c 278 § 26; 1965 c 8 § 43.83.030. Prior: 1959 ex.s. c 9 § 3.]

Reviser's note: Chapter 298, Laws of 1957 and chapter 230, Laws of 1949 referred to herein were codified in chapter 72.99 RCW. The sections in chapter 72.99 RCW were repealed by 1983 c 189 § 4 and by 1979 c 67 § 18. Chapter 229, Laws of 1949 was codified in chapter 28A.47 RCW, which has been recodified as chapter 28A.525 RCW.

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.040 Limited obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 43.83.010 through 43.83.050 and RCW 43.83.010 through 43.83.050 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1965 c 8 § 43.83.040. Prior: 1959 ex.s. c 9 § 4.]

43.83.050 Limited obligation bonds—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1965 c 8 § 43.83.050. Prior: 1959 ex.s. c 9 § 5.]

1961-1963 BOND ISSUE

43.83.060 Limited obligation bonds—Authorized—Issuance, sale, form, payment, etc.—Continuation of tax levy. For the purpose of furnishing funds to finance projects in the 1961-1963 capital budget, as adopted by the legislature, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-seven million five hundred fifty-six thousand dollars to be paid and discharged not more than twenty years after date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 43.83.060 through 43.83.068 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto: PROVIDED, That any bonds issued under authority of RCW 43.83.060 through 43.83.068 for the purpose of financing the construction of the correctional institution authorized by chapter 214, Laws of 1959, shall be so identified and shall be subject to call prior to the maturity date thereof. Such bonds shall be payable at such places as the state finance committee may provide. The state finance committee shall, in making its invitation or call for bids on the sale or issuance of such bonds, other than those governed by the proviso in this section, secure bids on the condition that the bonds may be called prior to maturity and it shall also secure bids on the condition that they shall not be subject to prior call. [1965 c 8 § 43.83.060. Prior: 1961 ex.s. c 23 § 1.]

43.83.062 Limited obligation bonds—Proceeds to be deposited in state building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the state building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of the capital appropriation act of 1961, and for payment of the expense incurred in the printing, issuance, and sale of such bonds. [1965 c 8 § 43.83.062. Prior: 1961 ex.s. c 23 § 2.]

43.83.064 Limited obligation bonds—Retirement from state building construction bond redemption fund—Retail sales tax collections, continuation of levy. Retirement of the bonds and interest authorized by RCW 43.83.060 through 43.83.068 shall be from the state building construction bond redemption fund created by chapter 298, Laws of 1957. The state finance committee shall on or before June thirtieth of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 43.83.060 through 43.83.068. The state treasurer shall thereupon deposit such amount in the state building construction bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the

state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of the bonds herein authorized, the state undertakes to continue to levy and collect a tax on retail sales equal to that portion thereof allocated to said fund as provided in RCW 43.83.060 through 43.83.068, and to place the proceeds thereof in the state building construction bond redemption fund and to make said fund available to meet said payments when due until all bonds and the interest thereon authorized under RCW 43.83.060 through 43.83.068 shall have been paid. [1975 1st ex.s. c 278 § 27; 1965 c 8 § 43.83.064. Prior: 1961 ex.s. c 23 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.066 Limited obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 43.83.060 through 43.83.068 and RCW 43.83.060 through 43.83.068 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1965 c 8 § 43.83.066. Prior: 1961 ex.s. c 23 § 4.]

43.83.068 Limited obligation bonds—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1965 c 8 § 43.83.068. Prior: 1961 ex.s. c 23 § 5.]

1965-1967 BOND ISSUE

43.83.070 General obligation bonds—Authorized—Issuance, sale, form, payment, etc. For the purpose of providing needed capital improvements for the institutions of higher education, the department of institutions, the department of natural resources and other state agencies, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of Washington in the sum of forty million five hundred seventy-five thousand dollars, or so much thereof as shall be required to finance the capital projects set forth in *RCW 43.83.080, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: PROVIDED, That none of the bonds herein authorized shall be sold for less than the par value

thereof, nor shall they bear interest at a rate in excess of six percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1965 ex.s. c 172 § 1.]

*Reviser's note: RCW 43.83.080 was repealed by 1979 ex.s. c 67 § 18.

43.83.074 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.070 through 43.83.084. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in said state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 28; 1965 ex.s. c 172 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.076 General obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 43.83.070 through 43.83.084 shall not be deemed to provide an exclusive method for such payment. [1965 ex.s. c 172 § 4.]

43.83.078 General obligation bonds—Legal investment for state and local funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1965 ex.s. c 172 § 5.]

43.83.082 General obligation bonds—Capital improvement and capital project defined. The words "capital improvement" or "capital project" used herein shall mean acquisition of sites, easements, rights of way or improvements thereon or appurtenances thereto, construction and initial equipment, reconstruction, demolition or major

alteration of new or presently owned capital assets. [1965 ex.s. c 172 § 7.]

43.83.084 General obligation bonds—Referral to electorate. RCW 43.83.070 through 43.83.084 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1966, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof. [1965 ex.s. c 172 § 8.]

1967-1969 BOND ISSUE

43.83.090 General obligation bonds—Authorized—Issuance, sale, form, payment, etc. For the purpose of providing needed capital improvements for the department of general administration, the institutions of higher education and the department of institutions, the state finance committee is authorized to issue, at any time prior to January 1, 1972, general obligation bonds of the state of Washington in the sum of sixty-three million fifty-nine thousand dollars or so much thereof as shall be required to finance the capital projects set forth in *RCW 43.83.100, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: PROVIDED, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of six percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1967 ex.s. c 148 § 1.]

*Reviser's note: RCW 43.83.100 was repealed by 1979 ex.s. c 67 § 18.

43.83.094 General obligation bonds—Retirement from state building and higher education bond redemption fund—Retail sales tax collections, continuation of levy. The state building and higher education bond redemption fund is created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 43.83.090 through 43.83.104. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state building and higher education bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections; and such amount certified

by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof which has been heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1975 1st ex.s. c 278 § 29; 1967 ex.s. c 148 § 3.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

43.83.096 General obligation bonds—Legislature may provide additional means of raising revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 43.83.090 through 43.83.104 shall not be deemed to provide an exclusive method for such payment. [1967 ex.s. c 148 § 4.]

43.83.098 General obligation bonds—Legal investment for state and local funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1967 ex.s. c 148 § 5.]

43.83.102 General obligation bonds—Capital improvement and capital project defined. The words "capital improvement" or "capital project" used herein shall mean acquisition of sites, easements, rights of way or improvements thereon or appurtenances thereto, construction and initial equipment, reconstruction, demolition or major alteration of new or presently owned capital assets. [1967 ex.s. c 148 § 7.]

43.83.104 General obligation bonds—Referral to electorate. RCW 43.83.090 through 43.83.104 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1968, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof. [1967 ex.s. c 148 § 8.]

Reviser's note: RCW 43.83.090 through 43.83.104 was adopted and ratified by the people at the November 5, 1968, general election (Referendum Bill No. 19). Governor's proclamation declaring approval of measure is dated December 5, 1968. State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

1973 BOND ISSUE

43.83.110 General obligation bonds—Authorized—Issuance—Payment. For the purpose of acquiring land, funding and providing the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment, and facilities, of capitol office buildings, parking facilities, governor's mansion, and

such other buildings and facilities as are determined to be necessary to provide space for the legislature by way of offices, committee rooms, hearing rooms, and work rooms, and to provide executive office and housing for the governor, and to provide executive office space for other elective officials and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-seven million dollars, or so much thereof as may be required, to finance the projects defined in RCW 43.83.110 through 43.83.126 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1973 1st ex.s. c 217 § 1.]

43.83.112 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1973 1st ex.s. c 217 § 2.]

43.83.114 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.83.110 through 43.83.126 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.110 through 43.83.126 and for the payment of expenses incurred in the issuance and sale of the bonds. [1973 1st ex.s. c 217 § 3.]

43.83.116 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the state department of general administration. [1973 1st ex.s. c 217 § 4.]

43.83.118 General obligation bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively

devoted to the payment of the principal of and interest on the bonds authorized by RCW 43.83.110 through 43.83.126. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of RCW 43.83.110 through 43.83.126 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1973 1st ex.s. c 217 § 5.]

43.83.120 General obligation bonds—Charges against state agencies to reimburse state general fund. In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes herein authorized, the director of general administration shall assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1973 1st ex.s. c 217 § 6.]

43.83.122 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized herein, and RCW 43.83.110 through 43.83.126 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 217 § 7.]

43.83.124 General obligation bonds—Legal investment for state and other public bodies. The bonds herein authorized shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 1st ex.s. c 217 § 8.]

43.83.126 Severability—1973 1st ex.s. c 217. If any provision of this 1973 act, or its application to any person or circumstance is held invalid the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 217 § 9.]

1975 BOND ISSUE

43.83.130 General obligation bonds—Authorized—Issuance—Payment. For the purpose of providing funds for the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, and fixed equipment of capital campus facilities and such other buildings and facilities as are determined to be necessary to provide space for the legislature by way of offices, committee rooms, hearing rooms, and work rooms and such other state agencies as may be necessary, as provided in the capital appropriations act, chapter . . . , Laws of 1975 [chapter 276, Laws of 1975 1st ex.s.], for such purposes, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the aggregate principal amount of six million four hundred thousand dollars or so much thereof as may be required to finance said projects, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 249 § 1.]

43.83.132 General obligation bonds—Powers and duties of state finance committee. The issuance, sale and retirement of said bonds as authorized in RCW 43.83.130 shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of such bonds and the conditions of sale and issuance thereof. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1975 1st ex.s. c 249 § 2.]

43.83.134 General obligation bonds—Anticipation notes—Proceeds. At the time the state finance committee determines to issue such bonds as authorized in RCW 43.83.130 through 43.83.148 or a portion thereof, pending the issuance of such bonds, it may issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.130 through 43.83.148 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.130 through 43.83.148 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: PROVIDED, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 43.83.138. [1975 1st ex.s. c 249 § 3.]

43.83.136 General obligation bonds—Administration of proceeds from sale. The principal proceeds from the sale of the bonds or notes authorized in RCW 43.83.130 through 43.83.148 and deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1975 1st ex.s. c 249 § 4.]

43.83.138 General obligation bonds—Payment from bond redemption fund—Procedure. The state building bond redemption fund, 1975, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.130 through 43.83.148. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in such state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. [1975 1st ex.s. c 249 § 5.]

43.83.140 General obligation bonds—General obligation of state. Bonds issued under the provisions of RCW 43.83.130 through 43.83.148 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds, by a mandamus or other appropriate proceeding, may require the transfer and payment of funds as directed herein. [1975 1st ex.s. c 249 § 6.]

43.83.142 General obligation bonds—Charges against state agencies to reimburse state general fund. In addition to any other charges authorized by law and to assist in reimbursing the state general fund for expenditures from the general state revenues in paying the principal and interest on the bonds and notes authorized in RCW 43.83.130 through 43.83.148, the director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant or user of any facility or other building as authorized in RCW 43.83.130 for payment of a proportion of costs for each square foot of floor space assigned to or occupied by it. Payment of the amount so billed to the entity for such occupancy shall be made annually and in advance at the beginning of each fiscal year. The director of general administration shall cause the same to be deposited in the state treasury to the credit of the general fund. [1975 1st ex.s. c 249 § 7.]

43.83.144 General obligation bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the

payment of the principal of an interest on the bonds authorized in RCW 43.83.130 through 43.83.148, and RCW 43.83.130 through 43.83.148 shall not be deemed to provide an exclusive method for such payment. [1975 1st ex.s. c 249 § 8.]

43.83.146 General obligation bonds—Legal investment for state and other public bodies. The bonds authorized in RCW 43.83.130 through 43.83.148 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1975 1st ex.s. c 249 § 9.]

43.83.148 Severability—1975 1st ex.s. c 249. If any provision of this 1975 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 249 § 10.]

1979 BOND ISSUE

43.83.150 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.150 through 43.83.170 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance. [1985 ex.s. c 4 § 15; 1979 ex.s. c 230 § 1.]

Severability—1985 ex.s. c 4: See RCW 43.99G.900.

43.83.152 Form, terms, conditions, etc., of bonds. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance, and redemption. None of the bonds authorized in RCW 43.83.150 through 43.83.170 shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of the bonds and notes, if any. The bonds shall be

payable at such places as the committee may provide. [1979 ex.s. c 230 § 2.]

43.83.154 Bond anticipation notes—Deposit of proceeds of bonds and notes in state building construction account and state general obligation bond retirement fund. At the time the state finance committee determines to issue the bonds, or a portion thereof, it may, pending the issuance of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83.150 through 43.83.170 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.150 through 43.83.170 and for the payment of expenses incurred in the issuance and sale of the bonds: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal of and interest on the anticipation notes as have been issued, shall be deposited in the state general obligation bond retirement fund created by RCW 43.83.160. [1979 ex.s. c 230 § 3.]

43.83.156 Administration of proceeds. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1979 ex.s. c 230 § 4.]

43.83.158 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds and notes authorized by RCW 43.83.150 through 43.83.170. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. Bonds issued under RCW 43.83.150 through 43.83.170 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 230 § 5.]

43.83.160 State general obligation bond retirement fund created—Trust fund for retirement of state general

obligation bonds. The state general obligation bond retirement fund is hereby created in the state treasury. This fund shall be used for the payment of principal of, redemption premium, if any, and interest on general obligation bonds of the state that are required to be paid either directly or indirectly from any general state revenues and that are issued pursuant to statutory authority which statute designates the general obligation bond retirement fund for this purpose. This fund shall be deemed a trust fund for this purpose. [1979 ex.s. c 230 § 6.]

43.83.162 Separate accounting records required for each issue of bonds. Separate accounting records shall be maintained by the state treasurer of the debt service requirements of each issue of bonds payable from the state general obligation bond retirement fund, as certified by the state finance committee, and of the payments made out of the general obligation bond retirement fund to meet principal, interest requirements, and redemption premium, if any. [1979 ex.s. c 230 § 7.]

43.83.164 Payment on certain bonds from state general obligation bond retirement fund prohibited. No bonds issued pursuant to Article VIII, section 1(f) of the Constitution of the state of Washington shall be made payable from the state general obligation bond retirement fund. [1979 ex.s. c 230 § 8.]

43.83.166 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.150 through 43.83.170, and RCW 43.83.150 through 43.83.170 shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 230 § 9.]

43.83.168 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.150 through 43.83.170 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1979 ex.s. c 230 § 10.]

43.83.170 Severability—1979 ex.s. c 230. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 230 § 11.]

1981 BOND ISSUE

43.83.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the

legislature, for other elective officials, and such other state agencies as may be necessary, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twelve million one hundred thirty thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83.172 through 43.83.182 may be offered for sale without prior legislative appropriation. [1982 1st ex.s. c 48 § 19; 1981 c 235 § 1.]

Severability—1982 1st ex.s. c 48: See note following RCW 28B.14G.900.

43.83.174 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of bonds authorized by RCW 43.83.172 through 43.83.182 shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83.172 through 43.83.182 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 235 § 2.]

43.83.176 Administration of proceeds. The principal proceeds from the sale of the bonds deposited in the state building construction account of the general fund shall be administered by the state department of general administration, subject to legislative appropriation. [1981 c 235 § 3.]

43.83.178 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.83.172 through 43.83.182.

The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.172 through 43.83.182 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 235 § 4.]

43.83.180 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.172 through 43.83.182, and RCW 43.83.172 through

43.83.182 shall not be deemed to provide an exclusive method for the payment. [1981 c 235 § 5.]

43.83.182 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.172 through 43.83.180 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1981 c 235 § 6.]

1983 BOND ISSUE

43.83.184 General obligation bonds—Authorized—Issuance—Appropriation required. For the purpose of acquiring land and providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, and furnishing, together with all improvements, enhancements, fixed equipment facilities of office buildings, parking facilities, and such other buildings, facilities, and utilities as are determined to be necessary to provide space including offices, committee rooms, hearing rooms, work rooms, and industrial-related space for the legislature, for other elective officials, and such other state agencies as may be necessary, and for the purpose of land acquisitions by the department of transportation, grants and loans by the *department of trade and economic development, and facilities of the department of corrections and other state agencies, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixty-four million two hundred seventy thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale without prior legislative appropriation. [1985 c 466 § 54; 1983 1st ex.s. c 54 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.83.186 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83.184 shall be deposited in the state building construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 54 § 2.]

43.83.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83.186 in the state building construction account of the general fund shall be administered by the department of general administration, subject to legislative appropriation. [1983 1st ex.s. c 54 § 3.]

43.83.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the

principal of and interest on the bonds authorized in RCW 43.83.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1983 1st ex.s. c 54 § 4.]

43.83.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83.184, and RCW 43.83.190 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 54 § 5.]

43.83.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 54 § 6.]

43.83.196 Severability—1983 1st ex.s. c 54. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 54 § 10.]

1984 BOND ISSUE

43.83.198 General obligation bonds—Authorized—Issuance—Price—Appropriation required. For the purpose of providing needed capital improvements consisting of the planning, design, construction, renovation, equipping, and repair of buildings and facilities and the acquisition of a marine vessel and marine equipment for the department of corrections, the state finance committee is authorized to issue from time to time general obligation bonds of the state of Washington in the sum of twelve million eight hundred twenty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale

without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 271 § 1.]

43.83.200 Deposit of proceeds in state building construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83.198 shall be deposited in the state building construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83.198 and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 271 § 2.]

43.83.202 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83.200 in the state building construction account of the general fund shall be administered by the department of general administration, subject to legislative appropriation. [1984 c 271 § 3.]

43.83.204 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83.198.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83.198 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 271 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83.206 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of, redemption premium, if any, and interest on the bonds authorized in RCW 43.83.198, and RCW 43.83.204 shall not be deemed to provide an exclusive method for the payment. [1984 c 271 § 5.]

43.83.208 Bonds legal investment for public funds. The bonds authorized in RCW 43.83.198 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 271 § 6.]

43.83.210 Severability—1984 c 271. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 271 § 7.]

Chapter 43.83A

WASTE DISPOSAL FACILITIES BOND ISSUE

Sections

- 43.83A.010 Declaration.
- 43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83A.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83A.040 Administration of proceeds—Use of funds—Integration of disposal systems.
- 43.83A.050 Definitions.
- 43.83A.060 Referral to electorate.
- 43.83A.070 Form, terms, conditions, etc., of bonds.
- 43.83A.080 Anticipation notes—Pledge and promise—Seal.
- 43.83A.090 Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders.
- 43.83A.100 Legislature may provide additional means for payment of bonds.
- 43.83A.110 Bonds legal investment for public funds.
- 43.83A.900 Appropriation.

Waste disposal facilities—1980 bond issue: Chapter 43.99F RCW.

43.83A.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state and the health and safety of its people by providing adequate facilities and systems for the collection, treatment, control, or disposal of solid or liquid waste materials. [1980 c 21 § 1; 1972 ex.s. c 127 § 1.]

43.83A.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of public waste disposal facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred ninety-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. As used in this section the phrase "public waste disposal facilities" shall not include the acquisition of equipment used to collect, carry, and transport garbage. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1990 1st ex.s. c 15 § 7. Prior: 1989 1st ex.s. c 14 § 10; 1989 c 136 § 2; 1977 ex.s. c 242 § 1; 1972 ex.s. c 127 § 2.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: "It is the intent of this act to allow the sale of state general obligation bonds to underwriters at a discount so that they may be sold to the public at face value, thereby resulting in lower interest costs to the state. Increases in bond authorizations under this act represent this discount and will have no effect on the amount of money available for the projects to be financed by the bonds." [1989 c 136 § 1.]

Severability—1977 ex.s. c 242: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 242 § 6.]

43.83A.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 43; 1985 c 57 § 44; 1972 ex.s. c 127 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83A.040 Administration of proceeds—Use of funds—Integration of disposal systems. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which said bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local or other funds are made available on a matching basis for improvements within the purposes of this chapter.

The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the legislature may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems. [1979 c 68 § 2; 1972 ex.s. c 127 § 4.]

43.83A.050 Definitions. As used in this chapter, the term "waste disposal facilities" shall mean any facilities or systems owned or operated by a public body for the collection, storage, treatment, disposal, recycling, control, or recovery of liquid wastes or solid wastes, including, but not limited to, sanitary sewage, storm water, residential, industrial, and commercial wastes, material segregated into recyclables and nonrecyclables, and any combination of such wastes; and all equipment, utilities, structures, real property,

and interests in and improvements on real property, necessary for or incidental to such purpose.

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1980 c 21 § 2; 1979 c 68 § 1; 1972 ex.s. c 127 § 5.]

43.83A.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 127 § 6.]

Reviser's note: Chapter 43.83A RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 26). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83A.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [1989 c 136 § 3; 1972 ex.s. c 127 § 7.]

Intent—1989 c 136: See note following RCW 43.83A.020.

43.83A.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 127 § 8.]

43.83A.090 Retirement of bonds from waste disposal facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The waste disposal facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer

the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the waste disposal facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 127 § 9.]

43.83A.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 127 § 10.]

43.83A.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds, or for funds under state control, and for all funds of any other public body. [1972 ex.s. c 127 § 11.]

43.83A.900 Appropriation. There is appropriated to the state department of ecology, from the state and local improvements revolving account out of the proceeds of sale of the bonds or notes authorized herein, for the period from the effective date of this act through June 30, 1973, the sum of ten million dollars for use by said department for grants to public bodies as state matching funds for the purpose of aiding in the planning, acquisition, construction, and improvement of waste disposal facilities. [1972 ex.s. c 127 § 12.]

Chapter 43.83B

WATER SUPPLY FACILITIES

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- 43.83B.425 Applicability—Construction.
- 43.83B.900 Severability—1975 1st ex.s. c 295.
- 43.83B.901 Severability—1977 ex.s. c 1.

43.83B.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 240.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

43.83B.010 Declaration. The long-range development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment including the furnishing of an adequate supply of water for domestic, industrial, and agricultural purposes. [1972 ex.s. c 128 § 1.]

43.83B.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of seventy-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of

Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 2; 1972 ex.s. c 128 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

43.83B.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 53; 1985 c 57 § 45; 1972 ex.s. c 128 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83B.040 Administration of proceeds—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which said bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1972 ex.s. c 128 § 4.]

43.83B.050 Definitions. As used in this chapter, the term "water supply facilities" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal, industrial, or agricultural water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1975 c 18 § 1; 1972 ex.s. c 128 § 5.]

43.83B.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the

Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 128 § 6.]

Reviser's note: RCW 43.83B.010 through 43.83B.110 was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 27). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83B.070 Form, terms, conditions, etc., of bonds.

The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 128 § 7.]

43.83B.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 128 § 8.]

43.83B.090 Retirement of bonds from water supply facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The water supply facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the water supply facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 128 § 9.]

43.83B.100 Legislature may provide additional means for payment of bonds. The legislature may provide

additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 128 § 10.]

43.83B.110 Bonds legal investment for public funds.

The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1972 ex.s. c 128 § 11.]

AGRICULTURAL WATER SUPPLY FACILITIES

43.83B.200 Deposit of proceeds from repayment of loans, interest, gifts, grants, etc., in state and local improvements revolving account—Water supply facilities—Use. The proceeds from repayment of any loans made for agricultural water supply facilities and the interest earned from such loans, any gifts, grants, or other funds provided to the state for agricultural water supply facilities, and any interest earned on the interim investment of such funds or proceeds shall be deposited in the state and local improvements revolving account—water supply facilities and shall be used exclusively for agricultural water supply facilities. [1975 1st ex.s. c 295 § 1.]

43.83B.210 Loans or grants from department of ecology—Authorized—Limitations. The department of ecology is authorized to make loans or grants or combinations thereof from funds under RCW 43.83B.010 through 43.83B.110 to eligible public bodies as defined in RCW 43.83B.050 for rehabilitation or betterment of agricultural water supply facilities, and/or construction of agricultural water supply facilities required to develop new irrigated lands. The department of ecology may make such loans or grants or combinations thereof as matching funds in any case where federal, local, or other funds have been made available on a matching basis. A loan or combination loan and grant shall not exceed fifty percent of the approved eligible project cost for any single proposed project. Any grant or grant portion of a combination loan and grant from funds under RCW 43.83B.010 through 43.83B.110 for any single proposed project shall not exceed fifteen percent of the eligible project costs: PROVIDED, That the fifteen percent limitation established herein shall not be applicable to project commitments which the director or deputy director of the state department of ecology made to the bureau of reclamation of the United States department of interior for providing state funding at thirty-five percent of project costs during the period between August 1, 1974, and June 30, 1975. [1989 c 171 § 7; 1988 c 46 § 1; 1987 c 343 § 4; 1977 ex.s. c 1 § 11; 1975-'76 2nd ex.s. c 36 § 1; 1975 1st ex.s. c 295 § 3.]

Severability—1989 c 171: See note following RCW 43.83B.400.

Severability—1987 c 343: See note following RCW 43.83B.300.

43.83B.220 Contractual agreements. In addition to the powers granted by RCW 43.83B.210, the director of the department of ecology or his designee is authorized to make contractual agreements in accordance with provisions of this chapter on behalf of the state of Washington. Contractual agreements shall include provisions to secure such loans, and

shall assure the proper and timely payment of said loans or loan portions of combination loans and grants. [1989 c 11 § 17; 1975 1st ex.s. c 295 § 5.]

Severability—1989 c 11: See note following RCW 9A.56.220.

43.83B.230 Provision for recreation, fish and wildlife enhancement and other public benefits. In the course of considering applications under this chapter, the department of ecology shall make known to other state agencies possibilities which may arise to provide public benefits such as recreation or fish and wildlife enhancement in connection with proposed projects. Such agencies, including the department of ecology, are authorized to participate in said projects provided agency funds are made available to pay the full cost of their participation. [1975 1st ex.s. c 295 § 14.]

EMERGENCY WATER WITHDRAWAL AND FACILITIES

43.83B.300 Legislative findings—General obligation bonds authorized—Issuance, terms—Appropriation required. The legislature finds that the fundamentals of water resource policy in this state must be reviewed by the legislature to ensure that the water resources of the state are protected and fully utilized for the greatest benefit to the people of the state of Washington. The legislature further finds that it is necessary to provide the department of ecology with emergency powers to authorize withdrawals of public surface and ground waters, including dead storage within reservoirs, on a temporary basis, and construction of facilities in relation thereto, in order to alleviate emergency water supply conditions arising from the drought forecast for the state of Washington during 1977 and during 1987 through 1989.

The legislature further finds that there is a continuing water supply shortage in many areas of the state and that there is an urgent need to assure the survival of irrigated crops and of the state's fisheries.

The legislature further finds that in addition to water storage facilities or other augmentation programs, improved efficiency of water use could provide an important new supply of water in many parts of the state with which to meet future water needs and that improved efficiency of water use should receive greater emphasis in the management of the state's water resources.

In order to study the fundamentals of water resource policy of the state and to provide needed moneys for the planning, acquisition, construction, and improvement of water supply facilities and for other appropriate measures to assure the survival of irrigated crops and/or the state's fisheries to alleviate emergency water supply conditions arising from droughts occurring from time to time in the state of Washington, and to carry out a comprehensive water use efficiency study for the state of Washington, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eighteen million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by this section and RCW 43.83B.360 through 43.83B.375 shall be offered for sale without prior

legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1988 c 47 § 1; 1988 c 46 § 2; 1988 c 45 § 1; 1987 c 343 § 1; 1979 ex.s. c 263 § 1; 1977 ex.s. c 1 § 1.]

Reviser's note: This section was amended by 1988 c 45 § 1, 1988 c 46 § 2, and by 1988 c 47 § 1, each without reference to the other. All amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Application—1988 c 47: "Nothing in this act shall apply to or interfere with the processing or issuance of water rights in connection with the Yakima River Basin Water Enhancement Project." [1988 c 47 § 8.]

Severability—1988 c 47: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 47 § 9.]

Severability—1987 c 343: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 343 § 11.]

Severability—1979 ex.s. c 263: "If any provision of this 1979 amendatory act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 263 § 5.]

43.83B.336 Civil penalties. See RCW 90.03.600.

43.83B.345 Rates of charges for water—Payment into bond redemption fund—Grants and loans—Contracts. (1) The department of ecology shall, by rule, establish rates of charges for all waters delivered from such facilities as constructed by the department with funds provided in RCW 43.83B.385 (2) or (3). Where the department provides water to public or municipal corporations or other governmental bodies having authority to distribute water, the payment for the water may be made pursuant to contract over a period not exceeding twenty-five years from the date of delivery. In all other cases, the department shall obtain payment for waters prior to its delivery to a purchaser. All payments received shall be deposited into the state emergency water projects bond redemption fund of 1977.

(2) Public bodies, eligible to obtain funds through grants or loans or combinations thereof under the provisions of *RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended, are authorized to enter into contracts with the department of ecology for the purpose of repaying loans authorized by RCW 43.83B.380 and 43.83B.385 and for the purpose of purchasing water under this section.

(3) The department of ecology is authorized to enter into appropriate contracts to ensure effective delivery of water and the operation and maintenance of facilities constructed pursuant to *RCW 43.83B.300 through 43.83B.385, 43.83B.901, and 43.83B.210. [1977 ex.s. c 1 § 10.]

***Reviser's note:** RCW 43.83B.305 through 43.83B.330 and 43.83B.340 through 43.83B.344 were repealed by 1989 c 171 § 12.

43.83B.350 Loans or grants from department of ecology—Authorized—Limitations. See RCW 43.83B.210.

43.83B.355 Form, sale, conditions, etc., of bonds—"Water supply facilities for water withdrawal and

distribution" defined. The state finance committee is authorized to prescribe the form of the bonds authorized in RCW 43.83B.300, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds.

As used in RCW 43.83B.300, and 43.83B.355 through 43.83B.375, the term "water supply facilities for water withdrawal and distribution" shall mean municipal, industrial, and agricultural water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to the acquisition, construction, installation, improvement, or use of any water supply or distribution system furnishing water for agricultural, municipal or industrial purposes. [1977 ex.s. c 1 § 12.]

43.83B.360 State emergency water projects revolving account—Proceeds from sale of bonds. The proceeds from the sale of bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be deposited in the state emergency water projects revolving account, hereby created in the state treasury, and shall be used exclusively for the purposes specified in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 and for the payment of expenses incurred in the issuance and sale of such bonds. [1991 sp.s. c 13 § 33; 1985 c 57 § 46; 1977 ex.s. c 1 § 13.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83B.365 Administration of proceeds from sale of bonds. The principal proceeds from the sale of the bonds authorized in RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be administered by the director of the department of ecology. [1977 ex.s. c 1 § 14.]

43.83B.370 Retirement of bonds and notes from emergency water projects bond redemption fund—Remedies of bond holders. The state emergency water projects bond redemption fund of 1977, hereby created in the state treasury, shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83B.300, and 43.83B.355 through 43.83B.375. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 emergency water projects bond redemption fund an amount equal to the

amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 ex.s. c 1 § 15.]

43.83B.375 Bonds legal investment for public funds. The bonds authorized by RCW 43.83B.300, and 43.83B.355 through 43.83B.375 shall be a legal investment for all state funds under state control and all funds of municipal corporations. [1977 ex.s. c 1 § 16.]

43.83B.380 Appropriations to department of health—Authorized projects—Conditions. There is hereby appropriated to the department of health the sum of nine million seven hundred thirty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities for the purposes authorized in *RCW 43.83B.300 through 43.83B.345 and 43.83B.210 as now or hereafter amended relating to the emergency water conditions arising from the drought forecast for the summer and fall of 1977 affecting municipal and industrial water supply distribution facilities. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

(2) There is hereby appropriated to the department of health the sum of five million three hundred twenty-seven thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, from the general fund—state and local improvements revolving account—water supply facilities to be expended for municipal and industrial water supply and distribution facility projects for which applications are in progress on March 25, 1977 and have arisen from the drought forecast for the summer and fall of 1977. Prior to the expenditure of funds for projects approved by the department, the department shall file a listing of the approved projects with the senate ways and means committee and the house appropriations committee.

The municipal and industrial water supply and distribution facilities receiving funds from the appropriations contained in this section shall comply with the eligible costs criteria, health and design standards, and contract performance requirements of the municipal and industrial funding program under chapter 43.83B RCW. All projects shall be evaluated by applying the said chapter's evaluation and prioritization criteria to insure that only projects related to water shortage problems receive funding. The projects funded shall be limited to those projects providing interties with adjacent utilities, an expanded source of supply, conservation projects which will conserve or maximize efficiency of the existing supply, or a new source of supply. No obligation to provide a grant for a project authorized under this section shall be incurred after June 30, 1977. [1991 c 3 § 300; 1977 ex.s. c 1 § 17.]

*Reviser's note: RCW 43.83B.305 through 43.83B.330 and 43.83B.340 through 43.83B.344 were repealed by 1989 c 171 § 12.

43.83B.385 Appropriations to department of ecology—Authorized projects—Findings. (1) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of seven million dollars, or so much thereof as may be necessary, which shall be expended for the financing of the following agricultural water supply and distribution projects from surface water sources: Kennewick Irrigation District; Kittitas Reclamation District; Stemilt Irrigation District; Wenatchee Heights Reclamation District; and the Wenatchee Reclamation District.

(2) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water projects revolving account in the general fund, the sum of five million dollars, or so much thereof as may be necessary, which shall be expended for the financing and construction of agricultural water supply and distribution projects from ground water sources primarily in the Moxee-Ahtanum and Park Creek aquifer areas.

(3) There is hereby appropriated to the department of ecology for the biennium ending June 30, 1977, from the state emergency water supply revolving account in the general fund the sum of six million dollars, or so much thereof as may be necessary, which shall be expended for water withdrawal projects relating to ground and surface waters as provided for in subsections (1) and (2) of this section and for the financing and construction of agricultural water supply and distribution projects from ground and surface water sources which may become required by public bodies other than those identified in this section as a result of the drought forecast for the summer and fall of 1977.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050. The grant portion of a combination loan and grant to a public body for any project shall not exceed fifteen percent of the total amount received by such project under this section.

The department may expend funds from the appropriations contained in subsections (1), (2), and (3) of this section to make loans or combinations of loans and grants to public bodies as defined in RCW 43.83B.050 to satisfy the matching requirements of RCW 43.83B.210 as now or hereafter amended.

Prior to the funding of any agriculture projects not specifically set forth in this section the department must make a formal finding that: An emergency water shortage condition exists; the project proposed for funding will alleviate the water shortage; the public body recipient of any funds has reasonable capability to repay the loan involved; and the water from the project will be used for a beneficial purpose as a substitute for water not available due to drought conditions. [1977 ex.s. c 1 § 18.]

43.83B.400 Drought conditions—Defined—Intent. It is the intent of the legislature to provide emergency powers to the department of ecology to enable it to take actions, in a timely and expeditious manner, that are designed to alleviate hardships and reduce burdens on various water users and uses arising from drought conditions. As

used in this chapter, "drought condition" means that the water supply for a geographical area or for a significant portion of a geographical area is below seventy-five percent of normal and the water shortage is likely to create undue hardships for various water uses and users. [1989 c 171 § 1.]

Severability—1989 c 171: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1989 c 171 § 14.]

43.83B.405 Drought conditions—Withdrawals and diversions—Orders, procedure. (1) Whenever it appears to the department of ecology that a drought condition either exists or is forecast to occur within the state or portions thereof, the department of ecology is authorized to issue orders, pursuant to rules previously adopted, to implement the powers as set forth in RCW 43.83B.410 through 43.83B.420. The department shall, immediately upon the issuance of an order under this section, cause said order to be published in newspapers of general circulation in the areas of the state to which the order relates. Prior to the issuance of an order, the department shall (a) consult with and obtain the views of the federal and state government entities identified in the drought contingency plan periodically revised by the department pursuant to RCW 43.83B.410(4), and (b) obtain the written approval of the governor. Orders issued under this section shall be deemed orders for the purposes of chapter 34.05 RCW.

(2) Any order issued under subsection (1) of this section shall contain a termination date for the order. The termination date shall be not later than one calendar year from the date the order is issued. Although the department may, with the written approval of the governor, change the termination date by amending the order, no such amendment or series of amendments may have the effect of extending its termination to a date which is later than two calendar years after the issuance of the order.

(3) The provisions of subsection (2) of this section do not preclude the issuance of more than one order under subsection (1) of this section for different areas of the state or sequentially for the same area as the need arises for such an order or orders. [1989 c 171 § 2.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.410 Drought conditions—Withdrawals and diversions—Orders, authority granted. Upon the issuance of an order under RCW 43.83B.405, the department of ecology is empowered to:

(1)(a) Authorize emergency withdrawal of public surface and ground waters, including dead storage within reservoirs, on a temporary basis and authorize associated physical works which may be either temporary or permanent. The termination date for the authority to make such an emergency withdrawal may not be later than the termination date of the order issued under RCW 43.83B.405 under which the power to authorize the withdrawal is established. The department of ecology may issue such withdrawal authorization when, after investigation and after providing appropriate federal, state, and local governmental bodies an opportunity to comment, the following are found:

(i) The waters proposed for withdrawal are to be used for a beneficial use involving a previously established activity or purpose;

(ii) The previously established activity or purpose was furnished water through rights applicable to the use of a public body of water that cannot be exercised due to the lack of water arising from natural drought conditions; and

(iii) The proposed withdrawal will not reduce flows or levels below essential minimums necessary (A) to assure the maintenance of fisheries requirements, and (B) to protect federal and state interests including, among others, power generation, navigation, and existing water rights;

(b) All withdrawal authorizations issued under this section shall contain provisions that allow for termination of withdrawals, in whole or in part, whenever withdrawals will conflict with flows and levels as provided in (a)(iii) of this subsection. Domestic and irrigation uses of public surface and ground waters shall be given priority in determining "beneficial uses." As to water withdrawal and associated works authorized under this subsection, the requirements of chapter 43.21C RCW and public bidding requirements as otherwise provided by law are waived and inapplicable. All state and local agencies with authority to issue permits or other authorizations for such works shall, to the extent possible, expedite the processing of the permits or authorizations in keeping with the emergency nature of the requests and shall provide a decision to the applicant within fifteen calendar days of the date of application. All state departments or other agencies having jurisdiction over state or other public lands, if such lands are necessary to effectuate the withdrawal authorizations issued under this subsection, shall provide short-term easements or other appropriate property interest upon the payment of the fair market value. This mandate shall not apply to any lands of the state that are reserved for a special purpose or use that cannot properly be carried out if the property interest were conveyed;

(2) Approve a temporary change in purpose, place of use, or point of diversion, consistent with existing state policy allowing transfer or lease of waters between willing parties, as provided for in RCW 90.03.380, 90.03.390, and 90.44.100. However, compliance with any requirements of (a) notice of newspaper publication of these sections or (b) the state environmental policy act, chapter 43.21C RCW, is not required when such changes are necessary to respond to drought conditions as determined by the department of ecology. An approval of a temporary change of a water right as authorized under this subsection is not admissible as evidence in either supporting or contesting the validity of water claims in *State of Washington, Department of Ecology v. Acquavella*, Yakima county superior court number 77-2-01484-5 or any similar proceeding where the existence of a water right is at issue.

(3) Employ additional persons for specified terms of time, consistent with the term of a drought condition, as are necessary to ensure the successful performance of the activities associated with implementing the emergency drought program of this chapter.

(4) Revise the drought contingency plan previously developed by the department; and

(5) Acquire needed emergency drought-related equipment. [1989 c 171 § 3.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.415 Drought conditions—Loans and grants.

(1) The department of ecology is authorized to make loans, grants, or combinations of loans and grants from emergency agricultural water supply funds when necessary to provide water to alleviate emergency drought conditions in order to ensure the survival of irrigated crops and the state's fisheries. For the purposes of this section, "emergency agricultural water supply funds" means funds appropriated from the state emergency water projects revolving account created under RCW 43.83B.360. The department of ecology may make the loans, grants, or combinations of loans and grants as matching funds in any case where federal, local, or other funds have been made available on a matching basis. The department may make a loan of up to ninety percent of the total eligible project cost or combination loan and grant up to one hundred percent of the total single project cost. The grant portion for any single project shall not exceed twenty percent of the total project cost except that, for activities forecast to have fifty percent or less of normal seasonal water supply, the grant portion for any single project or entity shall not exceed forty percent of the total project cost. No single entity shall receive more than ten percent of the total emergency agricultural water supply funds available for drought relief. These funds shall not be used for nonagricultural drought relief purposes unless there are no other capital budget funds available for these purposes. In any biennium the total expenditures of emergency agricultural water supply funds for nonagricultural drought relief purposes may not exceed ten percent of the total of such funds available during that biennium.

(2)(a) Except as provided in (b) of this subsection, after June 30, 1989, emergency agricultural water supply funds, including the repayment of loans and any accrued interest, shall not be used for any purpose except during drought conditions as determined under RCW 43.83B.400 and 43.83B.405.

(b) Emergency agricultural water supply funds may be used on a one-time basis for the development of procedures to be used by state governmental entities to implement the state's drought contingency plan. [1989 c 171 § 4.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.420 Rules. The department shall adopt such rules as are necessary to ensure the successful implementation of this chapter. [1989 c 171 § 5.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.425 Applicability—Construction. Nothing in this chapter shall:

(1) Authorize any interference whatsoever with existing water rights;

(2) Authorize the establishment of rights to withdrawal of waters of a permanent nature or of rights with any priority;

(3) Authorize the establishment of a water right under RCW 90.03.250 or 90.44.060;

(4) Preclude any person from filing an application pursuant to RCW 90.03.250 or 90.44.060. [1989 c 171 § 6.]

Severability—1989 c 171: See note following RCW 43.83B.400.

43.83B.900 Severability—1975 1st ex.s. c 295. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 295 § 17.]

43.83B.901 Severability—1977 ex.s. c 1. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 1 § 19.]

Chapter 43.83C

RECREATION IMPROVEMENTS BOND ISSUE

Sections

- 43.83C.010 Declaration.
- 43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83C.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83C.040 Administration of proceeds—Division into shares—Use of funds.
- 43.83C.050 Definitions.
- 43.83C.060 Referral to electorate.
- 43.83C.070 Form, terms, conditions, etc., of bonds.
- 43.83C.080 Anticipation notes—Pledge and promise—Seal.
- 43.83C.090 Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders.
- 43.83C.100 Legislature may provide additional means for payment of bonds.
- 43.83C.110 Bonds legal investment for public funds.

43.83C.010 Declaration. The long-range development goals for the state of Washington must include the acquisition, preservation, and improvement of recreation areas and facilities for the use and enjoyment of present and future residents of the state and the further development of the state's tourism and recreation economic base. [1972 ex.s. c 129 § 1.]

43.83C.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, preservation, development, and improvement of recreation areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 3; 1972 ex.s. c 129 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

43.83C.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 54; 1985 c 57 § 47; 1972 ex.s. c 129 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83C.040 Administration of proceeds—Division into shares—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be divided into three shares as follows:

(1) Thirty-five percent of such proceeds shall be administered, subject to legislative appropriation, by the interagency committee for outdoor recreation through the outdoor recreation account and allocated to the state of Washington, or any agency or department thereof, for the acquisition, preservation, and development of recreation areas and facilities by the state. The committee may use or permit the use of any portion of such share as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

(2) Thirty-five percent of such proceeds shall be administered, subject to legislative appropriation, by the interagency committee for outdoor recreation through the outdoor recreation account and allocated to public bodies for the acquisition, preservation, development, and improvement of recreational areas and facilities within the jurisdiction of such bodies. The committee may use or permit the use of any portion of such share for loans or grants to public bodies including use as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

(3) Thirty percent of such proceeds shall be allocated to the state parks and recreation commission, subject to legislative appropriation, for improvement of existing state parks and the acquisition and preservation of historic sites and buildings. The commission may use or permit the use of any portion of such share as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter.

In the event that the bonds authorized by this chapter are sold in more than one series the above division into shares shall apply to the total proceeds of the bonds authorized by this chapter and not to the proceeds of each separate series. [1972 ex.s. c 129 § 4.]

43.83C.050 Definitions. As used in this chapter, the phrase "acquisition, preservation, development, and improvement of recreation areas and facilities" shall include the acquisition, development, and improvement of real property, or any interest therein, for park and recreation purposes, including the acquisition and construction of all structures,

utilities, equipment, and improvements necessary or incidental to such purposes, the acquisition and preservation of historic sites and buildings and of scenic and environmentally valuable areas of the state, and the improvement of existing park and recreation areas and facilities.

As used in this chapter, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1972 ex.s. c 129 § 5.]

43.83C.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 129 § 6.]

Reviser's note: Chapter 43.83C RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 28). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

43.83C.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 129 § 7.]

43.83C.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 129 § 8.]

43.83C.090 Retirement of bonds from recreation improvements bond redemption fund—Retail sales tax collections—Remedies of bond holders. The recreation improvements bond redemption fund is hereby created in the state treasury. This fund shall be exclusively devoted to the

payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the recreation improvements bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 129 § 9.]

43.83C.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 129 § 10.]

43.83C.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any public body. [1972 ex.s. c 129 § 11.]

Chapter 43.83D

SOCIAL AND HEALTH SERVICES FACILITIES 1972 BOND ISSUE

Sections

- 43.83D.010 Declaration.
- 43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.83D.030 Proceeds to be deposited in state and local improvements revolving account.
- 43.83D.040 Administration of proceeds—Comprehensive plan—Use of funds.
- 43.83D.050 Definitions.
- 43.83D.060 Referral to electorate.
- 43.83D.070 Form, terms, conditions, etc., of bonds.
- 43.83D.080 Anticipation notes—Pledge and promise—Seal.
- 43.83D.090 Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders.
- 43.83D.100 Legislature may provide additional means for payment of bonds.
- 43.83D.110 Bonds legal investment for public funds.

43.83D.010 Declaration. The physical and mental health of the people of the state directly affects the achievement of economic progress and full employment. The establishment of a system of regional and community health and social service facilities will provide the improved and convenient health and social services needed for an efficient work force and a healthy and secure people. [1972 ex.s. c 130 § 1.]

43.83D.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of health and social service facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty-five million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within twenty years of the date of issuance or within thirty years should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1977 ex.s. c 242 § 4; 1972 ex.s. c 130 § 2.]

Severability—1977 ex.s. c 242: See note following RCW 43.83A.020.

43.83D.030 Proceeds to be deposited in state and local improvements revolving account. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 55; 1985 c 57 § 48; 1972 ex.s. c 130 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83D.040 Administration of proceeds—Comprehensive plan—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account of the general fund under the terms of this chapter shall be administered by the state department of social and health services, subject to legislative appropriation. The department shall prepare a comprehensive plan for a system of social and health service facilities for the state and may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish such plan by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1972 ex.s. c 130 § 4.]

43.83D.050 Definitions. As used in this chapter, the term "social and health service facilities" shall mean real property, and interests therein, equipment, buildings, structures, mobile units, parking facilities, utilities, landscaping, and all incidental improvements and appurtenances, developed as a part of a comprehensive plan for a system of social and health service facilities for the state including, without limitation, facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1972 ex.s. c 130 § 5.]

43.83D.060 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 130 § 6.]

Reviser's note: Chapter 43.83D RCW was adopted and ratified by the people at the November 7, 1972, general election (Referendum Bill No. 29). Governor's proclamation declaring approval of measure is dated December 7, 1972.

State Constitution Art. 2 § 1(d) provides ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved. . . ."

43.83D.070 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 130 § 7.]

43.83D.080 Anticipation notes—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1972 ex.s. c 130 § 8.]

43.83D.090 Retirement of bonds from social and health service facilities bond redemption fund—Retail sales tax collections—Remedies of bond holders. The social and health service facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest require-

ments, and on July 1 of each year the state treasurer shall deposit such amount in the social and health service facilities bond redemption fund from moneys transmitted to the state treasurer by the state department of revenue and certified by the department to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest. The owner and holder of each of the bonds or the trustee for any of the bonds may, by mandamus or other appropriate proceeding, require the transfer and payment of funds as directed herein. [1972 ex.s. c 130 § 9.]

43.83D.100 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 130 § 10.]

43.83D.110 Bonds legal investment for public funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1972 ex.s. c 130 § 11.]

Chapter 43.83F

CAPITOL FACILITIES REVENUE BONDS, 1969— EAST CAPITOL SITE

Sections

- 43.83F.010 Refunding bonds—Issuance—Authorization.
- 43.83F.020 Refunding bonds—Powers and duties of state finance committee.
- 43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception.
- 43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state.
- 43.83F.050 Refunding bonds—Legislature may provide additional means for payment.
- 43.83F.060 Refunding bonds—Legal investment for state and other public bodies.
- 43.83F.900 Severability—1974 ex.s. c 113.

43.83F.010 Refunding bonds—Issuance—Authorization. The state finance committee is authorized to issue general obligation bonds of the state in the amount of twenty-one million dollars, or so much thereof as may be required to refund, at or prior to maturity, the outstanding "State of Washington Capitol Facilities Revenue Bonds, 1969", dated October 1, 1969, and the outstanding "State of Washington East Capitol Site Bonds, 1969", dated October 1, 1969, and to pay any premium payable with respect thereto and all interest thereon, and to pay all costs incidental thereto and to the issuance of the bonds authorized by this chapter. The bonds authorized by this chapter shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the state Constitution. [1974 ex.s. c 113 § 1.]

43.83F.020 Refunding bonds—Powers and duties of state finance committee. The issuance, sale and retirement

of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds. Such bonds shall be payable at such places as the committee may provide. [1974 ex.s. c 113 § 2.]

43.83F.030 Refunding bonds—Administration of proceeds from sale—Exception. The proceeds from the sale of bonds authorized by this chapter shall be set aside for the payment of the bonds to be refunded in accordance with chapter 39.53 RCW, except that investment and reinvestment thereof shall be limited to direct obligations of the United States of America. [1974 ex.s. c 113 § 3.]

43.83F.040 Refunding bonds—Payment from bond redemption fund—Procedure—General obligation of state. The state building refunding bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by this chapter. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of this chapter shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1974 ex.s. c 113 § 4.]

43.83F.050 Refunding bonds—Legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 113 § 5.]

43.83F.060 Refunding bonds—Legal investment for state and other public bodies. The bonds authorized in this chapter shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1974 ex.s. c 113 § 6.]

43.83F.900 Severability—1974 ex.s. c 113. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 113 § 8.]

CONSTRUCTION

- 43.83H.900 Severability—1975-'76 2nd ex.s. c 125.
- 43.83H.910 Severability—1977 ex.s. c 342.
- 43.83H.912 Severability—1979 ex.s. c 252.
- 43.83H.914 Severability—1981 c 234.
- 43.83H.915 Severability—1984 c 269.

Chapter 43.83H

1975-'76 BOND ISSUE

**SOCIAL AND HEALTH SERVICES FACILITIES—
BOND ISSUES**

Sections

1975-'76 BOND ISSUE

- 43.83H.010 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.83H.020 "Social and health services facilities" defined.
- 43.83H.030 Proceeds of bonds.
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- 43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc.
- 43.83H.110 "Social and health services facilities" defined.
- 43.83H.120 Anticipation notes—Proceeds of bonds and notes.
- 43.83H.130 Administration of proceeds.
- 43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders.
- 43.83H.150 Legal investment for public funds.

1979 BOND ISSUE

- 43.83H.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise.
- 43.83H.162 "Social and health services facilities" defined.
- 43.83H.164 Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979.
- 43.83H.166 Administration of proceeds.
- 43.83H.168 Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders.
- 43.83H.170 Bonds legal investment for public funds.

1981 BOND ISSUE

- 43.83H.172 General obligation bonds—Authorized—Issuance—Pledge and promise.
- 43.83H.174 "Social and health services facilities" defined.
- 43.83H.176 Deposit of proceeds in state social and health services construction account—Use.
- 43.83H.178 Administration of proceeds.
- 43.83H.180 Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.83H.182 Bonds legal investment for public funds.

1984 BOND ISSUE

- 43.83H.184 General obligation bonds—Authorized—Issuance—Price—Appropriation required.
- 43.83H.186 Deposit of proceeds in state social and health services construction account—Use.
- 43.83H.188 Administration of proceeds.
- 43.83H.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.83H.192 Legislature may provide additional means for payment of bonds.
- 43.83H.194 Bonds legal investment for public funds.

43.83H.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty-one million four hundred thousand dollars or so much thereof as shall be required to finance social and health services facilities. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the Constitution of the state of Washington.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1975-'76 2nd ex.s. c 125 § 1.]

43.83H.020 "Social and health services facilities" defined. As used in this chapter, the term "social and health services facilities" shall include, without limitation, facilities for use in veterans' service programs, adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the social and health services construction account in the general fund by chapter 276, Laws of 1975 1st ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1975-'76 2nd ex.s. c 125 § 2.]

43.83H.030 Proceeds of bonds. The proceeds from the sale of bonds authorized by *this chapter shall be deposited in the state social and health services construction account hereby created in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of such bonds. [1991 sp.s. c 13 § 56; 1985 c 57 § 49; 1975-'76 2nd ex.s. c 125 § 3.]

***Reviser's note:** A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.83H.040 Administration of proceeds. The principal proceeds from the sale of the bonds authorized in this chapter and deposited in the social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1975-'76 2nd ex.s. c 125 § 4.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

43.83H.050 Retirement of bonds from social and health services construction bond redemption fund—Source—Remedies of bond holders. The state social and health services bond redemption fund of 1976 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds and notes authorized by this chapter or any social and health services facilities bonds and notes hereafter authorized by the legislature. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state social and health services bond redemption fund of 1976 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1975-'76 2nd ex.s. c 125 § 5.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

43.83H.060 Legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 125 § 6.]

Reviser's note: A literal translation of "this chapter" is RCW 43.83H.010 through 43.83H.060 and 43.83H.900.

1977 BOND ISSUE

43.83H.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of twenty million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of such bonds, the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1977 ex.s. c 342 § 1.]

43.83H.110 "Social and health services facilities" defined. As used in RCW 43.83H.100 through 43.83H.150 and 43.83H.910, the term "social and health services facilities", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by chapter 338, Laws of 1977 ex. sess., the capital appropriations act, or subsequent capital appropriations acts. [1977 ex.s. c 342 § 2.]

43.83H.120 Anticipation notes—Proceeds of bonds and notes. At the time the state finance committee determines to issue such bonds authorized in RCW 43.83H.100 or a portion thereof, it may, pending the issuance thereof, issue in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and for the payment of expenses incurred in the issuance and sale of such bonds and notes: **PROVIDED,** That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the state social and health services bond redemption fund of 1976 in the state treasury. [1977 ex.s. c 342 § 3.]

43.83H.130 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.100 through 43.83H.150 and 43.83H.910 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1977 ex.s. c 342 § 4.]

43.83H.140 Retirement of bonds from social and health services construction bond redemption fund of 1976—Source—Remedies of bond holders. The state social and health services bond redemption fund of 1976 in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.100 through

43.83H.150 and 43.83H.910. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed herein. [1977 ex.s. c 342 § 5.]

43.83H.150 Legal investment for public funds. The bonds authorized by RCW 43.83H.100 through 43.83H.150 and 43.83H.910 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 342 § 6.]

1979 BOND ISSUE

43.83H.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred and two million dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution.

The state finance committee is authorized to prescribe the form of the bonds, the time of sale of all or any portion or portions of the bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1979 ex.s. c 252 § 1.]

43.83H.162 "Social and health services facilities" defined. As used in RCW 43.83H.160 through 43.83H.170 and 43.83H.912, the term "social and health services facilities", shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the

general fund by the capital appropriations act, or subsequent capital appropriations acts. [1979 ex.s. c 252 § 2.]

43.83H.164 Bond anticipation notes—Deposit of proceeds of bonds and notes in social and health services construction account and social and health services bond redemption fund of 1979. At the time the state finance committee determines to issue the bonds authorized in RCW 43.83H.160, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "bond anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.160 through 43.83H.170 and 43.83H.912 and for the payment of expenses incurred in the issuance and sale of the bonds and notes: PROVIDED, That such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal and interest on the anticipation notes as have been issued shall be deposited in the state social and health services bond redemption fund of 1979, hereby created, in the state treasury. [1979 ex.s. c 252 § 3.]

43.83H.166 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.160 through 43.83H.170 and 43.83H.912 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of the department of social and health services. [1979 ex.s. c 252 § 4.]

43.83H.168 Retirement of bonds and notes from social and health services bond redemption fund of 1979—Retirement of bonds and notes from state general obligation bond retirement fund—Remedies of bondholders. The state social and health services bond redemption fund of 1979 hereby created in the state treasury shall be used for the purpose of the payment of interest on and retirement of the bonds and notes authorized to be issued by RCW 43.83H.160 through 43.83H.170 and 43.83H.912. The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1979 state social and health services bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912, the state general obligation bond retirement fund shall be used for purposes of RCW 43.83H.160 through 43.83H.170 and

43.83H.912 in lieu of the state social and health services bond redemption fund of 1979, and the state social and health services bond redemption fund of 1979 shall cease to exist.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section. [1979 ex.s. c 252 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.170 Bonds legal investment for public funds. The bonds authorized by RCW 43.83H.160 through 43.83H.170 and 43.83H.912 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 252 § 6.]

1981 BOND ISSUE

43.83H.172 General obligation bonds—Authorized—Issuance—Pledge and promise. For the purpose of providing needed capital improvements consisting of the planning, acquisition, construction, remodeling, improving, and equipping of social and health services and department of corrections facilities, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one hundred eight-seven [eighty-seven] million four hundred twenty-five thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83H.172 through 43.83H.182 may be offered for sale without prior legislative appropriation.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. [1983 1st ex.s. c 54 § 8; 1982 1st ex.s. c 23 § 3; 1981 c 234 § 1.]

Severability—1983 1st ex.s. c 54: See RCW 43.83.196.

43.83H.174 "Social and health services facilities" defined. As used in RCW 43.83H.172 through 43.83H.182, the term "social and health services facilities" shall include, without limitation, facilities for use in adult correction programs, juvenile rehabilitation programs, mental health programs, and developmental disabilities programs for which an appropriation is made from the state social and health services construction account in the general fund by the capital appropriations act, or subsequent capital appropriations acts. [1981 c 234 § 2.]

43.83H.176 Deposit of proceeds in state social and health services construction account—Use. The proceeds from the sale of bonds authorized by RCW 43.83H.172 through 43.83H.182 shall be deposited in the state social and health services construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.83H.172 through 43.83H.182 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 234 § 3.]

43.83H.178 Administration of proceeds. The proceeds from the sale of the bonds authorized in RCW 43.83H.172 through 43.83H.182 and deposited in the state social and health services construction account in the general fund shall be administered by the secretary of social and health services. [1981 c 234 § 4.]

43.83H.180 Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the purpose of the payment of interest on and retirement of the bonds authorized to be issued by RCW 43.83H.172 through 43.83H.182.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount needed in the ensuing twelve months, to meet bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

The owner and holder of each of the bonds or the trustee for any of the bonds, by mandamus or other appropriate proceeding, may require and compel the transfer and payment of funds as directed in this section. [1981 c 234 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.182 Bonds legal investment for public funds. The bonds authorized by RCW 43.83H.172 through 43.83H.180 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 234 § 6.]

1984 BOND ISSUE

43.83H.184 General obligation bonds—Authorized—Issuance—Price—Appropriation required. For the purpose of providing needed capital improvements consisting of fire safety projects and the design, construction, repair, renovating, and equipping of buildings and facilities of the department of social and health services, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of fourteen million six hundred sixty thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1984 c 269 § 1.]

43.83H.186 Deposit of proceeds in state social and health services construction account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83H.184 shall be deposited in the state social and health services construction account in the general fund and shall be used exclusively for the purposes specified in RCW 43.83H.184

and for the payment of expenses incurred in the issuance and sale of the bonds. [1984 c 269 § 2.]

43.83H.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83H.186 in the state social and health services construction account of the general fund shall be administered by the department of social and health services, subject to legislative appropriation. [1984 c 269 § 3.]

43.83H.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83H.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83H.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1984 c 269 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83H.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83H.184, and RCW 43.83H.190 shall not be deemed to provide an exclusive method for the payment. [1984 c 269 § 5.]

43.83H.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83H.184 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1984 c 269 § 6.]

CONSTRUCTION

43.83H.900 Severability—1975-'76 2nd ex.s. c 125. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or

circumstances is not affected. [1975-'76 2nd ex.s. c 125 § 8.]

43.83H.910 Severability—1977 ex.s. c 342. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 342 § 7.]

43.83H.912 Severability—1979 ex.s. c 252. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 252 § 7.]

43.83H.914 Severability—1981 c 234. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 234 § 7.]

43.83H.915 Severability—1984 c 269. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 269 § 7.]

Chapter 43.83I

DEPARTMENT OF FISHERIES—BOND ISSUES

Sections	1975-'76 BOND ISSUE
43.83I.010	General obligation bonds—Authorized—Issuance, sale, terms, etc.
43.83I.020	Bond anticipation notes—Proceeds of bonds and interest on notes.
43.83I.030	Bonds and notes—Powers and duties of state finance committee.
43.83I.040	Fisheries capital projects account created—Proceeds deposited in—Exception.
43.83I.050	1976 fisheries bond retirement fund created.
43.83I.060	Legal investment for public funds.
	1977 BOND ISSUE
43.83I.100	General obligation bonds—Authorized—Issuance, sale, terms, etc.
43.83I.110	Bond anticipation notes—Proceeds of bonds and interest on notes.
43.83I.120	Bonds and notes—Powers and duties of state finance committee.
43.83I.130	Proceeds deposited in fisheries capital projects account—Exception.
43.83I.140	1977 fisheries bond retirement fund created.
43.83I.150	Legal investment for public funds.
	1979 BOND ISSUE
43.83I.160	General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
43.83I.162	Bond anticipation notes—Payment.
43.83I.164	Form, terms, conditions, etc., of bonds and notes—Pledge and promise.
43.83I.168	Retirement of bonds from 1977 fisheries bond retirement fund.
43.83I.170	Bonds legal investment for public funds.

1981 BOND ISSUE

- 43.831.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required.
- 43.831.174 Bond anticipation notes.
- 43.831.176 Form, terms, conditions, etc., of bonds and notes—Pledge and promise.
- 43.831.178 Proceeds deposited in fisheries capital projects account—Use.
- 43.831.180 Retirement of bonds from 1977 fisheries bond retirement fund.
- 43.831.182 Bonds legal investment for public funds.

1983 BOND ISSUE

- 43.831.184 General obligation bonds—Authorized—Issuance—Appropriation required.
- 43.831.186 Deposit of proceeds in fisheries capital projects account—Use.
- 43.831.188 Administration of proceeds.
- 43.831.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.831.192 Legislature may provide additional means for payment of bonds.
- 43.831.194 Bonds legal investment for public funds.

CONSTRUCTION

- 43.831.900 Severability—1975-'76 2nd ex.s. c 132.
- 43.831.910 Severability—1977 ex.s. c 343.
- 43.831.912 Severability—1979 ex.s. c 224.
- 43.831.914 Severability—1981 c 231.
- 43.831.915 Severability—1983 1st ex.s. c 59.

1975-'76 BOND ISSUE

43.831.010 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of five million one hundred thirty-two thousand nine hundred dollars, or so much thereof as shall be required to finance the capital projects relating to the *department of fisheries as determined by the legislature in its capital appropriations act, chapter 133, Laws of 1975-'76 2nd ex. sess. for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the Constitution of the state of Washington. [1975-'76 2nd ex.s. c 132 § 1.]

*Reviser's note: Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.831.020 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 43.831.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and redemption premium, if any, and interest on

such notes shall be applied thereto when such bonds are issued. [1975-'76 2nd ex.s. c 132 § 2.]

43.831.030 Bonds and notes—Powers and duties of state finance committee. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.831.010 and 43.831.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1975-'76 2nd ex.s. c 132 § 3.]

43.831.040 Fisheries capital projects account created—Proceeds deposited in—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.831.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.831.010 through 43.831.060, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund hereby created in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.831.010 through 43.831.060 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975-'76 2nd ex.s. c 132 § 4.]

43.831.050 1976 fisheries bond retirement fund created. The 1976 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.831.010 through 43.831.060.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1976 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee. [1975-'76 2nd ex.s. c 132 § 5.]

43.831.060 Legal investment for public funds. The bonds authorized in RCW 43.831.010 through 43.831.060 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975-'76 2nd ex.s. c 132 § 6.]

1977 BOND ISSUE

43.831.100 General obligation bonds—Authorized—Issuance, sale, terms, etc. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings and facilities for the *department of fisheries, the

state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million dollars, or so much thereof as may be required to finance such projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.100 through 43.83I.150 and 43.83I.910 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1977 ex.s. c 343 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.83I.110 Bond anticipation notes—Proceeds of bonds and interest on notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 43.83I.100, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and redemption premium, if any, and interest on such notes shall be applied thereto when such bonds are issued. [1977 ex.s. c 343 § 2.]

43.83I.120 Bonds and notes—Powers and duties of state finance committee. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.100 and 43.83I.110, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1977 ex.s. c 343 § 3.]

43.83I.130 Proceeds deposited in fisheries capital projects account—Exception. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 43.83I.110, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.100 through 43.83I.150, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in RCW 43.83I.100 through 43.83I.150 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1977 ex.s. c 343 § 4.]

43.83I.140 1977 fisheries bond retirement fund created. The 1977 fisheries bond retirement fund is hereby created in the state treasury for the purpose of the payment of the principal of and interest on the bonds authorized to be issued pursuant to RCW 43.83I.100 through 43.83I.150.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. Not less than thirty days prior to the date on which any such interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date. [1977 ex.s. c 343 § 5.]

43.83I.150 Legal investment for public funds. The bonds authorized in RCW 43.83I.100 through 43.83I.150 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1977 ex.s. c 343 § 6.]

1979 BOND ISSUE

43.83I.160 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of five million forty-five thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.160 through 43.83I.170 and 43.83I.912 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1987 1st ex.s. c 3 § 10; 1979 ex.s. c 224 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Severability—1987 1st ex.s. c 3: See RCW 43.99G.901.

43.83I.162 Bond anticipation notes—Payment. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 43.83I.160, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of the bonds as may be required for the payment of the principal and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 224 § 2.]

43.83I.164 Form, terms, conditions, etc., of bonds and notes—Pledge and promise. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.160 and 43.83I.162, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1979 ex.s. c 224 § 3.]

43.83I.168 Retirement of bonds from 1977 fisheries bond retirement fund. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued under RCW 43.83I.160 through 43.83I.170.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1979 ex.s. c 224 § 5.]

43.83I.170 Bonds legal investment for public funds. The bonds authorized in RCW 43.83I.160 through 43.83I.168 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 224 § 6.]

1981 BOND ISSUE

43.83I.172 General obligation bonds—Authorized—Issuance, sale, terms, etc.—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of six million five hundred thousand dollars, or so much thereof as may be required, to finance these projects, and all costs incidental thereto. No bonds authorized by RCW 43.83I.172 through 43.83I.182 may be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1981 c 231 § 1.]

**Reviser's note:* Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.83I.174 Bond anticipation notes. When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW 43.83I.172, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." [1981 c 231 § 2.]

43.83I.176 Form, terms, conditions, etc., of bonds and notes—Pledge and promise. The state finance committee is authorized to prescribe the form, terms,

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conditions, and covenants of the bonds and/or the bond anticipation notes provided for in RCW 43.83I.172 and 43.83I.174, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1981 c 231 § 3.]

43.83I.178 Proceeds deposited in fisheries capital projects account—Use. The proceeds from the sale of the bonds and/or bond anticipation notes authorized in RCW 43.83I.172 through 43.83I.182, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the fisheries capital projects account of the general fund in the state treasury. All of these proceeds shall be used exclusively for the purposes specified in RCW 43.83I.172 through 43.83I.182 and for the payment of the expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes. [1981 c 231 § 4.]

43.83I.180 Retirement of bonds from 1977 fisheries bond retirement fund. The 1977 fisheries bond retirement fund in the state treasury shall be used for the purpose of the payment of the principal of and interest on the bonds authorized to be issued under RCW 43.83I.172 through 43.83I.182.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1977 fisheries bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date. [1981 c 231 § 5.]

43.83I.182 Bonds legal investment for public funds. The bonds authorized in RCW 43.83I.172 through 43.83I.180 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1981 c 231 § 6.]

1983 BOND ISSUE

43.83I.184 General obligation bonds—Authorized—Issuance—Appropriation required. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, refurbishing, furnishing, and equipping of state buildings and facilities for the *department of fisheries, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million one hundred sixty-five thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized in this section may be offered for sale

without prior legislative appropriation. [1983 1st ex.s. c 59 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

43.83I.186 Deposit of proceeds in fisheries capital projects account—Use. The proceeds from the sale of the bonds authorized in RCW 43.83I.184 shall be deposited in the fisheries capital projects account in the state general fund and shall be used exclusively for the purposes specified in RCW 43.83I.184 and for the payment of expenses incurred in the issuance and sale of the bonds. [1983 1st ex.s. c 59 § 2.]

43.83I.188 Administration of proceeds. The proceeds from the sale of the bonds deposited under RCW 43.83I.186 in the fisheries capital projects account of the general fund shall be administered by the department of fish and wildlife, subject to legislative appropriation. [1994 c 264 § 29; 1983 1st ex.s. c 59 § 3.]

43.83I.190 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.83I.184.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.83I.184 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1983 1st ex.s. c 59 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.83I.192 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.83I.184, and RCW 43.83I.190 shall not be deemed to provide an exclusive method for the payment. [1983 1st ex.s. c 59 § 5.]

43.83I.194 Bonds legal investment for public funds. The bonds authorized in RCW 43.83I.184 shall be a legal

investment for all state funds or funds under state control and for all funds of any other public body. [1983 1st ex.s. c 59 § 6.]

CONSTRUCTION

43.83I.900 Severability—1975-'76 2nd ex.s. c 132. If any provision of this 1976 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975-'76 2nd ex.s. c 132 § 8.]

43.83I.910 Severability—1977 ex.s. c 343. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 343 § 7.]

43.83I.912 Severability—1979 ex.s. c 224. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 224 § 7.]

43.83I.914 Severability—1981 c 231. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 231 § 7.]

43.83I.915 Severability—1983 1st ex.s. c 59. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 59 § 7.]

Chapter 43.84

INVESTMENTS AND INTERFUND LOANS

Sections

- 43.84.031 Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities.
- 43.84.041 Management of permanent funds—Disposition of securities.
- 43.84.051 Management of permanent funds—Collection of interest, income and principal of securities—Disposition.
- 43.84.061 Management of permanent funds—Degree of judgment and care required in making investments.
- 43.84.080 Investment of current state funds.
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 4).
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 329).
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 445).
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 492).

- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 500).
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 sp.s. c 8).
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 sp.s. c 25).
- 43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1994 c 2 (Initiative Measure No. 601)).
- 43.84.095 Exemption from reserve fund—Motor vehicle fund income from United States securities.
- 43.84.120 Investment in state warrants.
- 43.84.130 Separate accounting as to permanent school fund.
- 43.84.140 Investment of scientific schol. agricultural college, and state university funds in regents' revenue bonds.
- 43.84.150 Authority of state investment board to invest, reinvest, manage, etc., investments acquired.
- 43.84.160 Investment counseling fees payable from earnings.
- 43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund.

Federal home owner's loan corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Firemen's pension board, investments by: RCW 41.16.040.

Highway construction bonds, investment in: Chapter 47.10 RCW.

Housing authority bonds, authorized as legal investments: RCW 35.82.220.

Industrial insurance funds: Chapter 51.44 RCW.

Investment accounting: RCW 43.33A.180.

Metropolitan municipal corporation obligations, authorized for public deposits: RCW 35.58.510.

Mutual savings banks, investments in state bonds: RCW 32.20.050.

Port district toll facility bonds and notes as legal investments: RCW 53.34.150.

Public utility district revenue obligations as legal investments: RCW 54.24.120.

School building construction bonds: Chapter 28A.525 RCW.

Schools and school districts' bonds, investment of permanent school fund in: State Constitution Art. 16 § 5.

State-wide city employees' retirement system funds: RCW 41.44.100.

United States corporation bonds, valid investment for public and trust funds: RCW 39.60.010.

Urban renewal bonds: RCW 35.81.110.

43.84.031 Management of permanent funds—Procedural policies—Limitation on purchase, sale or exchange prices for securities. Subject to the limitation of authority delegated by RCW 43.84.031 through 43.84.061 and RCW 43.84.150, the state investment board shall adopt procedural policies governing the management of said permanent trust funds. [1981 c 3 § 17; 1973 1st ex.s. c 103 § 5; 1965 ex.s. c 104 § 3.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

State investment board: Chapter 43.33A RCW.

43.84.041 Management of permanent funds—Disposition of securities. All securities purchased or held on behalf of said funds, shall be held and disbursed through the state treasury and shall be in the physical custody of the state treasurer, who may deposit with the fiscal agent of the state, or with a state depository, such of said securities as he

shall consider advisable to be held in safekeeping by said agent or bank for collection of principal and interest, or of the proceeds of sale thereof. [1965 ex.s. c 104 § 4.]

43.84.051 Management of permanent funds—Collection of interest, income and principal of securities—Disposition. It shall be the duty of the state treasurer to collect the interest, or other income on, and the principal of the securities held in his or her custody pursuant to RCW 43.84.041 as the said sums become due and payable, and to pay the same when so collected into the respective funds to which the principal and interest shall accrue, less the allocation to the state treasurer's service account [fund] pursuant to RCW 43.08.190 and the state investment board expense account pursuant to RCW 43.33A.160. [1991 sp.s. c 13 § 93; 1965 ex.s. c 104 § 5.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.84.061 Management of permanent funds—Degree of judgment and care required in making investments. Any investments made hereunder shall be made with the exercise of that degree of judgment and care, under circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation but for investment, considering the probable safety of their capital as well as the probable income to be derived. [1965 ex.s. c 104 § 6.]

43.84.080 Investment of current state funds. Wherever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, the state treasurer may invest or reinvest such portion of such funds or balances as the state treasurer deems expedient in the following defined securities or classes of investments:

(1) Certificates, notes, or bonds of the United States, or other obligations of the United States or its agencies, or of any corporation wholly owned by the government of the United States;

(2) In state, county, municipal, or school district bonds, or in warrants of taxing districts of the state. Such bonds and warrants shall be only those found to be within the limit of indebtedness prescribed by law for the taxing district issuing them and to be general obligations. The state treasurer may purchase such bonds or warrants directly from the taxing district or in the open market at such prices and upon such terms as it may determine, and may sell them at such times as it deems advisable;

(3) In motor vehicle fund warrants when authorized by agreement between the state treasurer and the department of transportation requiring repayment of invested funds from any moneys in the motor vehicle fund available for state highway construction;

(4) In federal home loan bank notes and bonds, federal land bank bonds and federal national mortgage association notes, debentures and guaranteed certificates of participation, or the obligations of any other government sponsored corporation whose obligations are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system;

(5) Bankers' acceptances purchased on the secondary market;

(6) Negotiable certificates of deposit of any national or state commercial or mutual savings bank or savings and loan association doing business in the United States: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board;

(7) Commercial paper: PROVIDED, That the treasurer shall adhere to the investment policies and procedures adopted by the state investment board. [1982 c 148 § 1; 1981 c 3 § 18; 1979 ex.s. c 154 § 1; 1975 1st ex.s. c 4 § 1; 1971 c 16 § 1; 1967 c 211 § 1; 1965 c 8 § 43.84.080. Prior: 1961 c 281 § 11; 1955 c 197 § 1; 1935 c 91 § 1; RRS § 5508-1.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1961 c 281: See note following RCW 47.12.180.

Motor vehicle fund warrants for state highway acquisition: RCW 47.12.180 through 47.12.240.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 4). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's

average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 329). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's

average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 329 § 2; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Effective date—1993 c 329: See note following RCW 90.50A.020.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 445). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The central Puget Sound public

transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 445 § 4; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 492). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the health services account, the public health services account, the health system capacity account, the personal health services account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county

arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 492 § 473; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Findings—Intent—1993 c 492: See notes following RCW 43.72.005.

Short title—Severability—Savings—Captions not law—Reservation of legislative power—Effective dates—1993 c 492: See RCW 43.72.910 through 43.72.915.

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 c 500). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement

system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection ((2)) (4)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

((2)) (5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 c 500 § 6; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 sp.s. c 8). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II

account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: ~~The (central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the) motor vehicle fund((, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund,)) and the transportation fund((, the transportation improvement account, and the urban arterial trust account)).~~

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 sp.s. c 8 § 1; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Effective date—Application—1993 sp.s. c 8: "This act shall take effect July 1, 1993, but shall not be effective for earnings on balances prior to July 1, 1993." [1993 sp.s. c 8 § 3.]

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1993 sp.s. c 25). (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account, the local sales and use tax account, the medical aid account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public

employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington bond retirement fund, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the marine operating fund, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1993 sp.s. c 25 § 511; 1993 c 4 § 9; 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Severability—Effective dates—Part headings, captions not law—1993 sp.s. c 25: See notes following RCW 82.04.230.

Findings—Intent—1993 sp.s. c 25: See note following RCW 82.45.010.

43.84.092 Deposit of surplus balance investment earnings—Treasury income account—Accounts and funds credited (as amended by 1994 c 2 (Initiative Measure No. 601)). (Effective July 1, 1995.) (1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the common school construction fund, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of retirement systems expense account, the Eastern Washington University capital projects account, the education construction fund, the emergency reserve fund, the federal forest revolving account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local sales and use tax account, the medical aid account, the municipal

criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the perpetual surveillance and maintenance account, the public employees' retirement system plan I account, the public employees' retirement system plan II account, the Puyallup tribal settlement account, the resource management cost account, the site closure account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the supplemental pension account, the teachers' retirement system plan I account, the teachers' retirement system plan II account, the University of Washington building account, the University of Washington building account, the volunteer fire fighters' relief and pension principal account, the volunteer fire fighters' relief and pension administrative account, the Washington judicial retirement system account, the Washington law enforcement officers' and fire fighters' system plan I retirement account, the Washington law enforcement officers' and fire fighters' system plan II retirement account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. All earnings to be distributed under this subsection (2)(a) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(b) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The central Puget Sound public transportation account, the city hardship assistance account, the county arterial preservation account, the economic development account, the essential rail assistance account, the essential rail banking account, the ferry bond retirement fund, the grade crossing protective fund, the high capacity transportation account, the highway bond retirement fund, the highway construction stabilization account, the highway safety account, the motor vehicle fund, the motorcycle safety education account, the pilotage account, the public transportation systems account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the recreational vehicle account, the rural arterial trust account, the special category C account, the state patrol highway account, the transfer relief account, the transportation capital facilities account, the transportation equipment fund, the transportation fund, the transportation improvement account, and the urban arterial trust account.

(3) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section. [1994 c 2 § 6 (Initiative Measure No. 601, approved November 2, 1993); 1992 c 235 § 4; 1991 sp.s. c 13 § 57; 1990 2nd ex.s. c 1 § 204; 1989 c 419 § 12; 1985 c 57 § 51.]

Reviser's note: RCW 43.84.092 was amended seven times during the 1993 legislative session, and was subsequently amended in the 1993 general election, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Severability—Effective dates—1994 c 2 (Initiative Measure No. 601): See RCW 43.135.903 and 43.135.904.

Legislative declaration—Effective date—1993 c 4: See notes following RCW 47.56.770.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Applicability—1990 2nd ex.s. c 1: See note following RCW 82.14.050.

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

Intent—Effective date—1989 c 419: See notes following RCW 4.92.006.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.84.095 Exemption from reserve fund—Motor vehicle fund income from United States securities. Whenever moneys of the motor vehicle fund shall be invested in bonds, notes, bills or certificates of the United States treasury payable at par upon demand, or within a term

not greater than one year, it shall not be necessary to place any portion of the income therefrom in the reserve fund provided for in *RCW 43.84.090. [1965 c 8 § 43.84.095. Prior: 1953 c 56 § 1.]

***Reviser's note:** RCW 43.84.090 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

43.84.120 Investment in state warrants. Whenever there is in any fund or in cash balances in the state treasury more than sufficient to meet the current expenditures properly payable therefrom, and over and above the amount belonging to the permanent school fund as shown by the separation made by the state treasurer, the state treasurer may invest such portion of such funds or balances over and above that belonging to the permanent school fund in registered warrants of the state of Washington at such times and in such amounts, and may sell them at such times, as he deems advisable: PROVIDED, That those funds having statutory authority to make investments are excluded from the provisions of RCW 43.84.120.

Upon such investment being made, the state treasurer shall pay into the appropriate fund the amount so invested, and the warrants so purchased shall be deposited with the state treasurer, who shall collect all interest and principal payments falling due thereon and allocate the same to the proper fund or funds. [1971 ex.s. c 88 § 4; 1965 c 8 § 43.84.120. Prior: 1951 c 232 § 2.]

Severability—1971 ex.s. c 88: See note following RCW 43.08.070.

43.84.130 Separate accounting as to permanent school fund. For the purposes of RCW 43.84.120 the state treasurer shall make and keep an accounting separation of the amount of cash balances in the state treasury belonging to the permanent school fund. [1965 c 8 § 43.84.130. Prior: 1951 c 232 § 1.]

43.84.140 Investment of scientific school, agricultural college, and state university funds in regents' revenue bonds. The state investment board is authorized to invest moneys in the scientific school permanent fund and the agricultural college permanent fund in regents' revenue bonds issued by the board of regents of Washington State University for the purposes provided for in RCW 28B.10.300 and to invest moneys in the state university permanent fund in regents' revenue bonds issued by the board of regents of the University of Washington for the purposes provided in RCW 28B.10.300. [1981 c 3 § 19; 1965 c 8 § 43.84.140. Prior: 1959 c 150 § 1.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

43.84.150 Authority of state investment board to invest, reinvest, manage, etc., investments acquired. Except where otherwise specifically provided by law, the state investment board shall have full power to invest, reinvest, manage, contract, or sell or exchange investments acquired. Investments shall be made in accordance with RCW 43.33A.140 and investment policy duly established and published by the state investment board. All funds shall be sufficiently diversified and no corporate fixed income issue or common stock holding may exceed three percent of

the cost or six percent of the market value of the assets of any fund. [1981 c 98 § 1; 1981 c 3 § 20; 1979 c 119 § 3; 1977 ex.s. c 251 § 5; 1975-'76 2nd ex.s. c 17 § 2. Prior: 1975 1st ex.s. c 252 § 1; 1975 1st ex.s. c 81 § 1; 1973 1st ex.s. c 103 § 12.]

Effective date—1981 c 98: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 98 § 2.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

43.84.160 Investment counseling fees payable from earnings. Investment counseling fees established by contract shall be payable from the investment earnings derived from those assets being managed by investment counsel. [1973 1st ex.s. c 103 § 13.]

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

43.84.170 Investment of surplus moneys in common school fund, agricultural college fund, normal school fund, scientific school fund or university fund. Whenever there are surplus moneys available for investment in the permanent common school fund, the agricultural college permanent fund, the normal school permanent fund, the scientific school permanent fund, or the university permanent fund, the state investment board has full power to invest or reinvest such funds in the manner prescribed by RCW 43.84.150, and not otherwise. [1981 c 3 § 21; 1973 1st ex.s. c 103 § 14.]

Effective dates—Severability—1981 c 3: See notes following RCW 43.33A.010.

Severability—1973 1st ex.s. c 103: See note following RCW 2.10.080.

Agricultural permanent fund: RCW 43.79.130.

Normal school permanent fund: RCW 43.79.160.

Permanent common school fund: State Constitution Art. 9 § 3, RCW 28A.515.300.

Scientific permanent fund: RCW 43.79.110.

University permanent fund: RCW 43.79.060.

Chapter 43.85

STATE DEPOSITARIES

Sections

- 43.85.070 Deposits deemed in state treasury—Liability.
- 43.85.130 Deposit of commissioner of public lands and department of natural resources funds—Natural resources deposit fund—Repayments.
- 43.85.190 Investment deposits and rate of interest.
- 43.85.200 Investment deposits and rate of interest—State moneys defined.
- 43.85.210 Investment deposits and rate of interest—Demand and time accounts authorized.
- 43.85.220 Investment deposits and rate of interest—Members of federal reserve or federal deposit insurance corporation.
- 43.85.230 Investment deposits and rate of interest—Term deposit basis.

Public depositaries, deposit and investment of public funds: Chapter 39.58 RCW.

43.85.070 Deposits deemed in state treasury—Liability. The state treasurer may deposit with any qualified public depositary which has fully complied with all requirements of law and the regulations of the public deposit protection commission any state moneys in his hands or under his official control and any sum so on deposit shall be deemed to be in the state treasury, and he shall not be liable for any loss thereof resulting from the failure or default of any such depositary without fault or neglect on his part or on the part of his assistants or clerks. [1969 ex.s. c 193 § 18; 1965 c 8 § 43.85.070. Prior: 1945 c 129 § 2; 1943 c 134 § 1; 1935 c 139 § 3; 1931 c 87 § 2; 1907 c 37 § 4; Rem. Supp. 1945 § 5551.]

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

Liability of treasurers for losses of deposits: RCW 39.58.140.

43.85.130 Deposit of commissioner of public lands and department of natural resources funds—Natural resources deposit fund—Repayments. (1) The department shall deposit daily all moneys and fees collected or received by the commissioner of public lands and the department of natural resources in the discharge of official duties as follows:

(a) The department shall pay moneys received as advance payments, deposits, and security from successful bidders under RCW 79.01.132 and 79.01.204 to the state treasurer for deposit under subsection (1)(b) of this section. Moneys received from unsuccessful bidders shall be returned as provided in RCW 79.01.204;

(b) The department shall pay all moneys received on behalf of a trust fund or account to the state treasurer for deposit in the trust fund or account after making the deduction authorized under RCW 76.12.030, 76.12.120, and 79.64.040;

(c) The natural resources deposit fund is hereby created. The state treasurer is the custodian of the fund. All moneys or sums which remain in the custody of the commissioner of public lands awaiting disposition or where the final disposition is not known shall be deposited into the natural resources deposit fund. Disbursement from the fund shall be on the authorization of the commissioner or the commissioner's designee, without necessity of appropriation;

(d) If it is required by law that the department repay moneys disbursed under subsections (1)(a) and (1)(b) of this section the state treasurer shall transfer such moneys, without necessity of appropriation, to the department upon demand by the department from those trusts and accounts originally receiving the moneys.

(2) Money shall not be deemed to have been paid to the state upon any sale or lease of land until it has been paid to the state treasurer. [1981 2nd ex.s. c 4 § 1; 1965 c 8 § 43.85.130. Prior: (i) 1911 c 51 § 1; RRS § 5555. (ii) 1909 c 133 § 1, part; 1907 c 96 § 1, part; RRS § 5501, part.]

Moneys received and invested prior to December 1, 1981: "Moneys received as deposits from successful bidders, advance payments, and security under RCW 79.01.132 and 79.01.204, which have been invested prior to December 1, 1981, in time deposits, shall be subject to RCW 43.85.130 as each time deposit matures." [1981 2nd ex.s. c 4 § 2.]

Severability—1981 2nd ex.s. c 4: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 2nd ex.s. c 4 § 16.]

43.85.190 Investment deposits and rate of interest.

It is the purpose of RCW 43.85.190 through 43.85.230 to authorize the state treasurer to make investment deposits of state moneys or funds in his custody in qualified public depositories at a rate of interest permitted by any applicable statute or regulation. [1983 c 66 § 17; 1983 c 3 § 113; 1969 ex.s. c 193 § 21; 1965 c 8 § 43.85.190. Prior: 1955 c 198 § 1.]

Severability—1983 c 66: See note following RCW 39.58.010.

Construction—Severability—1969 ex.s. c 193: See notes following RCW 39.58.010.

43.85.200 Investment deposits and rate of interest—

State moneys defined. All moneys or funds belonging to or in the custody of the state under the control of the state treasurer shall be considered as state moneys or funds. [1965 c 8 § 43.85.200. Prior: 1955 c 198 § 2.]

43.85.210 Investment deposits and rate of interest—

Demand and time accounts authorized. The state treasurer may deposit state moneys or funds at interest in any qualified public depository upon a demand or time account basis. [1983 c 66 § 18; 1965 c 8 § 43.85.210. Prior: 1955 c 198 § 3.]

Severability—1983 c 66: See note following RCW 39.58.010.

43.85.220 Investment deposits and rate of interest—

Members of federal reserve or federal deposit insurance corporation. If state depositories are member banks of the federal reserve system, or are banks the deposits of which, within certain limits, are insured by the federal deposit insurance corporation and, as such, are prohibited by a statute of the United States or by a lawful regulation of the federal reserve system or of the federal deposit insurance corporation, or of any authorized agency of the federal government, from paying interest upon demand deposits of public funds of a state, the payment of interest shall not be required of such depositories to the extent and for the period of time that payment thereof is prohibited. [1965 c 8 § 43.85.220. Prior: 1955 c 198 § 4.]

43.85.230 Investment deposits and rate of interest—

Term deposit basis. The state treasurer may deposit moneys not required to meet current demands upon a term deposit basis not to exceed five years at such interest rates and upon such conditions as to withdrawals of such moneys as may be agreed upon between the state treasurer and any qualified public depository. [1993 c 512 § 32; 1984 c 177 § 20; 1983 c 66 § 19; 1965 c 8 § 43.85.230. Prior: 1955 c 198 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Severability—1983 c 66: See note following RCW 39.58.010.

Chapter 43.86A**SURPLUS FUNDS—INVESTMENT PROGRAM**

Sections

43.86A.010 Finding—Objectives.

43.86A.020 Surplus funds held as demand deposits to be limited.

43.86A.030 Time certificate of deposit investment program—Funds available for—Allocation.

43.86A.040 Other investment powers of state treasurer not limited.

43.86A.050 Implementation of chapter by state treasurer.

43.86A.060 Linked deposit program—Minority and women's business enterprises.

43.86A.070 Linked deposit program—Liability.

Public funds, deposit and investment, public depositories: Chapter 39.58 RCW.

43.86A.010 Finding—Objectives. The legislature finds that a procedure should be established for the management of short term treasury surplus funds by the state treasurer in order to insure a maximum return while they are on deposit in public depositories. The objectives of this procedure are to minimize noninterest earning demand deposits and provide fair compensation to financial institutions for services rendered to the state through the investment of state funds in time deposits. [1983 c 66 § 20; 1973 c 123 § 1.]

Severability—1983 c 66: See note following RCW 39.58.010.

43.86A.020 Surplus funds held as demand deposits to be limited. After March 19, 1973, the state treasurer shall limit surplus funds held as demand deposits to an amount necessary for current operating expenses including direct warrant redemption payments, investments and revenue collection. The state treasurer may hold such additional funds as demand deposits as he deems necessary to insure efficient treasury management. [1973 c 123 § 2.]

43.86A.030 Time certificate of deposit investment program—Funds available for—Allocation. (1) Funds held in public depositories not as demand deposits as provided in RCW 43.86A.020 and 43.86A.030, shall be available for a time certificate of deposit investment program according to the following formula: The state treasurer shall apportion to all participating depositories an amount equal to five percent of the three year average mean of general state revenues as certified in accordance with Article VIII, section 1(b) of the state Constitution, or fifty percent of the total surplus treasury investment availability, whichever is less. Within thirty days after certification, those funds determined to be available according to this formula for the time certificate of deposit investment program shall be deposited in qualified public depositories. These deposits shall be allocated among the participating depositories on a basis to be determined by the state treasurer.

(2) The state treasurer may use up to fifty million dollars per year of all funds available under this section for the purposes of RCW 43.86A.060. The amounts made available to these public depositories shall be equal to the amounts of outstanding loans made under RCW 43.86A.060.

(3) The formula so devised shall be a matter of public record giving consideration to, but not limited to deposits, assets, loans, capital structure, investments or some combination of these factors. However, if in the judgment of the

state treasurer the amount of allocation for certificates of deposit as determined by this section will impair the cash flow needs of the state treasury, the state treasurer may adjust the amount of the allocation accordingly. [1993 c 512 § 33; 1982 c 74 § 1; 1973 c 123 § 3.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.86A.040 Other investment powers of state treasurer not limited. Except as provided in RCW 43.86A.020 and 43.86A.030, nothing in this chapter shall be construed as a limitation upon the powers of the state treasurer to determine the amount of surplus treasury funds which may be invested in time certificates of deposit. [1973 c 123 § 4.]

43.86A.050 Implementation of chapter by state treasurer. The state treasurer shall devise the necessary formulae and methodology to implement the provisions of this chapter. Periodically, but at least once every six months, the state treasurer shall review all rules and shall adopt, amend or repeal them as may be necessary. These rules and a list of time certificate of deposit allocations shall be published in the treasurer's monthly financial report as required under the provisions of RCW 43.08.150. [1973 c 123 § 5.]

43.86A.060 Linked deposit program—Minority and women's business enterprises. (1) The state treasurer shall establish a linked deposit program for investment of deposits in qualified public depositories. As a condition of participating in the program, qualified public depositories must make qualifying loans as provided in this section. The state treasurer may purchase a certificate of deposit that is equal to the amount of the qualifying loan made by the qualified public depository or may purchase a certificate of deposit that is equal to the aggregate amount of two or more qualifying loans made by one or more qualified public depositories.

(2) Qualifying loans made under this section are those that:

(a) Are loans that have terms that do not exceed ten years;

(b) Are made to a minority or women's business enterprise that has received state certification under chapter 39.19 RCW;

(c) Are made to minority or women's business enterprises that are considered a small business as defined in *RCW 43.31.025;

(d) Are made where the interest rate on the loan to the minority or women's business enterprise does not exceed an interest rate that is two hundred basis points below the interest rate the qualified public depository would charge for a loan for a similar purpose and a similar term; and

(e) Are made where the points or fees charged at loan closing do not exceed one percent of the loan amount.

(3) In setting interest rates of time certificate of deposits, the state treasurer shall offer rates so that a two hundred basis point preference will be given to the qualified public depository. [1993 c 512 § 30.]

Reviser's note—Sunset Act application: (1) The linked deposit program is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.381. RCW 46.86A.060, 43.63A.690, and 43.86A.070 are scheduled for future repeal under RCW 43.131.382.

*(2) RCW 43.31.025 was repealed by 1993 c 280 § 82, effective July 1, 1994.

Finding—Intent—1993 c 512: "The legislature finds that minority and women's business enterprises have been historically excluded from access to capital in the marketplace. The lack of capital has been a major barrier to the development and expansion of business by various minority groups and women. There has been a significant amount of attention on the capital needs of minority and women's business enterprises. It is the intent of the legislature to remedy the problem of a lack of access to capital by minority and women's business enterprises, and other small businesses by authorizing the state treasurer to operate a program that links state deposits to business loans by financial institutions to minority and women's business enterprises." [1993 c 512 § 29.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.86A.070 Linked deposit program—Liability. The state and those acting as its agents are not liable in any manner for payment of the principal or interest on qualifying loans made under RCW 43.86A.060. Any delay in payments or defaults on the part of the borrower does not in any manner affect the deposit agreement between the qualified public depository and the state treasurer. [1993 c 512 § 34.]

Sunset Act application: See note following RCW 43.86A.060.

Finding—Intent—1993 c 512: See note following RCW 43.86A.060.

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Chapter 43.88

STATE BUDGETING, ACCOUNTING, AND REPORTING SYSTEM

(Formerly: Budget and accounting)

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- 43.88.910 Effective date—1975 1st ex.s. c 293.

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State board for community and technical colleges: RCW 28B.50.070.

State finance committee: Chapter 43.33 RCW.

State payroll revolving account, agency payroll revolving fund: RCW 42.16.010 through 42.16.017.

43.88.010 Purpose—Intent. It is the purpose of this chapter to establish an effective state budgeting, accounting, and reporting system for all activities of the state government, including both capital and operating expenditures; to prescribe the powers and duties of the governor as these relate to securing such fiscal controls as will promote effective budget administration; and to prescribe the responsibilities of agencies of the executive branch of the state government.

It is the intent of the legislature that the powers conferred by this chapter, as amended, shall be exercised by the executive in cooperation with the legislature and its standing, special, and interim committees in its status as a separate and coequal branch of state government. [1986 c 215 § 1; 1981 c 270 § 1; 1973 1st ex.s. c 100 § 1; 1965 c 8 § 43.88.010. Prior: 1959 c 328 § 1.]

Effective date—1981 c 270: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 270 § 18.]

Severability—1981 c 270: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 270 § 17.]

43.88.020 Definitions. (1) "Budget" means a proposed plan of expenditures for a given period or purpose and the proposed means for financing these expenditures.

(2) "Budget document" means a formal, written statement offered by the governor to the legislature, as provided in RCW 43.88.030.

(3) "Director of financial management" means the official appointed by the governor to serve at the governor's pleasure and to whom the governor may delegate necessary authority to carry out the governor's duties as provided in this chapter. The director of financial management shall be head of the office of financial management which shall be in the office of the governor.

(4) "Agency" means and includes every state office, officer, each institution, whether educational, correctional or other, and every department, division, board and commission, except as otherwise provided in this chapter.

(5) "Public funds", for purposes of this chapter, means all moneys, including cash, checks, bills, notes, drafts, stocks, and bonds, whether held in trust, for operating purposes, or for capital purposes, and collected or disbursed under law, whether or not such funds are otherwise subject to legislative appropriation, including funds maintained outside the state treasury.

(6) "Regulations" means the policies, standards, and requirements, stated in writing, designed to carry out the

purposes of this chapter, as issued by the governor or the governor's designated agent, and which shall have the force and effect of law.

(7) "Ensuing biennium" means the fiscal biennium beginning on July 1st of the same year in which a regular session of the legislature is held during an odd-numbered year pursuant to Article II, section 12 of the Constitution and which biennium next succeeds the current biennium.

(8) "Dedicated fund" means a fund in the state treasury, or a separate account or fund in the general fund in the state treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose; but "dedicated fund" does not include a revolving fund or a trust fund.

(9) "Revolving fund" means a fund in the state treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

(10) "Trust fund" means a fund in the state treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise, or bequest that limits the use of the fund to designated objects or purposes.

(11) "Administrative expenses" means expenditures for: (a) Salaries, wages, and related costs of personnel and (b) operations and maintenance including but not limited to costs of supplies, materials, services, and equipment.

(12) "Fiscal year" means the year beginning July 1st and ending the following June 30th.

(13) "Lapse" means the termination of authority to expend an appropriation.

(14) "Legislative fiscal committees" means the legislative budget committee, the legislative evaluation and accountability program committee, the ways and means committees of the senate and house of representatives, and, where appropriate, the legislative transportation committee.

(15) "Fiscal period" means the period for which an appropriation is made as specified within the act making the appropriation.

(16) "Primary budget driver" means the primary determinant of a budget level, other than a price variable, which causes or is associated with the major expenditure of an agency or budget unit within an agency, such as a caseload, enrollment, workload, or population statistic.

(17) "Stabilization account" means the budget stabilization account created under *RCW 43.88.525 as an account in the general fund of the state treasury.

(18) "State tax revenue limit" means the limitation created by chapter 43.135 RCW.

(19) "General state revenues" means the revenues defined by Article VIII, section 1(c) of the state Constitution.

(20) "Annual growth rate in real personal income" means the estimated percentage growth in personal income for the state during the current fiscal year, expressed in constant value dollars, as published by the office of financial management or its successor agency.

(21) "Estimated revenues" means estimates of revenue in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue

forecast council does not prepare an official forecast including estimates of revenues to support financial plans under RCW 44.40.070, that are prepared by the office of financial management in consultation with the interagency task force.

(22) "Estimated receipts" means the estimated receipt of cash in the most recent official economic and revenue forecast prepared under RCW 82.33.020, and prepared by the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast.

(23) "State budgeting, accounting, and reporting system" means a system that gathers, maintains, and communicates fiscal information. The system links fiscal information beginning with development of agency budget requests through adoption of legislative appropriations to tracking actual receipts and expenditures against approved plans.

(24) "Allotment of appropriation" means the agency's statement of proposed expenditures, the director of financial management's review of that statement, and the placement of the approved statement into the state budgeting, accounting, and reporting system.

(25) "Statement of proposed expenditures" means a plan prepared by each agency that breaks each appropriation out into monthly detail representing the best estimate of how the appropriation will be expended.

(26) "Undesignated fund balance (or deficit)" means unreserved and undesignated current assets or other resources available for expenditure over and above any current liabilities which are expected to be incurred by the close of the fiscal period.

(27) "Internal audit" means an independent appraisal activity within an agency for the review of operations as a service to management, including a systematic examination of accounting and fiscal controls to assure that human and material resources are guarded against waste, loss, or misuse; and that reliable data are gathered, maintained, and fairly disclosed in a written report of the audit findings.

(28) "Performance verification" means an analysis that (a) verifies the accuracy of data used by state agencies in quantifying intended results and measuring performance toward those results, and (b) verifies whether or not the reported results were achieved.

(29) "Program evaluation" means the use of a variety of policy and fiscal research methods to (a) determine the extent to which a program is achieving its legislative intent in terms of producing the effects expected, and (b) make an objective judgment of the implementation, outcomes, and net cost or benefit impact of programs in the context of their goals and objectives. It includes the application of systematic methods to measure the results, intended or unintended, of program activities. [1994 c 184 § 9; 1993 c 406 § 2; 1991 c 358 § 6; 1990 c 229 § 4; 1987 c 502 § 1; 1986 c 215 § 2; 1984 c 138 § 6; 1982 1st ex.s. c 36 § 1. Prior: 1981 c 280 § 6; 1981 c 270 § 2; 1980 c 87 § 25; 1979 c 151 § 135; 1975-'76 2nd ex.s. c 83 § 4; 1973 1st ex.s. c 100 § 2; 1969 ex.s. c 239 § 9; 1965 c 8 § 43.88.020; prior: 1959 c 328 § 2.]

*Reviser's note: RCW 43.88.525 was repealed by 1994 c 2 § 9 (Initiative Measure No. 601, approved November 2, 1993), effective July 1, 1995.

Purpose—Intent—1994 c 184: See RCW 43.88B.005 and 43.88B.007.

Captions—Effective date—1994 c 184: See RCW 43.88B.900 and 43.88B.901.

Short title—1993 c 406: "This act may be known and cited as the performance-based government act of 1993." [1993 c 406 § 7.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Effective date—1990 c 229: See note following RCW 41.06.087.

Effective date—1981 c 280: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 280 § 10.]

Severability—1981 c 280: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 280 § 9.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Office of financial management: Chapter 43.41 RCW.

43.88.025 "Director" defined. Unless the context clearly requires a different interpretation, whenever "director" is used in this chapter, it shall mean the director of financial management created in RCW 43.41.060. [1979 c 151 § 136; 1969 ex.s. c 239 § 10.]

43.88.027 Annual financial report. The governor, through the director, shall prepare and publish within six months of the end of the fiscal year, as a matter of public record, an annual financial report that encompasses all funds and account groups of the state. [1984 c 247 § 2.]

43.88.030 Instructions for submitting budget requests—Content of the budget document or documents—Separate budget document or schedules—Format changes. (1) The director of financial management shall provide all agencies with a complete set of instructions for submitting biennial budget requests to the director at least three months before agency budget documents are due into the office of financial management. The director shall provide agencies that are required under RCW 44.40.070 to develop comprehensive six-year program and financial plans with a complete set of instructions for submitting these program and financial plans at the same time that instructions for submitting other budget requests are provided. The budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period, as well as an outline of the proposed six-year financial policies where applicable, and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period, or six-year period where applicable, based upon the estimated revenues as approved by the economic and revenue forecast council or upon the estimated

revenues of the office of financial management for those funds, accounts, and sources for which the office of the economic and revenue forecast council does not prepare an official forecast, including those revenues anticipated to support the six-year programs and financial plans under RCW 44.40.070. In estimating revenues to support financial plans under RCW 44.40.070, the office of financial management shall rely on information and advice from the inter-agency revenue task force. Revenues shall be estimated for such fiscal period from the source and at the rates existing by law at the time of submission of the budget document, including the supplemental budgets submitted in the even-numbered years of a biennium. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each supplemental, biennial, or six-year agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

Supplemental and biennial documents shall reflect a six-year expenditure plan consistent with estimated revenues from existing sources and at existing rates for those agencies required to submit six-year program and financial plans under RCW 44.40.070. Any additional revenue resulting from proposed changes to existing statutes shall be separately identified within the document as well as related expenditures for the six-year period.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, those anticipated for the ensuing biennium, and those anticipated for the ensuing six-year period to support the six-year programs and financial plans required under RCW 44.40.070;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance, and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object;

(f) A delineation of each agency's activities, including those activities funded from nonbudgeted, nonappropriated sources, including funds maintained outside the state treasury;

(g) Identification of all proposed direct expenditures to implement the Puget Sound water quality plan under chapter 90.70 RCW, shown by agency and in total; and

(h) Tabulations showing each postretirement adjustment by retirement system established after fiscal year 1991, to include, but not be limited to, estimated total payments made to the end of the previous biennial period, estimated payments for the present biennium, and estimated payments for the ensuing biennium.

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to

proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

- (a) Interest, amortization and redemption charges on the state debt;
- (b) Payments of all reliefs, judgments and claims;
- (c) Other statutory expenditures;
- (d) Expenditures incident to the operation for each agency;
- (e) Revenues derived from agency operations;
- (f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium, as well as those required to support the six-year programs and financial plans required under RCW 44.40.070;
- (g) A showing and explanation of amounts of general fund and other funds obligations for debt service and any transfers of moneys that otherwise would have been available for appropriation;
- (h) Common school expenditures on a fiscal-year basis;
- (i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods; and
- (j) A showing and explanation of anticipated amounts of general fund and other funds required to amortize the unfunded actuarial accrued liability of the retirement system specified under chapter 41.45 RCW, and the contributions to meet such amortization, stated in total dollars and as a level percentage of total compensation.

(3) A separate capital budget document or schedule shall be submitted that will contain the following:

- (a) A statement setting forth a long-range facilities plan for the state that identifies and includes the highest priority needs within affordable spending levels;
- (b) A capital program consisting of proposed capital projects for the next biennium and the two biennia succeeding the next biennium consistent with the long-range facilities plan. Inasmuch as is practical, and recognizing emergent needs, the capital program shall reflect the priorities, projects, and spending levels proposed in previously submitted capital budget documents in order to provide a reliable long-range planning tool for the legislature and state agencies;
- (c) A capital plan consisting of proposed capital spending for at least four biennia succeeding the next biennium;
- (d) A statement of the reason or purpose for a project;
- (e) Verification that a project is consistent with the provisions set forth in chapter 36.70A RCW;
- (f) A statement about the proposed site, size, and estimated life of the project, if applicable;
- (g) Estimated total project cost;
- (h) For major projects valued over five million dollars, estimated costs for the following project components: Acquisition, consultant services, construction, equipment, project management, and other costs included as part of the project. Project component costs shall be displayed in a

standard format defined by the office of financial management to allow comparisons between projects;

- (i) Estimated total project cost for each phase of the project as defined by the office of financial management;
- (j) Estimated ensuing biennium costs;
- (k) Estimated costs beyond the ensuing biennium;
- (l) Estimated construction start and completion dates;
- (m) Source and type of funds proposed;
- (n) Estimated ongoing operating budget costs or savings resulting from the project, including staffing and maintenance costs;
- (o) For any capital appropriation requested for a state agency for the acquisition of land or the capital improvement of land in which the primary purpose of the acquisition or improvement is recreation or wildlife habitat conservation, the capital budget document, or an omnibus list of recreation and habitat acquisitions provided with the governor's budget document, shall identify the projected costs of operation and maintenance for at least the two biennia succeeding the next biennium. Omnibus lists of habitat and recreation land acquisitions shall include individual project cost estimates for operation and maintenance as well as a total for all state projects included in the list. The document shall identify the source of funds from which the operation and maintenance costs are proposed to be funded;
- (p) Such other information bearing upon capital projects as the governor deems to be useful;
- (q) Standard terms, including a standard and uniform definition of maintenance for all capital projects;
- (r) Such other information as the legislature may direct by law or concurrent resolution.

For purposes of this subsection (3), the term "capital project" shall be defined subsequent to the analysis, findings, and recommendations of a joint committee comprised of representatives from the house capital appropriations committee, senate ways and means committee, legislative transportation committee, legislative evaluation and accountability program committee, and office of financial management.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session. [1994 c 247 § 7; 1994 c 219 § 2. Prior: 1991 c 358 § 1; 1991 c 284 § 1; 1990 c 115 § 1; prior: 1989 c 311 § 3; 1989 c 11 § 18; 1987 c 502 § 2; prior: 1986 c 215 § 3; 1986 c 112 § 1; 1984 c 138 § 7; 1981 c 270 § 3; 1980 c 87 § 26; 1977 ex.s. c 247 § 1; 1973 1st ex.s. c 100 § 3; 1965 c 8 § 43.88.030; prior: 1959 c 328 § 3.]

Reviser's note: This section was amended by 1994 c 219 § 2 and by 1994 c 247 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—1994 c 247: See note following RCW 41.32.4991.

Finding—1994 c 219: "The legislature finds that the acquisition, construction, and management of state-owned and leased facilities has a profound and long-range effect upon the delivery and cost of state programs, and that there is an increasing need for better facility planning and management to improve the effectiveness and efficiency of state facilities." [1994 c 219 § 1.]

Effective date—1991 c 358: "This act shall take effect April 1, 1992." [1991 c 358 § 8.]

Severability—1989 c 11: See note following RCW 9A.56.220.

43.88.031 Capital appropriation bill—Estimated general fund debt service costs. A capital appropriation bill shall include the estimated general fund debt service costs associated with new capital appropriations contained in that bill for the biennia in which the appropriations occur and for the succeeding two biennia. [1991 c 284 § 2.]

43.88.032 Maintenance costs, operating budget—Debt-financed pass-through money, budget document. (1) Annual ongoing or routine maintenance costs shall be programmed in the operating budget rather than in the capital budget.

(2) All debt-financed pass-through money to local governments shall be programmed and separately identified in the budget document. [1994 c 219 § 4; 1989 c 311 § 1.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.033 State expenditure limit—Budget document to reflect. (Effective July 1, 1995.) The budget document submitted by the governor to the legislature under RCW 43.88.030 shall reflect the state expenditure limit established under chapter 43.135 RCW and shall not propose expenditures in excess of that limit. [1994 c 2 § 7 (Initiative Measure No. 601, approved November 2, 1993).]

Severability—Effective dates—1994 c 2 (Initiative Measure No. 601): See RCW 43.135.903 and 43.135.904.

43.88.035 Changes in accounting methods, practices or statutes—Explanation in budget document or appendix required—Contents. Any changes in accounting methods and practices or in statutes affecting expenditures or revenues for the ensuing biennium relative to the then current fiscal period which the governor may wish to recommend shall be clearly and completely explained in the text of the budget document, in a special appendix thereto, or in an alternative budget document. This explanatory material shall include, but need not be limited to, estimates of revenues and expenditures based on the same accounting practices and methods and existing statutes relating to revenues and expenditure effective for the then current fiscal period, together with alternative estimates required by any changes in accounting methods and practices and by any statutory changes the governor may wish to recommend. [1973 1st ex.s. c 100 § 9.]

43.88.037 Comprehensive budgeting, accounting, and reporting system conforming to generally accepted accounting principles—Budget document to conform. (1) The director of financial management shall devise and maintain a comprehensive budgeting, accounting, and reporting system in conformance with generally accepted

accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1).

(2) The director of financial management shall submit a budget document in conformance with generally accepted accounting principles applicable to state governments, as published in the accounting procedures manual pursuant to RCW 43.88.160(1). [1987 c 502 § 3; 1984 c 247 § 1.]

43.88.050 Cash deficit. Cash deficit of the current fiscal period is defined for purposes of this chapter as the amount by which the aggregate of disbursements charged to a fund will exceed the aggregate of estimated receipts credited to such fund in the current fiscal period, less the extent to which such deficit may have been provided for from available beginning cash surplus.

If, for any applicable fund or account, the estimated receipts for the next ensuing period plus cash beginning balances is less than the aggregate of estimated disbursements proposed by the governor for the next ensuing fiscal period, the governor shall include in Part I of the budget document proposals as to the manner in which the anticipated cash deficit shall be met, whether by an increase in the indebtedness of the state, by the imposition of new taxes, by increases in tax rates or an extension thereof, or in any like manner. The governor may propose orderly liquidation of the anticipated cash deficit over a period of one or more fiscal periods, if, in the governor's discretion, such manner of liquidation would best serve the public interest. [1987 c 502 § 4; 1965 c 8 § 43.88.050. Prior: 1959 c 328 § 5.]

Exception: RCW 43.88.265.

43.88.060 Legislative review of budget document and budget bill or bills—Time for submission. The governor shall submit the budget document for the 1975-77 biennium and each succeeding biennium to the legislature no later than the twentieth day of December in the year preceding the session during which the budget is to be considered: PROVIDED, That where a budget document is submitted for a fiscal period other than a biennium, such document shall be submitted no less than twenty days prior to the first day of the session at which such budget document is to be considered. The governor shall also submit a budget bill or bills which for purposes of this chapter is defined to mean the appropriations proposed by the governor as set forth in the budget document. Such representatives of agencies as have been designated by the governor for this purpose shall, when requested, by either house of the legislature, appear to be heard with respect to the budget document and the budget bill or bills and to supply such additional information as may be required. [1977 ex.s. c 247 § 2; 1973 1st ex.s. c 100 § 4; 1965 c 8 § 43.88.060. Prior: 1959 c 328 § 6.]

43.88.065 Itemization of expenditures required by federal court order. Prior to January 15 of each year, each state agency shall separately itemize and submit to the secretary of the senate and chief clerk of the house any expenditures required to be made by the agency under any federal court order. The secretary and chief clerk shall transmit this information to the appropriate standing committees. In each instance, the legislature shall review the expen-

ditures mandated by the federal court order with a view to determining whether the program affected by the court order should be continued or eliminated and funds for the program either appropriated or not appropriated accordingly. [1983 1st ex.s. c 47 § 2.]

43.88.070 Appropriations. Appropriations shall be deemed maximum authorizations to incur expenditures but the governor shall exercise all due supervision and control to ensure that expenditure rates are such that program objectives are realized within these maximums. [1965 c 8 § 43.88.070. Prior: 1959 c 328 § 7.]

43.88.080 Adoption of budget. Adoption of the omnibus appropriation bill or bills by the legislature shall constitute adoption of the budget and the making of appropriations therefor. A budget for state government shall be finally adopted not later than thirty calendar days prior to the beginning of the ensuing biennium. [1973 1st ex.s. c 100 § 5; 1965 c 8 § 43.88.080. Prior: 1959 c 328 § 8.]

43.88.090 Development of budget—Detailed estimates—Governor-elect input. (1) For purposes of developing budget proposals to the legislature, the governor shall have the power, and it shall be the governor's duty, to require from proper agency officials such detailed estimates and other information in such form and at such times as the governor shall direct. The estimates for the legislature and the judiciary shall be transmitted to the governor and shall be included in the budget without revision. The estimates for state pension contributions shall be based on the rates provided in chapter 41.45 RCW. Copies of all such estimates shall be transmitted to the standing committees on ways and means of the house and senate at the same time as they are filed with the governor and the office of financial management.

The estimates shall include statements or tables which indicate, by agency, the state funds which are required for the receipt of federal matching revenues. The estimates shall be revised as necessary to reflect legislative enactments and adopted appropriations and shall be included with the initial biennial allotment submitted under RCW 43.88.110.

(2) In the year of the gubernatorial election, the governor shall invite the governor-elect or the governor-elect's designee to attend all hearings provided in RCW 43.88.100; and the governor shall furnish the governor-elect or the governor-elect's designee with such information as will enable the governor-elect or the governor-elect's designee to gain an understanding of the state's budget requirements. The governor-elect or the governor-elect's designee may ask such questions during the hearings and require such information as the governor-elect or the governor-elect's designee deems necessary and may make recommendations in connection with any item of the budget which, with the governor-elect's reasons therefor, shall be presented to the legislature in writing with the budget document. Copies of all such estimates and other required information shall also be submitted to the standing committees on ways and means of the house and senate. [1994 c 184 § 10; 1993 c 406 § 3; 1989 c 273 § 26; 1987 c 505 § 35; 1984 c 247 § 3; 1981 c 270 § 4; 1979 c 151 § 137; 1975 1st ex.s. c 293 § 5; 1973

1st ex.s. c 100 § 6; 1965 c 8 § 43.88.090. Prior: 1959 c 328 § 9.]

Purpose—Intent—1994 c 184: See RCW 43.88B.005 and 43.88B.007.

Captions—Effective date—1994 c 184: See RCW 43.88B.900 and 43.88B.901.

Short title—1993 c 406: See note following RCW 43.88.020.

Severability—Effective dates—1989 c 273: See RCW 41.45.900 and 41.45.901.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.100 Executive hearings. The governor may provide for hearings on all agency requests for expenditures to enable him to make determinations as to the need, value or usefulness of activities or programs requested by agencies. The governor may require the attendance of proper agency officials at his hearings and it shall be their duty to disclose such information as may be required to enable the governor to arrive at his final determination. [1965 c 8 § 43.88.100. Prior: 1959 c 328 § 10.]

43.88.110 Expenditure programs—Allotments—Reserves—Monitor capital appropriations—Predesign review for major capital construction. This section sets forth the expenditure programs and the allotment and reserve procedures to be followed by the executive branch for public funds.

(1) Allotments of an appropriation for any fiscal period shall conform to the terms, limits, or conditions of the appropriation.

(2) The director of financial management shall provide all agencies with a complete set of operating and capital instructions for preparing a statement of proposed expenditures at least thirty days before the beginning of a fiscal period. The set of instructions need not include specific appropriation amounts for the agency.

(3) Within forty-five days after the beginning of the fiscal period or within forty-five days after the governor signs the omnibus biennial appropriations act, whichever is later, all agencies shall submit to the governor a statement of proposed expenditures at such times and in such form as may be required by the governor.

(4) The office of financial management shall develop a method for monitoring capital appropriations and expenditures that will capture at least the following elements:

(a) Appropriations made for capital projects including transportation projects;

(b) Estimates of total project costs including past, current, ensuing, and future biennial costs;

(c) Comparisons of actual costs to estimated costs;

(d) Comparisons of estimated construction start and completion dates with actual dates;

(e) Documentation of fund shifts between projects.

This data may be incorporated into the existing accounting system or into a separate project management system, as deemed appropriate by the office of financial management.

(5) The office of financial management, prior to approving allotments for major capital construction projects valued over five million dollars, shall institute procedures for reviewing such projects at the predesign stage that will reduce long-term costs and increase facility efficiency. The

procedures shall include, but not be limited to, the following elements:

(a) Evaluation of facility program requirements and consistency with long-range plans;

(b) Utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and

(c) A requirement to incorporate value-engineering analysis and constructability review into the project schedule.

(6) No expenditure may be incurred or obligation entered into for such major capital construction projects including, without exception, land acquisition, site development, predesign, design, construction, and equipment acquisition and installation, until the allotment of the funds to be expended has been approved by the office of financial management. This limitation does not prohibit the continuation of expenditures and obligations into the succeeding biennium for projects for which allotments have been approved in the immediate prior biennium.

(7) If at any time during the fiscal period the governor projects a cash deficit in a particular fund or account as defined by RCW 43.88.050, the governor shall make across-the-board reductions in allotments for that particular fund or account so as to prevent a cash deficit, unless the legislature has directed the liquidation of the cash deficit over one or more fiscal periods. Except for the legislative and judicial branches and other agencies headed by elective officials, the governor shall review the statement of proposed operating expenditures for reasonableness and conformance with legislative intent. Once the governor approves the statements of proposed operating expenditures, further revisions shall be made only at the beginning of the second fiscal year and must be initiated by the governor. However, changes in appropriation level authorized by the legislature, changes required by across-the-board reductions mandated by the governor, changes caused by executive increases to spending authority, and changes caused by executive decreases to spending authority for failure to comply with the provisions of chapter 36.70A RCW may require additional revisions. Revisions shall not be made retroactively. Revisions caused by executive increases to spending authority shall not be made after June 30, 1987. However, the governor may assign to a reserve status any portion of an agency appropriation withheld as part of across-the-board reductions made by the governor and any portion of an agency appropriation conditioned on a contingent event by the appropriations act. The governor may remove these amounts from reserve status if the across-the-board reductions are subsequently modified or if the contingent event occurs. The director of financial management shall enter approved statements of proposed expenditures into the state budgeting, accounting, and reporting system within forty-five days after receipt of the proposed statements from the agencies. If an agency or the director of financial management is unable to meet these requirements, the director of financial management shall provide a timely explanation in writing to the legislative fiscal committees.

(8) It is expressly provided that all agencies shall be required to maintain accounting records and to report thereon in the manner prescribed in this chapter and under the regulations issued pursuant to this chapter. Within ninety days of the end of the fiscal year, all agencies shall submit

to the director of financial management their final adjustments to close their books for the fiscal year. Prior to submitting fiscal data, written or oral, to committees of the legislature, it is the responsibility of the agency submitting the data to reconcile it with the budget and accounting data reported by the agency to the director of financial management.

(9) The director of financial management shall monitor agency operating expenditures against the approved statement of proposed expenditures and shall provide the legislature with quarterly explanations of major variances.

(10) The director of financial management may exempt certain public funds from the allotment controls established under this chapter if it is not practical or necessary to allot the funds. Allotment control exemptions expire at the end of the fiscal biennium for which they are granted. The director of financial management shall report any exemptions granted under this subsection to the legislative fiscal committees. [1994 c 219 § 5. Prior: 1991 sp.s. c 32 § 27; 1991 c 358 § 2; 1987 c 502 § 5; 1986 c 215 § 4; 1984 c 138 § 8; 1983 1st ex.s. c 47 § 1; 1982 2nd ex.s. c 15 § 1; 1981 c 270 § 5; 1979 c 151 § 138; 1975 1st ex.s. c 293 § 6; 1965 c 8 § 43.88.110; prior: 1959 c 328 § 11.]

Finding—1994 c 219: See note following RCW 43.88.030.

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Effective date—1991 c 358: See note following RCW 43.88.030.

Severability—1982 2nd ex.s. c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1982 2nd ex.s. c 15 § 5.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Exception: RCW 43.88.265.

43.88.114 Appropriations to council from motor vehicle excise taxes not subject to allotment. Appropriations of funds to the *council from motor vehicle excise taxes shall not be subject to allotment by the office of financial management. [1983 c 22 § 2.]

***Reviser's note:** The term "council" apparently refers to the municipal research council. See 1983 c 22.

Effective date—1983 c 22: See note following RCW 43.110.010.

43.88.120 Revenue estimates. Each agency engaged in the collection of revenues shall prepare estimated revenues and estimated receipts for the current and ensuing biennium and shall submit the estimates to the director of financial management and the director of revenue at times and in the form specified by the directors, along with any other information which the directors may request. For those agencies required to develop six-year programs and financial plans under RCW 44.40.070, six-year revenue estimates shall be submitted to the director of financial management and the legislative transportation committee unless the responsibility for reporting these revenue estimates is assumed elsewhere.

A copy of such revenue estimates shall be simultaneously submitted to the economic and revenue forecast work group when required by the office of the economic and revenue forecast council. [1991 c 358 § 3; 1987 c 502 § 6; 1984 c 138 § 10; 1981 c 270 § 8; 1973 1st ex.s. c 100 § 7; 1965 c 8 § 43.88.120. Prior: 1959 c 328 § 12.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.122 Transportation agency revenue forecasts—Variances. Where there are variances of revenue forecasts between the office of financial management and the interagency revenue task force, for those transportation agencies that are required to develop plans under RCW 44.40.070, the office of financial management shall submit (1) a reconciliation of the differences between the revenue forecasts and (2) the assumptions used by the office of financial management to the legislative transportation committee. [1991 c 358 § 7.]

Effective date—1991 c 358: See note following RCW 43.88.030.

43.88.130 When contracts and expenditures prohibited. No agency shall expend or contract to expend any money or incur any liability in excess of the amounts appropriated for that purpose: PROVIDED, That nothing in this section shall prevent the making of contracts or the spending of money for capital improvements, nor the making of contracts of lease or for service for a period exceeding the fiscal period in which such contract is made, when such contract is permitted by law. Any contract made in violation of this section shall be null and void. [1965 c 8 § 43.88.130. Prior: 1959 c 328 § 13.]

43.88.140 Lapsing of appropriations. All appropriations shall lapse at the end of the fiscal period for which the appropriations are made to the extent that they have not been expended or lawfully obligated. [1981 c 270 § 9; 1965 c 8 § 43.88.140. Prior: 1959 c 328 § 14.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.145 Capital projects—Transfer of excess appropriation authority. (1) The capital appropriations act may authorize the governor, through the director of financial management, to transfer the appropriation authority for a capital project that is in excess of the amount required for the completion of the project to another capital project for which the appropriation is insufficient.

(a) No such transfer may be used to expand the capacity or change the intended use of the project beyond that intended by the legislature in making the appropriation.

(b) The transfer may be effected only between capital projects within a specific department, commission, agency, or institution of higher education.

(c) The transfer may be effected only if the project from which the transfer of funds is made is substantially complete and there are funds remaining, or bids have been let on the project from which the transfer of funds is made and it appears to a substantial certainty that the project can be completed within the biennium for less than the amount appropriated.

(2) For the purposes of this section, the legislature intends that each project be defined as proposed to the legislature in the governor's budget document, unless the legislative history demonstrates that the legislature intended to define the scope of a project in a different way.

(3) The office of financial management shall notify the legislative fiscal committees of the senate and the house of representatives at least thirty days before any transfer is effected under this section except emergency projects or any transfer under two hundred fifty thousand dollars, and shall prepare a report to such committees listing all completed transfers at the close of each fiscal year. [1994 c 219 § 6.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88.150 Priority of expenditures—Appropriated and nonappropriated funds—Matching funds, disburse state moneys proportionally. (1) For those agencies that make expenditures from both appropriated and nonappropriated funds for the same purpose, the governor shall direct such agencies to charge their expenditures in such ratio, as between appropriated and nonappropriated funds, as will conserve appropriated funds.

(2) Unless otherwise provided by law, if state moneys are appropriated for a capital project and matching funds or other contributions are required as a condition of the receipt of the state moneys, the state moneys shall be disbursed in proportion to and only to the extent that the matching funds or other contributions have been received and are available for expenditure.

(3) The office of financial management shall adopt guidelines for the implementation of this section. The guidelines may account for federal matching requirements or other requirements to spend other moneys in a particular manner. [1991 c 284 § 3; 1981 c 270 § 10; 1965 c 8 § 43.88.150. Prior: 1959 c 328 § 15.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.155 Office of financial management. See chapter 43.41 RCW.

43.88.160 Fiscal management—Powers and duties of officers and agencies. This section sets forth the major fiscal duties and responsibilities of officers and agencies of the executive branch. The regulations issued by the governor pursuant to this chapter shall provide for a comprehensive, orderly basis for fiscal management and control, including efficient accounting and reporting therefor, for the executive branch of the state government and may include, in addition, such requirements as will generally promote more efficient public management in the state.

(1) Governor; director of financial management. The governor, through the director of financial management, shall devise and supervise a modern and complete accounting system for each agency to the end that all revenues, expenditures, receipts, disbursements, resources, and obligations of the state shall be properly and systematically accounted for. The accounting system shall include the development of accurate, timely records and reports of all financial affairs of the state. The system shall also provide for central accounts in the office of financial management at the level of detail deemed necessary by the director to perform central financial management. The director of financial management shall adopt and periodically update an accounting procedures manual. Any agency maintaining its own accounting and reporting system shall comply with the

updated accounting procedures manual and the rules of the director adopted under this chapter. An agency may receive a waiver from complying with this requirement if the waiver is approved by the director. Waivers expire at the end of the fiscal biennium for which they are granted. The director shall forward notice of waivers granted to the appropriate legislative fiscal committees. The director of financial management may require such financial, statistical, and other reports as the director deems necessary from all agencies covering any period.

(2) The director of financial management is responsible for quarterly reporting of primary operating budget drivers such as applicable workloads, caseload estimates, and appropriate unit cost data. These reports shall be transmitted to the legislative fiscal committees or by electronic means to the legislative evaluation and accountability program committee. Quarterly reports shall include actual monthly data and the variance between actual and estimated data to date. The reports shall also include estimates of these items for the remainder of the budget period.

(3) The director of financial management shall report at least annually to the appropriate legislative committees regarding the status of all appropriated capital projects, including transportation projects, showing significant cost overruns or underruns. If funds are shifted from one project to another, the office of financial management shall also reflect this in the annual variance report. Once a project is complete, the report shall provide a final summary showing estimated start and completion dates of each project phase compared to actual dates, estimated costs of each project phase compared to actual costs, and whether or not there are any outstanding liabilities or unsettled claims at the time of completion.

(4) In addition, the director of financial management, as agent of the governor, shall:

(a) Develop and maintain a system of internal controls and internal audits comprising methods and procedures to be adopted by each agency that will safeguard its assets, check the accuracy and reliability of its accounting data, promote operational efficiency, and encourage adherence to prescribed managerial policies for accounting and financial controls. The system developed by the director shall include criteria for determining the scope and comprehensiveness of internal controls required by classes of agencies, depending on the level of resources at risk.

Each agency head or authorized designee shall be assigned the responsibility and authority for establishing and maintaining internal audits following the standards of internal auditing of the institute of internal auditors;

(b) Make surveys and analyses of agencies with the object of determining better methods and increased effectiveness in the use of manpower and materials; and the director shall authorize expenditures for employee training to the end that the state may benefit from training facilities made available to state employees;

(c) Establish policies for allowing the contracting of child care services;

(d) Report to the governor with regard to duplication of effort or lack of coordination among agencies;

(e) Review any pay and classification plans, and changes thereunder, developed by any agency for their fiscal impact: PROVIDED, That none of the provisions of this

subsection shall affect merit systems of personnel management now existing or hereafter established by statute relating to the fixing of qualifications requirements for recruitment, appointment, or promotion of employees of any agency. The director shall advise and confer with agencies including appropriate standing committees of the legislature as may be designated by the speaker of the house and the president of the senate regarding the fiscal impact of such plans and may amend or alter said plans, except that for the following agencies no amendment or alteration of said plans may be made without the approval of the agency concerned: Agencies headed by elective officials;

(f) Fix the number and classes of positions or authorized man years of employment for each agency and during the fiscal period amend the determinations previously fixed by the director except that the director shall not be empowered to fix said number or said classes for the following: Agencies headed by elective officials;

(g) Provide for transfers and repayments between the budget stabilization account and the general fund as directed by appropriation and *RCW 43.88.525 through 43.88.540;

(h) Adopt rules to effectuate provisions contained in (a) through (g) of this subsection.

(5) The treasurer shall:

(a) Receive, keep, and disburse all public funds of the state not expressly required by law to be received, kept, and disbursed by some other persons: PROVIDED, That this subsection shall not apply to those public funds of the institutions of higher learning which are not subject to appropriation;

(b) Receive, disburse, or transfer public funds under the treasurer's supervision or custody;

(c) Keep a correct and current account of all moneys received and disbursed by the treasurer, classified by fund or account;

(d) Coordinate agencies' acceptance and use of credit cards and other payment methods, if the agencies have received authorization under RCW 43.41.180;

(e) Perform such other duties as may be required by law or by regulations issued pursuant to this law.

It shall be unlawful for the treasurer to disburse public funds in the treasury except upon forms or by alternative means duly prescribed by the director of financial management. These forms or alternative means shall provide for authentication and certification by the agency head or the agency head's designee that the services have been rendered or the materials have been furnished; or, in the case of loans or grants, that the loans or grants are authorized by law; or, in the case of payments for periodic maintenance services to be performed on state owned equipment, that a written contract for such periodic maintenance services is currently in effect and copies thereof are on file with the office of financial management; and the treasurer shall not be liable under the treasurer's surety bond for erroneous or improper payments so made. When services are lawfully paid for in advance of full performance by any private individual or business entity other than as provided for by RCW 42.24.035, such individual or entity other than central stores rendering such services shall make a cash deposit or furnish surety bond coverage to the state as shall be fixed in an amount by law, or if not fixed by law, then in such amounts as shall be fixed by the director of the department of general

administration but in no case shall such required cash deposit or surety bond be less than an amount which will fully indemnify the state against any and all losses on account of breach of promise to fully perform such services. No payments shall be made in advance for any equipment maintenance services to be performed more than three months after such payment. Any such bond so furnished shall be conditioned that the person, firm or corporation receiving the advance payment will apply it toward performance of the contract. The responsibility for recovery of erroneous or improper payments made under this section shall lie with the agency head or the agency head's designee in accordance with regulations issued pursuant to this chapter. Nothing in this section shall be construed to permit a public body to advance funds to a private service provider pursuant to a grant or loan before services have been rendered or material furnished.

(6) The state auditor shall:

(a) Report to the legislature the results of current post audits that have been made of the financial transactions of each agency; to this end the auditor may, in the auditor's discretion, examine the books and accounts of any agency, official or employee charged with the receipt, custody or safekeeping of public funds. Where feasible in conducting examinations, the auditor shall utilize data and findings from the internal control system prescribed by the office of financial management. The current post audit of each agency may include a section on recommendations to the legislature as provided in (c) of this subsection.

(b) Give information to the legislature, whenever required, upon any subject relating to the financial affairs of the state.

(c) Make the auditor's official report on or before the thirty-first of December which precedes the meeting of the legislature. The report shall be for the last complete fiscal period and shall include determinations as to whether agencies, in making expenditures, complied with the laws of this state. The state auditor is authorized to perform or participate in performance verifications only as expressly authorized by the legislature in the omnibus biennial appropriations acts. The state auditor, upon completing an audit for legal and financial compliance under chapter 43.09 RCW or a performance verification, may report to the legislative budget committee or other appropriate committees of the legislature, in a manner prescribed by the legislative budget committee, on facts relating to the management or performance of governmental programs where such facts are discovered incidental to the legal and financial audit or performance verification. The auditor may make such a report to a legislative committee only if the auditor has determined that the agency has been given an opportunity and has failed to resolve the management or performance issues raised by the auditor. If the auditor makes a report to a legislative committee, the agency may submit to the committee a response to the report. This subsection (6) shall not be construed to authorize the auditor to allocate other than de minimis resources to performance audits except as expressly authorized in the appropriations acts.

(d) Be empowered to take exception to specific expenditures that have been incurred by any agency or to take exception to other practices related in any way to the agency's financial transactions and to cause such exceptions

to be made a matter of public record, including disclosure to the agency concerned and to the director of financial management. It shall be the duty of the director of financial management to cause corrective action to be taken promptly, such action to include, as appropriate, the withholding of funds as provided in RCW 43.88.110.

(e) Promptly report any irregularities to the attorney general.

(f) Investigate improper governmental activity under chapter 42.40 RCW.

(7) The legislative budget committee may:

(a) Make post audits of the financial transactions of any agency and management surveys and program reviews as provided for in RCW 44.28.085 as well as performance audits and program evaluations. To this end the committee may in its discretion examine the books, accounts, and other records of any agency, official, or employee.

(b) Give information to the legislature or any legislative committee whenever required upon any subject relating to the performance and management of state agencies.

(c) Make a report to the legislature which shall include at least the following:

(i) Determinations as to the extent to which agencies in making expenditures have complied with the will of the legislature and in this connection, may take exception to specific expenditures or financial practices of any agencies; and

(ii) Such plans as it deems expedient for the support of the state's credit, for lessening expenditures, for promoting frugality and economy in agency affairs and generally for an improved level of fiscal management. [1994 c 184 § 11. Prior: 1993 c 500 § 7; 1993 c 406 § 4; 1993 c 194 § 6; 1992 c 118 § 8; 1992 c 118 § 7; 1991 c 358 § 4; prior: 1987 c 505 § 36; 1987 c 436 § 1; 1986 c 215 § 5; 1982 c 10 § 11; prior: 1981 c 280 § 7; 1981 c 270 § 11; 1979 c 151 § 139; 1975 1st ex.s. c 293 § 8; 1975 c 40 § 11; 1973 c 104 § 1; 1971 ex.s. c 170 § 4; 1967 ex.s. c 8 § 49; 1965 c 8 § 43.88.160; prior: 1959 c 328 § 16.]

***Reviser's note:** RCW 43.88.525 through 43.88.540 were repealed by 1994 c 2 § 9 (Initiative Measure No. 601, approved November 2, 1993), effective July 1, 1995.

Purpose—Intent—1994 c 184: See RCW 43.88B.005 and 43.88B.007.

Captions—Effective date—1994 c 184: See RCW 43.88B.900 and 43.88B.901.

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Short title—1993 c 406: See note following RCW 43.88.020.

Expiration date—1992 c 118 § 7: "Section 7 of this act shall expire April 1, 1992." [1992 c 118 § 9.]

Effective date—1992 c 118 § 8: "Section 8 of this act shall take effect April 1, 1992." [1992 c 118 § 10.]

Effective date—1991 c 358: See note following RCW 43.88.030.

Severability—1982 c 10: See note following RCW 6.13.080.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.020.

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

Director of financial management: Chapter 43.41 RCW.

Legislative budget committee: Chapter 44.28 RCW.

Post-audit: RCW 43.09.290 through 43.09.330.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

State auditor, duties: Chapter 43.09 RCW.

State treasurer, duties: Chapter 43.08 RCW.

43.88.170 Refunds of erroneous or excessive payments. Whenever any law which provides for the collection of fees or other payment by an agency does not authorize the refund of erroneous or excessive payments thereof, refunds may be made or authorized by the agency which collected the fees or payments of all such amounts received by the agency in consequence of error, either of fact or of law. The regulations issued by the governor pursuant to this chapter shall prescribe the procedure to be employed in making refunds. [1965 c 8 § 43.88.170. Prior: 1959 c 328 § 17.]

Refunds: RCW 43.01.072 through 43.01.075.

43.88.175 Credit reporting agencies—State agency use. State agencies may report receivables to credit reporting agencies whenever the agency determines that such reporting would be cost-effective and does not violate confidentiality or other legal requirements. Within thirty-five days after satisfaction of a debt reported to a credit reporting agency, the state agency reporting the debt shall notify the credit reporting agency that the debt has been satisfied. [1991 c 85 § 1; 1989 c 100 § 1.]

43.88.180 When appropriations required or not required. Appropriations shall not be required for refunds, as provided in RCW 43.88.170, nor in the case of payments other than for administrative expenses or capital improvements to be made from trust funds specifically created by law to discharge awards, claims, annuities and other liabilities of the state. Said trust funds shall include, but shall not be limited to, the accident fund, medical aid fund, retirement system fund, Washington state patrol retirement fund and unemployment trust fund. Appropriations may be required in the case of public service enterprises defined for the purposes of this section as proprietary functions conducted by an agency of the state. An appropriation may be required to permit payment of obligations by revolving funds, as provided in RCW 43.88.190. [1973 1st ex.s. c 100 § 8; 1965 c 8 § 43.88.180. Prior: 1959 c 328 § 18.]

43.88.190 Revolving funds. Revolving funds shall not be created by law except to finance the operations of service units, or units set up to supply goods and services to other units or agencies. Such service units where created shall be self-supporting operations featuring continuous turnover of working capital. The regulations issued by the governor pursuant to this chapter shall prescribe the procedures to be employed by agencies in accounting and reporting for revolving funds and may provide for the keeping of such funds in the custody of the treasurer. [1965 c 8 § 43.88.190. Prior: 1959 c 328 § 19.]

43.88.195 Establishment of accounts or funds outside treasury without permission of director of financial management prohibited. After August 11, 1969, no state agency, state institution, state institution of higher

education, which shall include all state universities, regional universities, The Evergreen State College, and community colleges, shall establish any new accounts or funds which are to be located outside of the state treasury: PROVIDED, That the office of financial management shall be authorized to grant permission for the establishment of such an account or fund outside of the state treasury only when the requesting agency presents compelling reasons of economy and efficiency which could not be achieved by placing such funds in the state treasury. When the director of financial management authorizes the creation of such fund or account, the director shall forthwith give written notice of the fact to the standing committees on ways and means of the house and senate: PROVIDED FURTHER, That the office of financial management may grant permission for the establishment of accounts outside of the state treasury for the purposes of RCW 39.35C.120. Agencies authorized to create local accounts will utilize the services of the state treasurer's office to ensure that new or ongoing relationships with financial institutions are in concert with state-wide policies and procedures pursuant to RCW 43.88.160(1). [1993 c 500 § 8; 1991 c 201 § 19; 1979 c 151 § 140; 1977 ex.s. c 169 § 109; 1975 1st ex.s. c 293 § 9; 1969 ex.s. c 248 § 1.]

Finding—Severability—Effective date—1993 c 500: See notes following RCW 43.41.180.

Captions not law—Severability—1991 c 201: See RCW 39.35C.900 and 39.35C.901.

43.88.200 Public records. All agency records reflecting financial transactions, such records being defined for purposes of this chapter to mean books of account, financial statements, and supporting records including expense vouchers and other evidences of obligation, shall be deemed to be public records and shall be available for public inspection in the agency concerned during official working hours. [1965 c 8 § 43.88.200. Prior: 1959 c 328 § 20.]

43.88.205 Federal funds and programs—Participating agencies to give notice—Progress reports.

(1) Whenever an agency makes application, enters into a contract or agreement, or submits state plans for participation in, and for grants of federal funds under any federal law, the agency making such application shall at the time of such action, give notice in such form and manner as the director of financial management may prescribe, or the chairman of the legislative budget committee, standing committees on ways and means of the house and senate, the chief clerk of the house, or the secretary of the senate may request.

(2) Whenever any such application, contract, agreement, or state plan is amended, such agency shall notify each such officer of such action in the same manner as prescribed or requested pursuant to subsection (1) of this section.

(3) Such agency shall promptly furnish such progress reports in relation to each such application, contract, agreement, or state plan as may be requested following the date of the filing of the application, contract, agreement, or state plan; and shall also file with each such officer a final report as to the final disposition of each such application, contract, agreement, or state plan if such is requested. [1979 c 151 §

141; 1975 1st ex.s. c 293 § 10; 1973 2nd ex.s. c 17 § 3; 1967 ex.s. c 41 § 4.]

Acceptance of funds by governor, administration: RCW 43.06.120, 43.06.130.

43.88.210 Transfer of certain powers and duties. It is the intent of this chapter to assign to the governor's office authority for developing and maintaining a state budgeting, accounting, and reporting system necessary for effective expenditure and revenue control among agencies.

To this end:

(1) All powers and duties and functions of the state auditor relating to the disbursement of public funds by warrant or check are hereby transferred to the state treasurer as the governor may direct but no later than ninety days after the start of the next fiscal biennium, and the state auditor shall deliver to the state treasurer all books, records, accounts, equipment, or other property relating to such function. In all cases where any question shall arise as to the proper custody of any such books, records, accounts, equipment or property, or pending business, the governor shall determine the question;

(2) In all cases where reports, notices, certifications, vouchers, disbursements and similar statements are now required to be given to any agency the duties and responsibilities of which are being assigned or reassigned by this chapter, the same shall be given to the agency or agencies in the manner provided for in this chapter. [1986 c 215 § 6; 1965 c 8 § 43.88.210. Prior: 1959 c 328 § 21.]

43.88.220 Federal law controls in case of conflict—Rules. If any part of this chapter shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules and regulations under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1965 c 8 § 43.88.220. Prior: 1959 c 328 § 22.]

43.88.230 Legislative agencies and committees deemed part of legislative branch. For the purposes of this chapter, the statute law committee, the legislative budget committee, the legislative transportation committee, the legislative evaluation and accountability program committee, the office of state actuary, and all legislative standing committees of both houses shall be deemed a part of the legislative branch of state government. [1981 c 270 § 12; 1975 1st ex.s. c 293 § 11; 1965 c 8 § 43.88.230. Prior: 1959 c 328 § 23.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

43.88.240 Exemption of certain fruit, dairy, agricultural commissions. This chapter shall not apply to the Washington state apple advertising commission, the Washington state fruit commission, the Washington tree fruit

research commission, the Washington state beef commission, the Washington state dairy products commission, or any agricultural commodity commission created under the provisions of chapters 15.65 and 15.66 RCW: PROVIDED, That all such commissions shall submit estimates and such other necessary information as may be required for the development of the budget and shall also be subject to audit by the appropriate state auditing agency or officer. [1981 c 225 § 3; 1965 c 8 § 43.88.240. Prior: 1959 c 328 § 24.]

43.88.250 Emergency expenditures. Whenever an emergency shall arise necessitating an expenditure for the preservation of peace, health or safety, or for the carrying on of the necessary work required by law of any state agency for which insufficient or no appropriations have been made, the head of such agency shall submit to the governor, duplicate copies of a sworn statement, setting forth the facts constituting the emergency and the estimated amount of money required therefor. If the governor approves such estimate in whole or in part, the governor shall indorse on each copy of the statement the governor's approval, together with a statement of the amount approved as an allocation from any appropriation available for allocation for emergency purposes and transmit one copy to the head of the agency thereby authorizing the emergency expenditures. [1975-'76 2nd ex.s. c 83 § 1.]

43.88.260 Deficiencies prohibited—Exceptions. (1) It shall be unlawful for any agency head or disbursing officer to incur any cash deficiency and any appointive officer or employee violating the provisions of this section shall be subject to summary removal.

(2) This section does not apply to:

(a) Temporary cash deficiencies resulting from disbursements under a expenditure plan approved under RCW 43.88.110.

(b) Temporary cash deficiencies authorized by the director of financial management for funds and accounts in the state treasury or in the custody of the state treasurer. Each authorization under this subsection (b) shall distinctly specify the fund or account for which a deficiency is authorized, the maximum amount of cash deficiency which may be incurred, and the maximum time period during which the cash deficiency may continue. Each authorization shall expire at the end of each fiscal biennium unless renewed by the director of financial management. The director of financial management shall report each authorization and renewal to the legislative fiscal committees.

(c) Temporary cash deficiencies in funds or accounts which are neither in the state treasury, nor in the custody of the treasurer, if the cash deficiency does not continue past the end of the fiscal biennium.

(3) Nothing in this section permits the expenditure of moneys in excess of an applicable appropriation. [1987 c 502 § 7; 1975-'76 2nd ex.s. c 83 § 2.]

43.88.265 Construction accounts—Exception to certain accounting requirements. In order to comply with the provisions of the federal tax reform act of 1986, construction accounts that receive bond proceeds are exempt from RCW 43.88.050, 43.88.110, and 43.88.260 and may

incur seasonal cash deficits pending the sale of bonds or bond anticipation notes subject to the following conditions:

(1) The respective account has unexpended appropriation authority.

(2) There are authorized unissued bonds available for sale by the state finance committee under direction to deposit the proceeds of the sale in the respective account.

(3) The bonds are of an amount that would remedy the cash deficit if the bonds were sold. [1989 1st ex.s. c 14 § 18.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.88.270 Penalty for violations. Any officer or employee violating, or wilfully refusing or failing to comply with, any provision of this chapter shall be guilty of a misdemeanor. [1975-'76 2nd ex.s. c 83 § 3.]

43.88.280 Fiscal responsibilities of state officers and employees—"State officer or employee" defined. As used in RCW 43.88.290 and 43.88.300 the term "state officer or employee" includes the members of the governing body of any state agency, as state agency is defined in RCW 43.88.020(4) and those generally known as executive management but excludes nonsupervisory state employees covered by civil service under chapters 41.06 and *28B.16 RCW. [1977 ex.s. c 320 § 1.]

***Reviser's note:** Chapter 28B.16 RCW was repealed by 1993 c 281, with the exception of RCW 28B.16.240, which was recodified as a new section in chapter 41.06 RCW. The powers, duties, and functions of the state higher education personnel board were transferred to the Washington personnel resources board.

Effective date—1977 ex.s. c 320: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1977." [1977 ex.s. c 320 § 6.]

43.88.290 Fiscal responsibilities of state officers and employees—Prohibitions relative to appropriations and expenditures. No state officer or employee shall intentionally or negligently: Over-expend or over-encumber any appropriation made by law; fail to properly account for any expenditures by fund, program, or fiscal period; or expend funds contrary to the terms, limits, or conditions of any appropriation made by law. [1981 c 270 § 13; 1977 ex.s. c 320 § 2.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.300 Fiscal responsibilities of state officers and employees—Violations—Civil penalties—Forfeiture. (1) Where there is reason to believe that a present or former state officer or employee has violated or threatens to violate RCW 43.88.290, the attorney general may initiate an appropriate civil action for the enforcement of RCW 43.88.280 through 43.88.320 or to prevent any such violation. The action may be brought in the county where the alleged violator resides, or the county where the violation is alleged to have occurred or is threatened.

(2) For each violation of RCW 43.88.290 the attorney general shall seek to recover and the court may award the following damages, on behalf of the state of Washington:

(a) From each person found in violation of RCW 43.88.290 a civil penalty in the amount of five hundred dollars, or all costs, including reasonable attorney's fees incurred by the state in said action, whichever is greater;

(b) Any damages sustained by the state as a result of the conduct constituting said violation.

In addition to the other penalties contained in this section, judgment against any person, other than an elected official, for violating RCW 43.88.290 may include a declaration of forfeiture of such person's office or employment, to take effect immediately. [1977 ex.s. c 320 § 3.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.310 Fiscal responsibilities of state officers and employees—Duties of legislative auditor, attorney general.

(1) The legislative auditor, with the concurrence of the legislative budget committee, may file with the attorney general any audit exceptions or other findings of any performance audit, management study, or special report prepared for the legislative budget committee, any standing or special committees of the house or senate, or the entire legislature which indicate a violation of RCW 43.88.290, or any other act of malfeasance, misfeasance, or nonfeasance on the part of any state officer or employee.

(2) The attorney general shall promptly review each filing received from the legislative auditor and may act thereon as provided in RCW 43.88.300, or any other applicable statute authorizing enforcement proceedings by the attorney general. The attorney general shall advise the legislative budget committee of the status of exceptions or findings referred under this section. [1993 c 157 § 1; 1977 ex.s. c 320 § 4.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.320 Fiscal responsibilities of state officers and employees—Civil penalties additional to other penalties.

The civil penalties provided by RCW 43.88.280 through 43.88.320 are in addition to any other penalties which may be provided by law. [1977 ex.s. c 320 § 5.]

Effective date—1977 ex.s. c 320: See note following RCW 43.88.280.

43.88.350 Legal services revolving fund—General administration facilities and services revolving fund—Approval of certain changes required.

Any rate increases proposed for the legal services revolving fund or the general administration facilities and services revolving fund, or any change in the method of calculating charges from those funds, is subject to approval by the director of financial management prior to implementation. [1981 c 270 § 14.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Department of general administration facilities and services revolving fund: RCW 43.19.500.

Legal services revolving fund: RCW 43.10.150.

43.88.500 State boards, commissions, councils and committees—Legislative finding and declaration. The legislature finds that members of boards, commissions, councils, and committees in state government make a valuable contribution to the public welfare.

Nevertheless, the legislature also finds that the continued proliferation of both statutory and nonstatutory groups of this nature without effective, periodic review of existing groups can result in wasteful duplication of effort, fragmentation of administrative authority, lack of accountability, plus an excessive and frequently hidden financial burden on the state.

The legislature further finds that effective legislative oversight and review of boards, commissions, councils, and committees is frustrated by a lack of current and reliable information on the status and activities of such groups.

The legislature declares that legislative oversight and overall accountability in state government can be significantly improved by creating in the office of financial management a central clearinghouse for information on boards, commissions, councils, and committees. [1979 c 151 § 142; 1977 c 23 § 1.]

Termination review: RCW 43.41.220.

43.88.505 State boards, commissions, councils and committees—Compilation of list, information. (1) The director of financial management shall compile, and revise within ninety days after the beginning of each biennium, a current list of all permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that are established by the executive, legislative, or judicial branches of state government and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall include but not be limited to any such group which:

(a) Functions primarily in an advisory, planning, or coordinating capacity;

(b) Performs advertising, research, promotional, or marketing services for a specific business, industry, or occupation; or

(c) Performs licensing, regulatory, or quasi-judicial functions, adopts rules, or has responsibility for the administration or policy direction of a state agency or program.

(3) Such list shall contain the following information for each board, commission, council, committee, or other group of similar nomenclature:

(a) The legal authorization for the creation of the group;

(b) The number of members on the group, the appointing authority, and the agency to which the group reports;

(c) The number of meetings held during the preceding biennium;

(d) A brief summary of the primary responsibilities of the group;

(e) The total estimated cost of operating the group during the preceding biennium and the estimated cost of the group during the ensuing biennium. Such cost data shall include the estimated administrative expenses of the group as well as the estimated cost to an agency of providing full

time equivalent or part time supporting staff to the group; and

(f) The source of funding for the group. [1979 c 151 § 143; 1977 c 23 § 2.]

43.88.510 State boards, commissions, councils and committees—Submission of list and data to legislature. Not later than ninety days after the beginning of each biennium, the director of financial management shall submit the compiled list of boards, commissions, councils, and committees, together with the information on each such group, that is required by RCW 43.88.505 to:

(1) The speaker of the house and the president of the senate for distribution to the appropriate standing committees, including one copy to the staff of each of the committees;

(2) The chair of the legislative budget committee, including a copy to the staff of the committee;

(3) The chairs of the committees on ways and means of the senate and house of representatives; and

(4) Members of the state government committee of the house of representatives and of the governmental operations committee of the senate, including one copy to the staff of each of the committees. [1987 c 505 § 37; 1979 c 151 § 144; 1977 c 23 § 3.]

43.88.515 State boards, commissions, councils and committees—Agencies to submit lists, information. (1) In order to facilitate the compilation of data required by RCW 43.88.505, each agency of the executive, legislative, and judicial branches of state government shall submit to the director of financial management a current list of the permanent and temporary, statutory and nonstatutory boards, commissions, councils, committees, and other groups of similar nomenclature that report to, or are involved in the operation of, the agency and whose members are eligible to receive travel expenses for their meetings in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(2) Such list shall contain the administrative and cost information for each group that is prescribed in RCW 43.88.505(3).

(3) The director of financial management shall establish guidelines and a format for agencies to follow in submitting information on boards, commissions, councils, and committees. [1979 c 151 § 145; 1977 c 23 § 4.]

43.88.520 Legislative declaration. (Effective until July 1, 1995.) The legislature finds that during periods of recession or slowing economic growth, receipts of state revenues may decline below projections, yet the demand for state services does not correspondingly lessen and may in fact increase. There is need for a means to assure that services required in such periods can be maintained at or near the level anticipated by the legislature when making appropriations. The legislature therefore finds that a budget stabilization account into which will be deposited state revenues during favorable periods of economic activity will provide a resource for the stable financing of essential state services during periods of revenue shortfall. [1981 c 280 § 1.]

Effective date—1981 c 280: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 280 § 10.]

Severability—1981 c 280: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1981 c 280 § 9.]

43.88.525 Budget stabilization account—Deposits—Request for transfers to account. (Effective until July 1, 1995.) A budget stabilization account is hereby created as an account in the state treasury for the purposes set forth in RCW 43.88.520 through 43.88.540. There shall be deposited into the stabilization account the revenues described in RCW 43.88.530 and such other amounts as the legislature may from time to time direct to be deposited in the account. The governor's biennial budget document shall contain a request for necessary transfers from the general fund to the budget stabilization account of those revenues identified in RCW 43.88.530. [1991 sp.s. c 13 § 13; 1985 c 57 § 52; 1981 c 280 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

43.88.530 Budget stabilization account—Transfers to account. (Effective until July 1, 1995.) (1) The state treasurer, pursuant to an appropriation, shall transfer to the stabilization account a sum equal to the annual growth rate in real personal income minus three percentage points, multiplied by general state revenues for the immediately preceding fiscal year. Unless waived pursuant to RCW 43.88.535, transfers shall be made by the state treasurer during each biennium in eight equal amounts not later than the last day of each quarter commencing September 30, 1983.

(2) The state treasurer pursuant to appropriation shall transfer the unobligated cash surplus in the general fund as determined by the director of financial management after the conclusion of each biennium and following the certification of general state revenues by the state treasurer, provided that such revenues do not exceed the state tax revenue limit. No further deposits shall be made to the stabilization account during a biennium when the amount of the account equals or exceeds eight percent of general state revenues for the biennium. [1982 1st ex.s. c 36 § 2; 1981 c 280 § 3.]

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

43.88.535 Budget stabilization account—Appropriation for certain purposes—Waiver of deposits. (Effective until July 1, 1995.) (1) Money in the budget stabilization account may be appropriated by a favorable vote of sixty percent of the members elected to each house of the legislature for the following purposes:

(a) To provide for the continuation of agency programs at or near levels of existing appropriations when state revenues decline below projections;

(b) To provide the governor with reserve expenditure authority for the purpose specified in subsection (1)(a) of this section;

(c) For labor force training; and

(d) For any other purpose which the legislature finds would reduce unemployment caused by the state's economic cycle.

(2) By January 1, 1994, the state treasurer shall transfer twenty-five million dollars from the state general fund to the budget stabilization account. In addition to the purposes specified in subsection (1) of this section, the moneys deposited in the budget stabilization account under this subsection may be appropriated for the continuing costs of any state retirement system benefits in effect on July 1, 1993.

(3) The legislature by appropriation may provide for, or the governor may authorize, the waiver of deposits in any fiscal quarter to the stabilization account in the event of an expenditure from the account during such quarter. [1993 sp.s. c 24 § 919; 1982 1st ex.s. c 36 § 3; 1981 c 280 § 4.]

Reviser's note: RCW 43.88.535 was amended during the 1993 special legislative session and subsequently repealed in the 1993 general election, each without reference to the other. It will be decodified, effective July 1, 1995, for publication purposes pursuant to RCW 1.12.025.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

43.88.540 Budget stabilization account—Resumption of deposits. (Effective until July 1, 1995.) Subsequent to a transfer to the general fund from the stabilization account, resumption of further deposits to the stabilization account shall be made during the biennium when estimated revenues demonstrate that resumption of deposits can be made.

The director of financial management as agent of the governor shall determine the timing of resumption of deposits to the stabilization account. [1984 c 138 § 11; 1981 c 280 § 5.]

Effective date—Severability—1981 c 280: See notes following RCW 43.88.520.

43.88.550 Forest fire fighting expenses—Transfers to Clarke-McNary fund. Based on schedules submitted by the director of financial management, the state treasurer shall transfer from the general fund—state, or such other funds as the state treasurer deems appropriate, to the Clarke-McNary fund such amounts as are necessary to meet unbudgeted forest fire fighting expenses. All amounts borrowed under the authority of this section shall be repaid to the appropriate fund, together with interest at a rate determined by the state treasurer to be equivalent to the return on investments of the state treasury during the period the amounts are borrowed. [1989 c 362 § 3.]

43.88.560 Information technology projects—Funding policies and standards. The director of financial management shall establish policies and standards governing the funding of major information technology projects as required under RCW 43.105.190(2). [1992 c 20 § 7.]

Sunset Act application: See note following chapter 43.105 RCW digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.88.899 Intent—Periodic review. The amendments to chapter 43.88 RCW by chapter 215, Laws of 1986 are intended to improve the reporting of state budgeting, accounting, and other fiscal data. The legislative evaluation and accountability program committee shall periodically review chapter 43.88 RCW and shall recommend further revisions if needed. [1986 c 215 § 8.]

43.88.901 Severability—1973 1st ex.s. c 100. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 100 § 10.]

43.88.902 Severability—1975 1st ex.s. c 293. If any provision of this 1975 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1975 1st ex.s. c 293 § 22.]

43.88.903 Severability—1977 c 23. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 c 23 § 5.]

43.88.910 Effective date—1975 1st ex.s. c 293. This 1975 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1975. [1975 1st ex.s. c 293 § 23.]

Chapter 43.88A

LEGISLATIVE FISCAL NOTES

Sections

43.88A.010 Legislative declaration.

43.88A.020 Fiscal notes—Preparation—Contents—Duties of office of financial management.

43.88A.030 Fiscal notes—Distribution.

43.88A.040 Fiscal notes—Preparation upon request of any legislator.

43.88A.900 Construction of chapter.

Fiscal impact of proposed legislation on political subdivisions: Chapter 43.132 RCW.

43.88A.010 Legislative declaration. The legislature hereby recognizes the necessity of developing a uniform and coordinated procedure for determining the expected fiscal impact of bills and resolutions on state government. The legislature also recognizes that developing such statements of fiscal impact, which shall be known as fiscal notes, requires the designation of a state agency to be principally responsible therefor. [1977 ex.s. c 25 § 1.]

43.88A.020 Fiscal notes—Preparation—Contents—Duties of office of financial management. The office of financial management shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of fiscal notes on the expected impact of bills and resolutions which increase or decrease or tend to increase or decrease state government revenues or expenditures. Such fiscal notes shall indicate by fiscal year the impact for the remainder of the biennium in which the bill or resolution will first take effect as well as a cumulative forecast of the fiscal impact for the succeeding four fiscal years. Fiscal notes shall separately identify the fiscal impacts on the operating and capital budgets. Estimates of fiscal impacts shall be calculated using the procedures contained in the fiscal note instructions issued by the office of financial management.

In establishing the fiscal impact called for pursuant to this chapter, the office of financial management shall coordinate the development of fiscal notes with all state agencies affected. [1994 c 219 § 3; 1979 c 151 § 146; 1977 ex.s. c 25 § 2.]

Finding—1994 c 219: See note following RCW 43.88.030.

43.88A.030 Fiscal notes—Distribution. When a fiscal note is prepared and approved as to form, accuracy, and completeness by the office of financial management, which depicts the expected fiscal impact of a bill or resolution, copies shall be filed immediately with:

(1) The chairperson of the committee to which the bill or resolution was referred upon introduction in the house of origin;

(2) The senate committee on ways and means, or its successor; and

(3) The house committees on revenue and appropriations, or their successors.

Whenever possible, such fiscal note shall be provided prior to or at the time the bill or resolution is first heard by the committee of reference in the house of origin.

When a fiscal note has been prepared for a bill or resolution, a copy of the fiscal note shall be placed in the bill books or otherwise attached to the bill or resolution and shall remain with the bill or resolution throughout the legislative process insofar as possible. [1986 c 158 § 16; 1979 ex.s. c 112 § 1; 1979 c 151 § 147; 1977 ex.s. c 25 § 3.]

43.88A.040 Fiscal notes—Preparation upon request of any legislator. The office of financial management shall also provide a fiscal note on any legislative proposal at the request of any legislator. Such fiscal note shall be returned to the requesting legislator, and copies shall be filed with the appropriate legislative committees pursuant to RCW 43.88A.030 at the time such proposed legislation is introduced in either house. [1979 c 151 § 148; 1977 ex.s. c 25 § 4.]

43.88A.900 Construction of chapter. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives,

nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 ex.s. c 25 § 5.]

Chapter 43.88B

GOVERNMENT SERVICE—QUALITY AND ACCOUNTABILITY

Sections

- 43.88B.005 Purpose.
- 43.88B.007 Intent.
- 43.88B.010 Performance partnership council—Powers and duties.
- 43.88B.020 Performance partnership operating committee—Powers and duties.
- 43.88B.030 Long-term improvement—Strategic intent.
- 43.88B.031 Long-term improvement—Continuous improvement strategies.
- 43.88B.040 Budget redesign.
- 43.88B.050 Collective bargaining.
- 43.88B.900 Captions—1994 c 184.
- 43.88B.901 Effective date—1994 c 184.

43.88B.005 Purpose. The state of Washington expects to be the most effective and best performing state government in the United States, measured in terms of quality of customer service, accountability for cost-effective services, and productivity. [1994 c 184 § 1.]

43.88B.007 Intent. It is the intent of the governor and the legislature to accomplish the purpose of RCW 43.88B.005 through a commitment to continuous improvement of Washington state government and not through a one-time or short-term effort that would largely serve to redefine problems rather than identify solutions.

The governor, the legislature, and the public expect Washington state government to focus on the citizens of Washington as valued customers of state government. State government will accomplish what its citizens truly expect of it, and operate as its customers expect.

Washington state government will be a government where state employees are recognized as our most valuable improvement resource in solving problems and delivering quality services, where employees play the most significant role in developing and implementing strategies to accomplish the purposes of this chapter, and where people want to work and are proud to serve. Washington state government will place a high priority on investment in its employees and the systems necessary to support those people.

We will have a state government where, with due regard for the different responsibilities assumed under the constitutional separation of powers, the governor and the legislature operate in partnership to improve the whole of state government, including themselves and their processes; where the governor and legislature act in partnership with state employees and employee organizations; and where all government officials and employees act in partnership with the citizens of Washington, who are the customers for state government.

Washington state government will have clear measures of performance that will result in quality customer service, accountability for cost-effective services, and improved productivity. Quality and performance standards will

improve service delivery from all suppliers of government services. [1994 c 184 § 2.]

43.88B.010 Performance partnership council—Powers and duties. (1) The Washington performance partnership council is established. The council shall consist of:

- (a) The governor;
- (b) The majority leader of the senate;
- (c) The speaker of the house of representatives;
- (d) The minority leader of the senate;
- (e) The minority leader of the house of representatives;

and

(f) Two state-wide elected officials to be appointed by the governor.

(2) To the extent necessary to accomplish the purposes of this chapter, the council shall meet monthly. The council shall invite the chairs and ranking minority members of the senate committee on ways and means and the house of representatives committee on appropriations to attend and participate in the meetings of the council as necessary and appropriate. The council may also invite the chairs of other legislative committees to participate in meetings of the council.

(3) The governor, majority leader of the senate, and speaker of the house of representatives shall serve as cochairs of the council.

(4) The council shall work in partnership to assure that the purposes and intent of this chapter are being met. The council shall establish clear expectations and measures of performance regarding implementation of the purpose and intent of this chapter. The council has decision-making authority to authorize programs to accomplish the purposes of this chapter. The council will review recommendations from the operating committee established under RCW 43.88B.020 and make appropriate recommendations regarding statutory changes to the legislature.

(5) The council shall have the authority and responsibility to provide adequate resources to accomplish the objectives of this chapter, including the hiring of staff or the reassignment of existing staff. Decisions to reallocate existing staff from any agency shall be made only with the approval of the director of the agency.

(6) Within forty-five days of March 30, 1994, the council will appoint a full-time person to coordinate and facilitate the effort. [1994 c 184 § 3.]

43.88B.020 Performance partnership operating committee—Powers and duties. (1) Within thirty days of March 30, 1994, the performance partnership council shall appoint the performance partnership operating committee, with no more than twelve members, comprised of:

- (a) The director of financial management;
- (b) Directors of state agencies, including independent agencies and agencies that report directly to the governor;
- (c) State employees and representatives of state employees;

(d) Representatives of the legislature; and

(e) Representatives of the private sector with expertise in organizational improvement strategies.

(2) Representatives of the private sector shall be appointed in equal number to representatives of the public sector. The director of financial management and a representative of the private sector, to be selected by the council, shall serve as cochair of the operating committee.

(3) The operating committee shall focus on the day-to-day operations of the improvement process and the allocation of necessary staff resources. The committee shall assure the planning, initiation, and implementation of the functions necessary to accomplish the purposes of this chapter, monitor assigned tasks, and consider and recommend short and long-term improvement strategies to the performance partnership council.

(4) The operating committee shall ensure that the strategies and recommendations to accomplish the purposes of this chapter are developed primarily by front-line state employees and the customers of state government services. That assurance will be provided, in part, by facilitating work teams and design teams comprised of state employees, state employee organizations, customers, managers, legislators or legislative employees, and experts from outside government to develop the strategies and accomplish the tasks required under RCW 43.88B.030, 43.88B.031, and 43.88B.040.

(5) Within sixty days of March 30, 1994, the operating committee shall recommend to the council a work plan and budget to accomplish the purposes of this chapter, with particular detail regarding the first twelve months. The operating committee shall also develop a thorough and effective internal and external communication plan necessary to inform and activate the participants essential to the success of the effort. [1994 c 184 § 4.]

43.88B.030 Long-term improvement—Strategic intent. Working through the operating committee, the performance partnership council shall initiate a two-tracked process toward the long-term improvement of state government.

The first area of effort shall focus on clarifying and stating the strategic intent for Washington state government: What Washington state government should be doing at this current period in time. Included in the strategic intent for state government shall be a clear statement of general goals for the state of Washington, the basic services that Washington state citizens desire, and the priorities and values which are centered on the customers of state government. The statement of intent, priorities, and values shall be developed within the context of revenue and expenditure limitations.

The council shall establish a process which effectively involves the customers and suppliers of state government services. The suppliers are primarily state employees, but might also include local government, private vendors of goods and services, and others as appropriate. The process shall be ongoing. The council shall prepare its initial statement of strategic intent for Washington state government by September 1, 1994, for recommendation to the 1995 legislature. The legislature shall either accept or reject, but cannot amend, the statement of strategic intent. The legislature shall take action on the initial recommendation by March 15, 1995. If the statement of strategic intent is not approved by the legislature, it shall be amended by the council and resubmitted.

The council shall recommend to the legislature an updated statement of strategic intent by September 1 of each even-numbered year for action by the legislature by March 15 in the following legislative session. [1994 c 184 § 5.]

43.88B.031 Long-term improvement—Continuous improvement strategies. (1) The second area of effort by the performance partnership council shall focus on continuous improvement of state government services by developing successful strategies to:

(a) Clearly identify the intended result of each state government service or program, and measure and communicate performance toward the intended result;

(b) Assess each activity and function of government to identify the value added toward the general strategic intent of state government and the specific result intended from the program or service, eliminate or redesign activities so that each function or activity makes a cost-effective contribution toward intended results, and design organizations that match the functions and processes of state government;

(c) Redesign the internal systems that support state government to be more consistent with a priority-driven, results-oriented, performance-based system of government, with highest priority to redesign of the budget system and the accounting system; and

(d) Identify and remove barriers to performance and create incentives for better performance and cost-effectiveness.

(2) The operating committee shall formulate design teams consisting of front-line employees, employee representatives, managers, customers, outside experts where appropriate, legislators or legislative staff, representatives of local government, vendors and other suppliers of state services, and any other persons deemed necessary or appropriate by the operating committee, to develop successful prototypes with application throughout the executive and legislative branches of government for implementation of the improvement principles described in subsection (1) of this section. The composition of the design teams shall be flexible and shall reflect the expertise required for the initial projects.

(3) Initial projects shall be undertaken to design strategies for successful implementation of each of the principles described in subsection (1) of this section and any others identified by the council as being essential to accomplish the purposes of this chapter. In developing successful strategies, the design teams shall also examine the best practices used in the public and private sectors to accomplish the objectives of subsection (1) of this section. The initial projects shall be designed to demonstrate definitive results, including effective methods for employee participation and empowerment techniques to facilitate and implement creative problem solving from all employees, effective means of customer involvement, consistent definitions and instructions, effective training plans and identification of resources required, successful project management strategies, and effective communication plans.

(4) The work plan described in RCW 43.88B.020 shall identify the initial projects to be undertaken. The initial projects shall be designed to develop effective performance improvement strategies that can be replicated in other areas of state government. Initial projects should be identified in

an effort to demonstrate early success and immediate improvement in state government performance. It is not necessary at the outset to initiate projects for each of the principal government improvement strategies described in subsection (1) of this section. Rather, the work plan should describe an orderly schedule that will allow for integration of each of the initial projects in a way that will result in coordinated strategies for continuous improvement. The initial projects for improvement should be consistent with efforts to define the strategic intent for Washington state government.

(5) The council shall determine when an initiative has resulted in successful strategies that should be expanded to a broader portion, or the whole, of state government. The council shall recommend statutory changes to the legislature when such changes are required to accomplish the purposes of this chapter. The council shall also develop legislation to alter statutes, rules, and regulations necessary for initial agencies and programs to accomplish the purposes of this chapter, and to expand projects to a broader portion of state government at the appropriate time. The legislation shall be based on the work of project teams designed to identify and address barriers to performance and create incentives.

(6) The performance partnership council and operating committee shall ensure the work of the design teams is supported by committed leadership that provides clear vision and motivation and facilitates effective communication. State employees shall be recognized and supported as the single resource most effective in identifying and solving problems and delivering effective state government services. Employees shall be well supported by the provision of necessary resources, particularly an investment in employee training, and shall be provided with the flexibility and incentives necessary to successfully implement their assigned tasks. The ultimate goal of the design teams shall be to develop strategies to improve state government in regard to the customers' expectations for quality services delivered in the most cost-effective means possible. [1994 c 184 § 6.]

43.88B.040 Budget redesign. The current operating budget process for state government has been generally based on the presumption of continuing current service levels and giving careful consideration only to marginal changes. It is not well understood or supported by the public or state government policymakers. Consequently, work on initial projects for performance measurement and budget redesign must progress sufficiently to result in expansion to additional programs for the 1995-1997 biennium. Beginning no later than the 1997-1999 biennium, the state operating budget and the process used to develop that budget shall, to the fullest extent possible and based on the recommendations of the council, be redesigned to reflect an effective state-wide system of performance measurement, shall be based on a clear statement of state-wide priorities (strategic intent) as well as clear priorities within each agency, and shall incorporate incentives for performance and cost-effectiveness. [1994 c 184 § 7.]

43.88B.050 Collective bargaining. Nothing in this chapter shall supersede or modify in any manner the provisions of any public employee collective bargaining agree-

ment under Title 41 RCW, or any rights established thereunder. [1994 c 184 § 8.]

43.88B.900 Captions—1994 c 184. Captions as used in this act do not constitute any part of the law. [1994 c 184 § 13.]

43.88B.901 Effective date—1994 c 184. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 30, 1994]. [1994 c 184 § 15.]

Chapter 43.89

TELETYPEWRITER COMMUNICATIONS NETWORK

Sections

- 43.89.010 Teletypewriter communications network—Establishment—Use—Charges—Duties of chief of state patrol.
- 43.89.030 Connection with and participation in network by political subdivisions.
- 43.89.040 Transfer of powers, duties, functions, contracts, rules, property, appropriation, etc., to chief of state patrol.
- 43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability.

43.89.010 Teletypewriter communications network—Establishment—Use—Charges—Duties of chief of state patrol. The chief of the Washington state patrol is hereby authorized to establish a teletypewriter communications network which will inter-connect the law enforcement agencies of the state and its political subdivisions into a unified written communications system. The chief of the Washington state patrol is authorized to lease or purchase such facilities and equipment as may be necessary to establish and maintain such teletypewriter communications network.

(1) The communications network shall be used exclusively for the official business of the state, and the official business of any city, county, city and county, or other public agency.

(2) This section does not prohibit the occasional use of the state's communications network by any other state or public agency thereof when the messages transmitted relate to the enforcement of the criminal laws of the state.

(3) The chief of the Washington state patrol shall fix the monthly operational charge to be paid by any department or agency of state government, or any city, county, city and county, or other public agency participating in the communications network: PROVIDED, That in computing charges to be made against a city, county, or city and county the state shall bear at least fifty percent of the costs of such service as its share in providing a modern unified communications network to the law enforcement agencies of the state. Of the fees collected pursuant to this section, one-half shall be deposited in the motor vehicle fund and one-half shall be deposited in the transportation fund.

(4) The chief of the Washington state patrol is authorized to arrange for the connection of the communications network with the law enforcement communications system of any adjacent state, or the Province of British Columbia,

Canada. [1993 sp.s. c 23 § 63; 1965 ex.s. c 60 § 2; 1965 c 8 § 43.89.010. Prior: 1963 c 160 § 1.]

Effective dates—1993 sp.s. c 23: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 28, 1993], except for sections 60 and 61, which shall take effect January 1, 1994." [1993 sp.s. c 23 § 65.]

Effective date—1965 ex.s. c 60: "This 1965 amendatory act shall take effect on July 1, 1965." [1965 ex.s. c 60 § 6.]

43.89.030 Connection with and participation in network by political subdivisions. Any city, county, city and county, or other public agency may connect with and participate in the teletypewriter communications network subject to the rules, regulations, procedures and methods of operation adopted by the state communications advisory committee: PROVIDED, That such city, county, city and county, or other public agency shall first agree to pay such installation charges as may be necessary for such connection and such monthly operational charges as may be established by the chief of the Washington state patrol. [1965 ex.s. c 60 § 4; 1965 c 8 § 43.89.030. Prior: 1963 c 160 § 3.]

43.89.040 Transfer of powers, duties, functions, contracts, rules, property, appropriation, etc., to chief of state patrol. The powers, duties, and functions of the director of budget relating to the state teletypewriter communication network are transferred to the chief of the Washington state patrol. All existing contracts, orders, rules, regulations, records, and obligations together with communications equipment, motor vehicles, and any other property, device, or thing and any remaining appropriation pertaining to such communication network shall be transferred by the director of budget or his agent to the chief of the Washington state patrol as of July 1, 1965. [1965 ex.s. c 60 § 1.]

43.89.050 Transfer of powers, duties and functions not to terminate or affect state liability. The transfer of the powers, duties, and functions relating to the state teletypewriter communication network from the director of budget to the chief of the Washington state patrol shall not terminate or affect the liability of the state accruing with respect to such communications network to any person, company, or corporation. [1965 ex.s. c 60 § 5.]

Chapter 43.92 GEOLOGICAL SURVEY

Sections

- 43.92.010 Supervisor of geology.
- 43.92.020 Objects of survey.
- 43.92.040 Printing and distribution of reports.
- 43.92.060 Cooperation with federal geological survey.
- 43.92.070 Topographic map—Stream measurements.
- 43.92.080 Entry on lands authorized.

Reviser's note: The powers, duties and functions of the department of conservation with respect to geology as set forth in chapter 43.92 RCW were transferred to the department of natural resources by 1967 c 242 § 15 [RCW 43.27A.130].

43.92.010 Supervisor of geology. There shall be a geological survey of the state which shall be under the

direction of the commissioner of public lands who shall have general charge of the survey, and shall appoint as supervisor of the survey a geologist of established reputation, to be known as the supervisor of geology. [1988 c 127 § 28; 1965 c 8 § 43.92.010. Prior: 1901 c 165 § 1; 1890 p 647 § 1; 1890 p 249 § 1; RRS § 5993.]

43.92.020 Objects of survey. The survey shall have for its objects:

An examination of the economic products of the state, viz: The gold, silver, copper, lead, and iron ores, as well as building stones, clays, coal, and all mineral substances of value; an examination and classification of the soils, and the study of their adaptability to particular crops; investigation and report upon the water supplies, artesian wells, the water power of the state, gauging the streams, etc., with reference to their application for irrigation and other purposes; an examination and report upon the occurrence of different road building material; an examination of the physical features of the state with reference to their practical bearing upon the occupations of the people; the preparation of special geological and economic maps to illustrate the resources of the state; the preparation of special reports with necessary illustrations and maps, which shall embrace both the general and detailed description of the geology and natural resources of the state, and the consideration of such other kindred scientific and economic questions as in the judgment of the director shall be deemed of value to the people of the state. [1965 c 8 § 43.92.020. Prior: 1901 c 165 § 2; 1890 p 249 § 3; 1890 p 648 §§ 3, 4, 5, 6, 7; RRS § 5994.]

43.92.040 Printing and distribution of reports. The regular and special reports of the survey with proper illustrations and maps, shall be printed as the director may direct, and the reports shall be distributed or sold by him as the interests of the state and of science demand; and all money obtained by the sale of reports shall be paid into the state treasury. [1965 c 8 § 43.92.040. Prior: 1901 c 165 § 4; RRS § 5996.]

43.92.060 Cooperation with federal geological survey. The director may make provisions for topographic, geologic, and hydrographic surveys of the state in cooperation with the United States geological survey in such manner as in his opinion will be of the greatest benefit to the agricultural, industrial, and geological requirements of the state: PROVIDED, That the director of the United States geological survey agrees to expend on the part of the United States upon such surveys a sum equal to that expended by the state. [1965 c 8 § 43.92.060. Prior: 1903 c 157 § 1; 1901 c 165 § 6; RRS § 5998.]

43.92.070 Topographic map—Stream measurements. In order to complete the topographic map of the state and for the purpose of making more extensive stream measurements, and otherwise investigating and determining the water supply of the state, the director may enter into such agreements with the director of the United States geological survey as will insure that the surveys and investigations be carried on in the most economical manner, and that the maps and data be available for the use of the public

as quickly as possible. [1965 c 8 § 43.92.070. Prior: 1909 c 245 § 1; RRS § 5999.]

43.92.080 Entry on lands authorized. In order to carry out the purposes of this chapter all persons employed hereunder are authorized to enter and cross all land within the state doing thereby no damage to private property. [1965 c 8 § 43.92.080. Prior: 1909 c 245 § 3; RRS § 6000.]

Chapter 43.96B

EXPO '74—BOND ISSUE

Sections

STATE PAVILION—BOND ISSUE

- 43.96B.200 Legislative finding.
- 43.96B.205 Bond issue—Authorized.
- 43.96B.210 Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee.
- 43.96B.215 Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized.
- 43.96B.220 Bond issue—Administration of proceeds.
- 43.96B.225 Bond issue—Redemption fund—Payment of bonds.
- 43.96B.230 Bond issue—Additional means of payment.
- 43.96B.235 Bond issue—Legal investment for public funds.
- 43.96B.240 Appropriation.
- 43.96B.245 Severability—1973 1st ex.s. c 116.
- 43.96B.900 Severability—1971 ex.s. c 3.

STATE PAVILION—BOND ISSUE

43.96B.200 Legislative finding. The legislature finds that an expansion of the state pavilion at Expo '74 initially authorized for construction by the 1971 legislature is consistent with the purposes of the exposition and the needs of the state of Washington in order that the facility produced will both more adequately serve the state during the exposition and as a permanent structure for the benefit of the state afterwards. [1973 1st ex.s. c 116 § 1.]

43.96B.205 Bond issue—Authorized. For the purpose of providing additional space for the Washington State Pavilion at Expo '74 as determined to be necessary by the Expo '74 commission, including the planning, acquisition, construction, remodeling and equipping, together with all improvements and enhancements of said project, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two million nine hundred thousand dollars, or so much thereof as may be required, to finance the projects defined in RCW 43.96B.200 through 43.96B.245 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1973 1st ex.s. c 116 § 2.]

43.96B.210 Bond issue—Issuance and sale of bonds—Form, terms, conditions, etc.—Authority of state finance committee. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of

them, and the conditions and manner of their sale, issuance and redemption. None of the bonds authorized in RCW 43.96B.200 through 43.96B.245 shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1973 1st ex.s. c 116 § 3.]

43.96B.215 Bond issue—Anticipation notes—Disposition of proceeds—Acquisition of property by Expo '74 commission authorized. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds authorized by RCW 43.96B.200 through 43.96B.245 and any interest earned on the interim investment of such proceeds, shall be deposited in the state building construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.96B.200 through 43.96B.245 and for the payment of expenses incurred in the issuance and sale of the bonds. The Expo '74 commission is hereby authorized to acquire property, real and personal, by lease, purchase[,] condemnation or gift to achieve the objectives of chapters 1, 2, and 3, Laws of 1971 ex. sess., and RCW 43.96B.200 through 43.96B.245. The commission is further directed pursuant to RCW 43.19.450 to utilize the department of general administration services to accomplish the purposes set forth herein. [1973 1st ex.s. c 116 § 4.]

43.96B.220 Bond issue—Administration of proceeds. The principal proceeds from the sale of the bonds or notes deposited in the state building construction account of the general fund shall be administered by the Expo '74 commission. [1973 1st ex.s. c 116 § 5.]

43.96B.225 Bond issue—Redemption fund—Payment of bonds. The state building bond redemption fund, 1973-A, is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds authorized by RCW 43.96B.200 through 43.96B.245. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements and on July 1st of each year the state treasurer shall deposit such amount in the state building bond redemption fund, 1973-A, from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. Bonds issued under the provisions of RCW 43.96B.200 through 43.96B.245 shall state that they

are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1973 1st ex.s. c 116 § 6.]

43.96B.230 Bond issue—Additional means of payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized herein, and RCW 43.96B.200 through 43.96B.245 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 116 § 7.]

43.96B.235 Bond issue—Legal investment for public funds. The bonds authorized in RCW 43.96B.200 through 43.96B.245 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1973 1st ex.s. c 116 § 8.]

43.96B.240 Appropriation. There is hereby appropriated to the Expo '74 commission from the state building construction account of the general fund the sum of two million nine hundred thousand dollars or so much thereof as may be necessary to accomplish the purposes of RCW 43.96B.200 through 43.96B.245. [1973 1st ex.s. c 116 § 9.]

43.96B.245 Severability—1973 1st ex.s. c 116. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 116 § 10.]

43.96B.900 Severability—1971 ex.s. c 3. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 3 § 9.]

Chapter 43.97

COLUMBIA RIVER GORGE COMPACT

(Formerly: Columbia River Gorge commission)

Sections

- 43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission.
- 43.97.025 Grant of authority—Appointment of members to commission—Vacancies.
- 43.97.035 Commission members—Compensation—Travel expenses.

43.97.015 Columbia River Gorge Compact—Columbia River Gorge commission. The legislature of the State of Washington hereby ratifies the Columbia River Gorge Compact set forth below, and the provisions of such compact hereby are declared to be the law of this state upon such compact becoming effective as provided in Article III.

A compact is entered into by and between the states of Washington and Oregon, signatories hereto, with the consent of the Congress of the United States of America, granted by an Act entitled, "The Columbia River Gorge National Scenic Area Act," P.L. 99-663.

ARTICLE I

COLUMBIA GORGE COMMISSION ESTABLISHED

a. The States of Oregon and Washington establish by way of this interstate compact a regional agency known as the Columbia River Gorge Commission. The commission established in accordance with this compact shall have the power and authority to perform all functions and responsibilities in accordance with the provisions of this compact and of the Columbia River Gorge National Scenic Area Act (the federal Act), which is incorporated by this specific reference in this agreement. The commission's powers shall include, but not be limited to:

1. The power to sue and be sued.
2. The power to disapprove a land use ordinance enacted by a county if the ordinance is inconsistent with the management plan, as provided in P.L. 96-663, Sec. 7(b)(3)(B).
3. The power to enact a land use ordinance setting standards for the use of nonfederal land in a county within the scenic area if the county fails to enact land use ordinances consistent with the management plan, as provided in P.L. 99-663, Sec. 7(c).
4. According to the provisions of P.L. 99-663, Sec. 10(c), the power to review all proposals for major development action and new residential development in each county in the scenic area, except urban areas, and the power to disapprove such development if the commission finds the development is inconsistent with the purposes of P.L. 99-663.

b. The commission shall appoint and remove or discharge such personnel as may be necessary for the performance of the commission's functions, irrespective of the civil service, personnel or other merit system laws of any of the party states.

c. The commission may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the commission shall be eligible for social security coverage in respect of old age and survivors insurance provided that the commission takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The commission may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

d. The commission shall obtain the services of such professional, technical, clerical and other personnel as may be deemed necessary to enable it to carry out its functions under this compact. The commission may borrow, accept, or contract for the services of personnel from any state of the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

e. Funds necessary to fulfill the powers and duties imposed upon and entrusted to the commission shall be provided as appropriated by the legislatures of the states in

accordance with Article IV. The commission may also receive gifts, grants, endowments and other funds from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the commission and expend the same or any income therefrom according to the terms of the gifts, grants, endowments or other funds.

f. The commission may establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold and convey real and personal property and any interest therein.

g. The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The commission shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof and of any amendment thereto, with the appropriate agency or officer in each of the party states.

ARTICLE II THE COMMISSION MEMBERSHIP

a. The commission shall be made up of twelve voting members appointed by the states, as set forth herein, and one non-voting member appointed by the U.S. Secretary of Agriculture.

b. Each state governor shall appoint the members of the commission as provided in the federal Act (three members who reside in the State of Oregon, including one resident of the scenic area, to be appointed by the Governor of Oregon, and three members who reside in the State of Washington, including one resident of the scenic area, appointed by the Governor of Washington).

c. One additional member shall be appointed by the governing body of each of the respective counties of Clark, Klickitat, and Skamania in Washington, and Hood River, Multnomah, and Wasco in Oregon, provided that in the event the governing body of a county fails to make such an appointment, the Governor of the state in which the county is located shall appoint such a member.

d. The terms of the members and procedure for filling vacancies shall all be as set forth in the federal Act.

ARTICLE III EFFECTIVE DATE OF COMPACT AND COMMISSION

This compact shall take effect, and the commission may exercise its authorities pursuant to the compact and pursuant to the Columbia River Gorge National Scenic Area Act when it has been ratified by both states and upon the appointment of four initial members from each state. The date of this compact shall be the date of the establishment of the commission.

ARTICLE IV FUNDING

a. The States of Washington and Oregon hereby agree to provide by separate agreement or statute of each state for funding necessary to effectuate the commission, including the establishment of compensation or expenses of commission members from each state which shall be paid by the state of origin.

b. The commission shall submit to the Governor or designated officer or officers of each party state a budget of

its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

c. Subject to appropriation by their respective legislatures, the commission shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the commission.

d. The commission's proposed budget and expenditures shall be apportioned equally between the states.

e. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission shall be audited yearly by the appropriate state auditing official and the report of the audit shall be included in and become a part of the annual report of the commission.

f. The accounts of the commission shall be open at any reasonable time for inspection by the public.

ARTICLE V SEVERABILITY

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid, and to this end the provisions of this compact are severable. [1987 c 499 § 1.]

43.97.025 Grant of authority—Appointment of members to commission—Vacancies. (1) The governor, the Columbia River Gorge commission, and all state agencies and counties are hereby directed and provided authority to carry out their respective functions and responsibilities in accordance with the compact executed pursuant to RCW 43.97.015, the Columbia River Gorge National Scenic Area Act, and the provisions of this chapter.

(2) The governor shall appoint three members of the Columbia River Gorge commission who reside in the state of Washington, at least one of whom shall be a resident of the scenic area as defined in the act.

(3)(a) The governing bodies of Clark, Klickitat, and Skamania counties shall each appoint one member of the Columbia River Gorge commission.

(b) In the event the governing body of a county fails to make the appointments prescribed in section 5(a)(c)(1) of that act and (a) of this subsection, the governor shall appoint any such member.

(4) Each member appointed by the governor shall be subject to confirmation by the Washington state senate and shall serve at the pleasure of the governor until their term shall expire or until a disqualifying change in residence.

(5) Of those members appointed to the Columbia River Gorge commission by the governing body of the counties of Clark, Klickitat, and Skamania, the governor shall designate one member to serve for a term of five years and one to serve for six years. Of those members appointed directly by the governor pursuant to RCW 43.97.015, the governor shall

designate one to serve a term of five years and one to serve a term of six years. All other members shall serve a period of four years.

Neither the governor nor governing body of any of the counties may appoint federal, state, or local elected or appointed officials as members to the Columbia River Gorge commission.

Vacancies shall be filled in accordance with the appointing procedure for the commission member occupying the seat before its vacancy. [1987 c 499 § 2.]

43.97.035 Commission members—Compensation—Travel expenses. Members of the Columbia River Gorge commission appointed for Washington shall receive compensation for their services pursuant to RCW 43.03.240, and shall be eligible to receive a subsistence allowance and travel expenses pursuant to RCW 43.03.050 and 43.03.060, and regulations adopted pursuant thereto. [1987 c 499 § 3.]

Chapter 43.98

OUTDOOR RECREATIONAL FACILITIES

Sections

- 43.98.010 General obligation bonds authorized.
- 43.98.020 Disposition of proceeds of sale.
- 43.98.030 Bonds payable from proceeds of corporation fees.
- 43.98.040 Outdoor recreational bond redemption fund.
- 43.98.050 Remedies of bondholders.
- 43.98.060 Legislature may provide additional means of support.
- 43.98.070 Bonds legal investment for funds of state and municipal corporations.
- 43.98.080 Undertaking to impose corporation fees—Use, proration of one-half of proceeds.
- 43.98.090 Consent of world fair bondholders prerequisite to issuance of bonds authorized by this chapter.

Marine recreation land act: Chapter 43.99 RCW.

43.98.010 General obligation bonds authorized. For the purpose of providing funds for the development of outdoor recreational facilities in the state, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1970, general obligation bonds of the state of Washington in the sum of ten million dollars, or so much thereof as shall be required to finance the program for which these bonds are being authorized: PROVIDED, That funds realized from the sale of such bonds shall be used solely for the acquisition of land and attached appurtenances and such property shall be for outdoor recreational use.

The state finance committee is authorized to prescribe the form of such bonds and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. [1965 c 8 § 43.98.010. Prior: 1963 ex.s. c 12 § 1.]

43.98.020 Disposition of proceeds of sale. The proceeds from the sale of the bonds authorized herein shall

be deposited in the parks and parkways account of the general fund or such other account or fund as shall be established for this purpose. Any agency or commission charged with the administration of the account or fund is authorized to use or permit the use of any funds derived from the sale of bonds authorized under this chapter as matching funds in any case where federal or other funds are made available on a matching basis for projects within the purposes of this chapter. [1965 c 8 § 43.98.020. Prior: 1963 ex.s. c 12 § 2.]

Outdoor recreation account, deposit of proceeds in: RCW 43.99.060.

Parks and parkways account abolished: RCW 43.79.405.

43.98.030 Bonds payable from proceeds of corporation fees. The bonds issued under the provisions of this chapter shall be payable from the proceeds of one-half of the corporation fees collected under all the provisions of chapter 70, Laws of 1937, as now or hereafter amended. The bonds and interest shall, so long as any portion thereof remains unpaid, constitute a prior and exclusive claim, subject only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued, upon that portion of the corporation fees so collected. [1965 c 8 § 43.98.030. Prior: 1963 ex.s. c 12 § 3.]

Reviser's note: Chapter 70, Laws of 1937 referred to above is affected by chapter 53, Laws of 1965 which enacts a new corporations code effective July 1, 1967 (Title 23A RCW). Section 166 thereof repeals it subject to the savings and continuation provision contained in section 165 which reads as follows: "Nothing contained in this act shall be construed as an impairment of any obligation of the state as evidenced by bonds held for any purpose, and subsections 2 and 13 of section 135, subsections 1 and 2 of section 136, and sections 137, 138, 139, 140, 141, 142, 146, and 147 shall be deemed to be a continuation of chapter 70, Laws of 1937, as amended, for the purpose of payment of:

(1) world's fair bonds authorized by chapter 174, Laws of 1957 as amended by chapter 152, Laws of 1961, and

(2) outdoor recreation bonds authorized by referendum bill number 11 (chapter 12, Laws of 1963 extraordinary session), approved by the people on November 3, 1964."

43.98.040 Outdoor recreational bond redemption fund. The outdoor recreational bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. [1965 c 8 § 43.98.040. Prior: 1963 ex.s. c 12 § 4.]

43.98.050 Remedies of bondholders. The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1965 c 8 § 43.98.050. Prior: 1963 ex.s. c 12 § 5.]

43.98.060 Legislature may provide additional means of support. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and this chapter shall not be deemed to provide an exclusive method for such payment. [1965 c 8 § 43.98.060. Prior: 1963 ex.s. c 12 § 6.]

43.98.070 Bonds legal investment for funds of state and municipal corporations. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1965 c 8 § 43.98.070. Prior: 1963 ex.s. c 12 § 7.]

43.98.080 Undertaking to impose corporation fees—Use, proration of one-half of proceeds. See RCW 43.31.620 and 43.31.740.

43.98.090 Consent of world fair bondholders prerequisite to issuance of bonds authorized by this chapter. No bonds authorized by this chapter shall be issued until there shall first be obtained and filed in the office of the state finance committee the written consent of the holders of all outstanding bonds issued under authority of chapter 174, Laws of 1957, as amended by chapter 152, Laws of 1961, to the changes effected by this chapter and the 1963 amendments of RCW 43.31.620 and 43.31.740 in the order of priority of payment of said world fair bonds out of the proceeds of the corporation fees collected under chapter 70, Laws of 1937 as amended. [1965 c 8 § 43.98.090. Prior: 1963 ex.s. c 12 § 10.]

Reviser's note: See note following RCW 43.98.030.

Chapter 43.98A

ACQUISITION OF HABITAT CONSERVATION AND OUTDOOR RECREATION LANDS

Sections

- 43.98A.005 Findings.
- 43.98A.010 Definitions.
- 43.98A.020 Habitat conservation account.
- 43.98A.030 Allocation and use of moneys—Grants.
- 43.98A.040 Habitat conservation account—Distribution and use of moneys.
- 43.98A.050 Outdoor recreation account—Distribution and use of moneys.
- 43.98A.060 Habitat conservation account—Acquisition policies and priorities.
- 43.98A.070 Acquisition and development priorities—Generally.
- 43.98A.080 Recommended project list—Committee authority to obligate funds—Legislature's authority.
- 43.98A.090 Condemnation.
- 43.98A.100 Report to governor and standing committees.
- 43.98A.900 Severability—1990 1st ex.s. c 14.

43.98A.005 Findings. The legislature finds:

(1) That Washington possesses an abundance of natural wealth in the form of forests, mountains, wildlife, waters, and other natural resources, all of which help to provide an unparalleled diversity of outdoor recreation opportunities and a quality of life unmatched in this nation;

(2) That as the state's population grows, the demand on these resources is growing too, placing greater stress on today's already overcrowded public recreational lands and facilities, and resulting in a significant loss of wildlife habitat and lands of unique natural value;

(3) That public acquisition and development programs have not kept pace with the state's expanding population;

(4) That private investment and employment opportunities in general and the tourist industry in particular are

dependent upon the continued availability of recreational opportunities and our state's unique natural environment;

(5) That if current trends continue, some wildlife species and rare ecosystems will be lost in the state forever and public recreational lands will not be adequate to meet public demands;

(6) That there is accordingly a need for the people of the state to reserve certain areas of the state, in rural as well as urban settings, for the benefit of present and future generations.

It is therefore the policy of the state to acquire as soon as possible the most significant lands for wildlife conservation and outdoor recreation purposes before they are converted to other uses, and to develop existing public recreational land and facilities to meet the needs of present and future generations. [1990 1st ex.s. c 14 § 1.]

43.98A.010 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Acquisition" means the purchase on a willing seller basis of fee or less than fee interests in real property. These interests include, but are not limited to, options, rights of first refusal, conservation easements, leases, and mineral rights.

(2) "Committee" means the interagency committee for outdoor recreation.

(3) "Critical habitat" means lands important for the protection, management, or public enjoyment of certain wildlife species or groups of species, including, but not limited to, wintering range for deer, elk, and other species, waterfowl and upland bird habitat, fish habitat, and habitat for endangered, threatened, or sensitive species.

(4) "Local agencies" means a city, county, town, tribe, special purpose district, port district, or other political subdivision of the state providing services to less than the entire state.

(5) "Natural areas" means areas that have, to a significant degree, retained their natural character and are important in preserving rare or vanishing flora, fauna, geological, natural historical, or similar features of scientific or educational value.

(6) "Special needs populations" means physically restricted people or people of limited means.

(7) "Trails" means public ways constructed for and open to pedestrians, equestrians, or bicyclists, or any combination thereof, other than a sidewalk constructed as a part of a city street or county road for exclusive use of pedestrians.

(8) "Urban wildlife habitat" means lands that provide habitat important to wildlife in proximity to a metropolitan area.

(9) "Water access" means boat or foot access to marine waters, lakes, rivers, or streams. [1990 1st ex.s. c 14 § 2.]

43.98A.020 Habitat conservation account. The habitat conservation account is established in the state treasury. The committee shall administer the account in accordance with chapter 43.99 RCW and this chapter, and shall hold it separate and apart from all other money, funds, and accounts of the committee. [1990 1st ex.s. c 14 § 3.]

43.98A.030 Allocation and use of moneys—Grants.

(1) Moneys appropriated for this chapter shall be divided equally between the habitat conservation and outdoor recreation accounts and shall be used exclusively for the purposes specified in this chapter.

(2) Moneys deposited in these accounts shall be invested as authorized for other state funds, and any earnings on them shall be credited to the respective account.

(3) All moneys deposited in the habitat conservation and outdoor recreation accounts shall be allocated under RCW 43.98A.040 and 43.98A.050 as grants to state or local agencies for acquisition, development, and renovation within the jurisdiction of those agencies, subject to legislative appropriation. The committee may use or permit the use of any funds appropriated for this chapter as matching funds where federal, local, or other funds are made available for projects within the purposes of this chapter.

(4) Projects receiving grants under this chapter that are developed or otherwise accessible for public recreational uses shall be available to the public on a nondiscriminatory basis.

(5) The committee may make grants to an eligible project from both the habitat conservation and outdoor recreation accounts and any one or more of the applicable categories under such accounts described in RCW 43.98A.040 and 43.98A.050. [1990 1st ex.s. c 14 § 4.]

Outdoor recreation account: Chapter 43.99 RCW.

43.98A.040 Habitat conservation account—Distribution and use of moneys. (1) Moneys appropriated for this chapter to the habitat conservation account shall be distributed in the following way:

(a) Not less than thirty-five percent for the acquisition and development of critical habitat;

(b) Not less than twenty percent for the acquisition and development of natural areas;

(c) Not less than fifteen percent for the acquisition and development of urban wildlife habitat; and

(d) The remaining amount shall be considered unallocated and shall be used by the committee to fund high priority acquisition and development needs for critical habitat, natural areas, and urban wildlife habitat.

(2) In distributing these funds, the committee retains discretion to meet the most pressing needs for critical habitat, natural areas, and urban wildlife habitat, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(3) Only state agencies may apply for acquisition and development funds for critical habitat and natural areas projects under subsection (1) (a), (b), and (d) of this section.

(4) State and local agencies may apply for acquisition and development funds for urban wildlife habitat projects under subsection (1) (c) and (d) of this section. [1990 1st ex.s. c 14 § 5.]

43.98A.050 Outdoor recreation account—Distribution and use of moneys. (1) Moneys appropriated for this chapter to the outdoor recreation account shall be distributed in the following way:

(a) Not less than twenty-five percent to the state parks and recreation commission for the acquisition and develop-

ment of state parks, with at least seventy-five percent of this money for acquisition costs;

(b) Not less than twenty-five percent for the acquisition, development, and renovation of local parks, with at least fifty percent of this money for acquisition costs;

(c) Not less than fifteen percent for the acquisition and development of trails;

(d) Not less than ten percent for the acquisition and development of water access sites, with at least seventy-five percent of this money for acquisition costs; and

(e) The remaining amount shall be considered unallocated and shall be distributed by the committee to state and local agencies to fund high priority acquisition and development needs for parks, trails, and water access sites.

(2) In distributing these funds, the committee retains discretion to meet the most pressing needs for state and local parks, trails, and water access sites, and is not required to meet the percentages described in subsection (1) of this section in any one biennium.

(3) Only local agencies may apply for acquisition, development, or renovation funds for local parks under subsection (1)(b) of this section.

(4) State and local agencies may apply for funds for trails under subsection (1)(c) of this section.

(5) State and local agencies may apply for funds for water access sites under subsection (1)(d) of this section. [1990 1st ex.s. c 14 § 6.]

43.98A.060 Habitat conservation account—Acquisition policies and priorities. (1) The committee may adopt rules establishing acquisition policies and priorities for distributions from the habitat conservation account.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff positions or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) The committee may not approve a local project where the local agency share is less than the amount to be awarded from the habitat conservation account.

(5) In determining acquisition priorities with respect to the habitat conservation account, the committee shall consider, at a minimum, the following criteria:

(a) For critical habitat and natural areas proposals:

(i) Community support;

(ii) Immediacy of threat to the site;

(iii) Uniqueness of the site;

(iv) Diversity of species using the site;

(v) Quality of the habitat;

(vi) Long-term viability of the site;

(vii) Presence of endangered, threatened, or sensitive species;

(viii) Enhancement of existing public property;

(ix) Consistency with a local land use plan, or a regional or state-wide recreational or resource plan; and

(x) Educational and scientific value of the site.

(b) For urban wildlife habitat proposals, in addition to the criteria of (a) of this subsection:

(i) Population of, and distance from, the nearest urban area;

(ii) Proximity to other wildlife habitat;

(iii) Potential for public use; and

(iv) Potential for use by special needs populations.

(6) Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 43.98A.040(1) (a), (b), and (c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

(7) Before October 1st of each year, the committee shall recommend to the governor a prioritized list of all local projects to be funded under RCW 43.98A.040(1)(c). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project. [1990 1st ex.s. c 14 § 7.]

43.98A.070 Acquisition and development priorities—Generally. (1) In determining which state parks proposals and local parks proposals to fund, the committee shall use existing policies and priorities.

(2) Moneys appropriated for this chapter may not be used by the committee to fund additional staff or other overhead expenses, or by a state, regional, or local agency to fund operation and maintenance of areas acquired under this chapter.

(3) Moneys appropriated for this chapter may be used for costs incidental to acquisition, including, but not limited to, surveying expenses, fencing, and signing.

(4) The committee may not approve a project of a local agency where the share contributed by the local agency is less than the amount to be awarded from the outdoor recreation account.

(5) The committee may adopt rules establishing acquisition policies and priorities for the acquisition and development of trails and water access sites to be financed from moneys in the outdoor recreation account.

(6) In determining the acquisition and development priorities, the committee shall consider, at a minimum, the following criteria:

(a) For trails proposals:

(i) Community support;

(ii) Immediacy of threat to the site;

(iii) Linkage between communities;

(iv) Linkage between trails;

(v) Existing or potential usage;

(vi) Consistency with an existing local land use plan or

a regional or state-wide recreational or resource plan;

(vii) Availability of water access or views;

(viii) Enhancement of wildlife habitat; and

(ix) Scenic values of the site.

(b) For water access proposals:

(i) Community support;

(ii) Distance from similar water access opportunities;

(iii) Immediacy of threat to the site;

(iv) Diversity of possible recreational uses; and

(v) Public demand in the area.

(7) Before October 1st of each even-numbered year, the committee shall recommend to the governor a prioritized list of state agency projects to be funded under RCW 43.98A.050(1) (a), (c), and (d). The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project; and shall describe for each project any anticipated restrictions upon recreational activities allowed prior to the project.

(8) Before October 1st of each year, the committee shall recommend to the governor a prioritized list of all local projects to be funded under RCW 43.98A.050(1) (b), (c), and (d) of this act. The governor may remove projects from the list recommended by the committee and shall submit this amended list in the capital budget request to the legislature. The list shall include, but not be limited to, a description of each project and any particular match requirement, and describe for each project any anticipated restrictions upon recreational activities allowed prior to the project. [1990 1st ex.s. c 14 § 8.]

43.98A.080 Recommended project list—Committee authority to obligate funds—Legislature's authority. The committee shall not sign contracts or otherwise financially obligate funds from the habitat conservation account or the outdoor recreation account as provided in this chapter before the legislature has appropriated funds for a specific list of projects. The legislature may remove projects from the list recommended by the governor. [1990 1st ex.s. c 14 § 9.]

43.98A.090 Condemnation. Moneys made available under this chapter for land acquisition shall not be used to acquire land through condemnation. [1990 1st ex.s. c 14 § 10.]

43.98A.100 Report to governor and standing committees. On or before November 1st of each odd-numbered year, the committee shall submit to the governor and the standing committees of the legislature dealing with fiscal affairs, fish and wildlife, and natural resources a report detailing the acquisitions and development projects funded under this chapter during the immediately preceding biennium. [1990 1st ex.s. c 14 § 11.]

43.98A.900 Severability—1990 1st ex.s. c 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1990 1st ex.s. c 14 § 12.]

Chapter 43.98B

WILDLIFE AND RECREATION LANDS—FUNDING
OF MAINTENANCE AND OPERATION

Sections

- 43.98B.005 Findings.
 43.98B.010 Definitions.
 43.98B.020 State wildlife and recreation lands management account.
 43.98B.030 Allocation and distribution of moneys.
 43.98B.900 Short title.
 43.98B.910 Severability—1992 c 153.
 43.98B.920 Captions not law—1992 c 153.

43.98B.005 Findings. (1) The legislature finds that:

(a) The state of Washington owns and maintains a wide variety of fish and wildlife habitat, natural areas, parks, and other recreation lands;

(b) The state of Washington is responsible for managing these lands for the benefit of the citizens, wildlife, and other natural resources of the state;

(c) The state of Washington has recently significantly enhanced its efforts to acquire critical habitat, natural areas, parks, and other recreation lands and to transfer suitable lands from school trust to conservation and park purposes;

(d) Recent unprecedented population growth has greatly increased the threat to the state's fish and wildlife habitat and the demands placed on the lands under (a) of this subsection;

(e) The importance of this habitat and these lands to the state is continuing to increase as more people depend on them to satisfy their needs and more plant and animal species require state-owned lands for their survival;

(f) By itself, public ownership cannot guarantee that resources will be protected, or that appropriate recreational opportunities will be provided;

(g) Only through ongoing, responsible management can fish and wildlife habitat, sensitive ecosystems, and recreational values be protected;

(h) The operation and maintenance funding for state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands has not kept pace with increasing demands placed upon such lands;

(i) Many needed operation and maintenance projects have been deferred due to insufficient funding, resulting in increased costs when the projects are finally undertaken; and

(j) An increase in operation and maintenance funding is necessary to bring state-owned lands and facilities up to acceptable standards and to protect the state's investment in its fish and wildlife habitat, natural areas, parks, and other recreation lands.

(2) Therefore, it is the policy of the state to provide adequate and continuing funding for operation and maintenance needs of state-owned fish and wildlife habitat, natural areas, parks, and other recreation lands to protect the state's investment in such lands, and it is the purpose of this chapter to create a mechanism for doing so. [1992 c 153 § 2.]

43.98B.010 Definitions. The definitions set forth in this section apply throughout this chapter.

(1) "Basic stewardship" means the costs associated with holding and protecting property to maintain the functions for

which the property was acquired. It includes, but is not limited to, costs associated with statutorily required in-lieu property taxes, weed and pest control, fire protection, fence maintenance, cultural and archaeological site protection, basic research related to maintenance of natural area preserves and natural resource conservation areas, basic resource and environmental protection, and meeting applicable legal requirements.

(2) "Improved or developed resources" means the costs associated with the built or manipulated environment. It includes, but is not limited to, costs associated with maintaining buildings, grounds, roads, trails, water access sites, and utility systems. Also included are improvements to habitat such as bank stabilization, range rehabilitation, and food and water sources.

(3) "Human use management" means the costs associated with visitor management, education, and protection.

(4) "Administration" means state agency costs necessary to support subsections (1) through (3) of this section. It includes, but is not limited to, budget and accounting, personnel support services, volunteer programs, and training. [1992 c 153 § 3.]

43.98B.020 State wildlife and recreation lands management account. There is created the state wildlife and recreation lands management account in the state treasury.

(1) Moneys accumulated under this chapter shall be used exclusively for the purposes specified in this chapter. Those purposes are to support operation and maintenance activities and costs associated with owning and managing state fish and wildlife habitat, natural areas such as natural area preserves and natural resource conservation areas, parks, and other recreation lands and include:

- (a) Basic stewardship;
- (b) Improved or developed resources;
- (c) Human use management; and
- (d) Administration.

Land acquisition, facility development or replacement, major renovation projects, improvement or rehabilitation projects normally funded through the capital budget, and operation and maintenance of state fish hatcheries are excluded.

(2) No expenditures may be made from this account without legislative appropriation. [1992 c 153 § 4.]

43.98B.030 Allocation and distribution of moneys.

(1) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be expended in the following manner:

- (a) Not less than thirty percent for basic stewardship;
 - (b) Not less than twenty percent for improved or developed resources;
 - (c) Not less than fifteen percent for human use management; and
 - (d) Not more than fifteen percent for administration.
- (e) The remaining twenty to thirty-five percent shall be considered unallocated.

(2) In the event that moneys appropriated for this chapter to the state wildlife and recreation lands management account under the initial allocation prove insufficient to meet

basic stewardship needs, the unallocated amount shall be used to fund basic stewardship needs.

(3) Each eligible agency is not required to meet this specific percentage distribution. However, funding across agencies should meet these percentages during each biennium.

(4) It is intended that moneys disbursed from this account not replace existing operation and maintenance funding levels from other state sources.

(5) Agencies eligible to receive funds from this account are the departments of fish and wildlife and natural resources, and the state parks and recreation commission.

(6) Moneys appropriated for this chapter from the state wildlife and recreation lands management account shall be distributed in the following manner:

(a) Not less than twenty-five percent to the state parks and recreation commission.

(b) Not less than twenty-five percent to the department of natural resources.

(c) Not less than twenty-five percent to the department of fish and wildlife.

(d) The remaining funds shall be allocated to eligible agencies based upon an evaluation of remaining unfunded needs.

(7) The office of financial management shall review eligible state agency requests and make recommendations on the allocation of funds provided under this chapter as part of the governor's operating budget request to the legislature. [1994 c 264 § 30; 1992 c 153 § 5.]

43.98B.900 Short title. This chapter shall be known as the state wildlife and recreation lands management act. [1992 c 153 § 1.]

43.98B.910 Severability—1992 c 153. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1992 c 153 § 7.]

43.98B.920 Captions not law—1992 c 153. Section headings as used in this chapter do not constitute any part of the law. [1992 c 153 § 8.]

Chapter 43.99

MARINE RECREATION LAND—INTERAGENCY COMMITTEE FOR OUTDOOR RECREATION

Sections

43.99.010	Policy—Mission of committee.
43.99.020	Definition of terms.
43.99.025	Director's powers and duties.
43.99.030	Determination of proportion of motor vehicle fuel tax moneys derived from tax on marine fuel—Studies—Costs.
43.99.040	Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception.
43.99.050	Marine fuel tax refund account—Claims for refunds paid from.
43.99.060	Outdoor recreation account—Deposits.
43.99.070	Outdoor recreation account, motor vehicle fund—Transfers of moneys from marine fuel tax account.

43.99.080	Outdoor recreation account—Distribution of moneys transferred.
43.99.095	Interest on funds granted by committee to be returned to outdoor recreation account.
43.99.100	Conversion of marine recreation land to other uses—Approval—Substitution.
43.99.110	Interagency committee for outdoor recreation—Created—Membership—Terms—Compensation and travel expenses.
43.99.120	Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations.
43.99.124	Participation in federal programs—Authority.
43.99.126	Commitments or agreements forbidden unless sufficient funds available—Agreements with federal agencies on behalf of state or local agencies—Conditions.
43.99.130	Assistance furnished by state departments—Appointment of director and personnel—Civil service exemption.
43.99.135	Washington state recreation trails system, duties of interagency committee for outdoor recreation.
43.99.142	Public parks and recreation sites guide.
43.99.144	Guide of public parks and recreation sites—Receipts allowed—Deposit—Use.
43.99.146	Public parks and recreation sites guide—Review and update.
43.99.150	Appropriations by subsequent legislatures.
43.99.900	Severability—1965 c 5.
43.99.910	Short title.

Boat trailer fee: RCW 46.16.670.

Disposition of off-road vehicle moneys: RCW 46.09.110.

Outdoor recreation account moneys appropriated, 1971 act: See note following RCW 46.09.010.

Outdoor recreational facilities: Chapter 43.98 RCW.

43.99.010 Policy—Mission of committee. (1) As Washington begins its second century of statehood, the legislature recognizes that renewed efforts are needed to preserve, conserve, and enhance the state's recreational resources. Rapid population growth and increased urbanization have caused a decline in suitable land for recreation and resulted in overcrowding and deterioration of existing facilities. Lack of adequate recreational resources directly affects the health and well-being of all citizens of the state, reduces the state's economic viability, and prevents Washington from maintaining and achieving the quality of life that it deserves.

It is therefore the policy of the state and its agencies to preserve, conserve, and enhance recreational resources and open space. In carrying out this policy, the mission of the interagency committee for outdoor recreation and its staff is to (a) create and work actively for the implementation of a unified state-wide strategy for meeting the recreational needs of Washington's citizens, (b) represent and promote the interests of the state on recreational issues in concert with other state and local agencies and the governor, (c) encourage and provide interagency and regional coordination, and interaction between public and private organizations, (d) administer recreational grant-in-aid programs and provide technical assistance, and (e) serve as a repository for information, studies, research, and other data relating to recreation.

(2) Washington is uniquely endowed with fresh and salt waters rich in scenic and recreational value. This outdoor heritage enriches the lives of citizens, attracts new residents and businesses to the state, and is a major support of its expanding tourist industry. Rising population, increased income and leisure time, and the rapid growth of boating and other water sports have greatly increased the demand for

water related recreation, while waterfront land is rapidly rising in value and disappearing from public use. There is consequently an urgent need for the acquisition or improvement of waterfront land on fresh and salt water suitable for marine recreational use by Washington residents and visitors. To meet this need, it is necessary and proper that the portion of motor vehicle fuel taxes paid by boat owners and operators on fuel consumed in their watercraft and not reclaimed as presently provided by law should be expended for the acquisition or improvement of marine recreation land on the Pacific Ocean, Puget Sound, bays, lakes, rivers, reservoirs and other fresh and salt waters of the state. [1989 c 237 § 1; 1965 c 5 § 1 (Initiative Measure No. 215, approved November 3, 1964).]

Effective date—1989 c 237: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect on June 30, 1989." [1989 c 237 § 9.]

43.99.020 Definition of terms. Definitions: As used in this chapter:

(1) "Marine recreation land" means any land with or without improvements which (a) provides access to, or in whole or in part borders on, fresh or salt water suitable for recreational use by watercraft, or (b) may be used to create, add to, or make more usable, bodies of water, waterways, or land, for recreational use by watercraft.

(2) "Public body" means any county, city, town, port district, park and recreation district, metropolitan park district, or other municipal corporation which is authorized to acquire or improve public outdoor recreation land, and shall also mean Indian tribes now or hereafter recognized as such by the federal government for participation in the land and water conservation program.

(3) "Tax on marine fuel" means motor vehicle fuel tax which is (a) tax on fuel used in, or sold or distributed for use in, any watercraft, (b) refundable pursuant to chapter 82.36 RCW, and (c) paid to the director of licensing with respect to taxable sales, distributions, or uses occurring on or after December 3, 1964.

(4) "Watercraft" means any boat, vessel, or other craft used for navigation on or through water.

(5) "Committee" means the interagency committee for outdoor recreation.

(6) "Director" means the director of the interagency committee for outdoor recreation. [1989 c 237 § 2; 1979 c 158 § 108; 1972 ex.s. c 56 § 1; 1965 c 5 § 2 (Initiative Measure No. 215, approved November 3, 1964).]

Effective date—1989 c 237: See note following RCW 43.99.010.

Construction—1972 ex.s. c 56: "The provisions of this 1972 amendatory act are intended to be remedial and procedural and shall be construed to apply retroactively." [1972 ex.s. c 56 § 2.] This applies to the 1972 ex.s. amendment to RCW 43.99.020.

43.99.025 Director's powers and duties. The director shall have the following powers and duties:

(1) To supervise the administrative operations of the committee and its staff;

(2) To administer recreation grant-in-aid programs and provide technical assistance to state and local agencies;

(3) To prepare and update a strategic plan for the acquisition, renovation, and development of recreational

resources and the preservation and conservation of open space. The plan shall be prepared in coordination with the office of the governor and the office of financial management, with participation of federal, state, and local agencies having recreational responsibilities, user groups, private sector interests, and the general public. The plan shall be submitted to the committee for review, and the committee shall submit its recommendations on the plan to the governor. The plan shall include, but is not limited to: (a) an inventory of current resources; (b) a forecast of recreational resource demand; (c) identification and analysis of actual and potential funding sources; (d) a process for broad scale information gathering; (e) an assessment of the capabilities and constraints, both internal and external to state government, that affect the ability of the state to achieve the goals of the plan; (f) an analysis of strategic options and decisions available to the state; (g) an implementation strategy that is coordinated with executive policy and budget priorities; and (h) elements necessary to qualify for participation in or the receipt of aid from any federal program for outdoor recreation;

(4) To represent and promote the interests of the state on recreational issues and further the mission of the committee;

(5) Upon approval of the committee, to enter into contracts and agreements with private nonprofit corporations to further state goals of preserving, conserving, and enhancing recreational resources and open space for the public benefit and use;

(6) To appoint such technical and other committees as may be necessary to carry out the purposes of this chapter;

(7) To create and maintain a repository for data, studies, research, and other information relating to recreation in the state, and to encourage the interchange of such information;

(8) To encourage and provide opportunities for interagency and regional coordination and cooperative efforts between public agencies and between public and private entities involved in the development and preservation of recreational resources; and

(9) To prepare the state trails plan, as required by RCW 67.32.050. [1989 c 237 § 4.]

Effective date—1989 c 237: See note following RCW 43.99.010.

43.99.030 Determination of proportion of motor vehicle fuel tax moneys derived from tax on marine fuel—Studies—Costs. From time to time, but at least once each four years, the director of licensing shall determine the amount or proportion of moneys paid to him as motor vehicle fuel tax which is tax on marine fuel. The director shall make or authorize the making of studies, surveys, or investigations to assist him in making such determination, and shall hold one or more public hearings on the findings of such studies, surveys, or investigations prior to making his determination. The studies, surveys, or investigations conducted pursuant to this section shall encompass a period of twelve consecutive months each time. The final determination by the director shall be implemented as of the first day of the calendar month, which date falls closest to the mid-point of the time period for which the study data were collected. The director may delegate his duties and authority under this section to one or more persons of the department

of licensing if he finds such delegation necessary and proper to the efficient performance of these duties. Costs of carrying out the provisions of this section shall be paid from the marine fuel tax refund account created in RCW 43.99.040, upon legislative appropriation. [1979 c 158 § 109; 1975-'76 2nd ex.s. c 50 § 1; 1969 ex.s. c 74 § 1; 1965 c 5 § 3 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.040 Marine fuel tax refund account—Moneys derived from tax on marine fuel—Refunding and placement in account—Exception. There is created the marine fuel tax refund account in the state treasury. From time to time, but at least once each biennium, the director of licensing shall request the state treasurer to refund from the motor vehicle fund amounts which have been determined to be tax on marine fuel. The state treasurer shall refund such amounts and place them in the marine fuel tax refund account to be held for those entitled thereto pursuant to chapter 82.36 RCW and RCW 43.99.050, except that he shall not refund and place in the marine fuel tax refund account for any period for which a determination has been made pursuant to RCW 43.99.030 more than the greater of the following amounts: (1) An amount equal to two percent of all moneys paid to him as motor vehicle fuel tax for such period, (2) an amount necessary to meet all approved claims for refund of tax on marine fuel for such period. [1991 sp.s. c 13 § 42; 1985 c 57 § 53; 1979 c 158 § 110; 1965 c 5 § 4 (Initiative Measure No. 215, approved November 3, 1964).]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.99.050 Marine fuel tax refund account—Claims for refunds paid from. Claims submitted pursuant to chapter 82.36 RCW for refund of tax on marine fuel which has been placed in the marine fuel tax refund account shall, if approved, be paid from that account. [1965 c 5 § 5 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.060 Outdoor recreation account—Deposits. There is created the outdoor recreation account in the state treasury, in which shall be deposited all moneys received from the marine fuel tax refund account pursuant to RCW 43.99.070, the proceeds of the bond issue authorized by chapter 43.98 RCW, *RCW 43.31.620 and 43.31.740, and any moneys made available to the state of Washington by the federal government for outdoor recreation not specifically designated for another fund or agency.

Grants, gifts, or other financial assistance awarded or designated for a particular purpose, or proceeds received from public bodies as administrative cost contributions, may be received and, when appropriated by the legislature, may be expended in accordance with the general budget and accounting act. [1991 sp.s. c 13 § 52; 1985 c 57 § 54; 1967 ex.s. c 62 § 1; 1965 c 5 § 6 (Initiative Measure No. 215, approved November 3, 1964).]

***Reviser's note:** RCW 43.31.620 and 43.31.740 were decodified pursuant to 1985 c 466 § 75, effective June 30, 1985.

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.99.070 Outdoor recreation account, motor vehicle fund—Transfers of moneys from marine fuel tax account. Upon expiration of the time limited by RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. From time to time, but at least once each biennium, the director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account and the costs of carrying out the provisions of RCW 43.99.030, shall request the state treasurer to transfer an amount equal to the proportion of the moneys in the account representing the motor vehicle fuel tax rate under RCW 82.36.025 in effect on January 1, 1990, to the outdoor recreation account and the remainder to the motor vehicle fund. [1990 c 42 § 116; 1979 c 158 § 111; 1965 c 5 § 7 (Initiative Measure No. 215, approved November 3, 1964).]

Purpose—Headings—Severability—Effective dates—Application—Implementation—1990 c 42: See notes following RCW 82.36.025.

43.99.080 Outdoor recreation account—Distribution of moneys transferred. Moneys transferred to the outdoor recreation account from the marine fuel tax refund account may be used when appropriated by the legislature, as well as any federal or other funds now or hereafter available, to pay the necessary administrative and coordinative costs of the interagency committee for outdoor recreation established by RCW 43.99.110. All moneys so transferred, except those appropriated as aforesaid, shall be divided into two equal shares and shall be used to benefit watercraft recreation in this state as follows:

(1) One share by the state for (a) acquisition of title to, or any interests or rights in, marine recreation land, (b) capital improvement of marine recreation land, or (c) matching funds in any case where federal or other funds are made available on a matching basis for purposes described in (a) or (b);

(2) One share as grants to public bodies to help finance (a) acquisition of title to, or any interests or rights in, marine recreation land, or (b) capital improvement of marine recreation land. A public body is authorized to use a grant, together with its own contribution, as matching funds in any case where federal or other funds are made available for purposes described in (a) or (b). The committee may prescribe further terms and conditions for the making of grants in order to carry out the purposes of this chapter. [1971 ex.s. c 140 § 1; 1965 ex.s. c 136 § 1; 1965 c 5 § 8 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.095 Interest on funds granted by committee to be returned to outdoor recreation account. Interest earned on funds granted or made available by the committee shall not be expended by the recipient but shall be returned to the outdoor recreation account of the general fund for disbursement by the committee in accordance with general budget and accounting procedure. [1967 ex.s. c 62 § 7.]

43.99.100 Conversion of marine recreation land to other uses—Approval—Substitution. Marine recreation

land with respect to which money has been expended under RCW 43.99.080 shall not, without the approval of the committee, be converted to uses other than those for which such expenditure was originally approved. The committee shall only approve any such conversion upon conditions which will assure the substitution of other marine recreation land of at least equal fair market value at the time of conversion and of as nearly as feasible equivalent usefulness and location. [1965 c 5 § 10 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.110 Interagency committee for outdoor recreation—Created—Membership—Terms—Compensation and travel expenses. There is created the interagency committee for outdoor recreation consisting of the commissioner of public lands, the director of parks and recreation, and the director of fish and wildlife, or their designees, and, by appointment of the governor with the advice and consent of the senate, five members from the public at large who have a demonstrated interest in and a general knowledge of outdoor recreation in the state. The terms of members appointed from the public at large shall commence on January 1st of the year of appointment and shall be for three years or until a successor is appointed, except in the case of appointments to fill vacancies which shall be for the remainder of the unexpired term; provided the first such members shall be appointed for terms as follows: One member for one year, two members for two years, and two members for three years. The governor shall appoint one of the members from the public at large to serve as chairman of the committee for the duration of the member's term. Members employed by the state shall serve without additional pay and participation in the work of the committee shall be deemed performance of their employment. Members from the public at large shall be compensated in accordance with RCW 43.03.240 and shall be entitled to reimbursement individually for travel expenses incurred in performance of their duties as members of the committee in accordance with RCW 43.03.050 and 43.03.060. [1994 c 264 § 31; 1988 c 36 § 21; 1985 c 77 § 1; 1984 c 287 § 84. Prior: 1981 c 338 § 7; 1981 c 206 § 1; 1975-'76 2nd ex.s. c 34 § 125; 1971 c 60 § 1; 1967 ex.s. c 62 § 2; 1965 c 5 § 11 (Initiative Measure No. 215, approved November 3, 1964).]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—1981 c 206: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1981." [1981 c 206 § 4.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Construction and maintenance of outdoor recreation facilities by department of natural resources, review by interagency committee for outdoor recreation: RCW 43.30.300.

43.99.120 Plans for public outdoor recreation land acquisition or improvement—Contents—Submission—Recommendations. Any public body or any agency of state government authorized to acquire or improve public outdoor recreation land which desires funds from the outdoor recreation account shall submit to the committee a six-year

plan for developing outdoor recreation facilities within its authority and detailed plans for the projects sought to be financed from the outdoor recreation account, including estimated cost and such other information as the committee may require. The committee shall analyze all proposed plans and projects, and shall recommend to the governor for inclusion in the budget such projects as it may approve and find to be consistent with an orderly plan for the acquisition and improvement of outdoor recreation lands in the state. [1983 c 3 § 114; 1965 c 5 § 12 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.124 Participation in federal programs—Authority. The committee may apply to any appropriate agency or officer of the United States for participation in or the receipt of aid from any federal program respecting outdoor recreation not specifically designated for another fund or agency. It may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonably necessary to enable such officials and agencies to perform their duties under such programs. [1967 ex.s. c 62 § 5.]

43.99.126 Commitments or agreements forbidden unless sufficient funds available—Agreements with federal agencies on behalf of state or local agencies—Conditions. The committee for outdoor recreation shall make no commitment nor enter into any agreement until it has determined that sufficient funds are available to meet project costs. It is the legislative intent that, to such extent as may be necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to any program participated in by this state under authority of this chapter, such areas and facilities shall be publicly maintained for outdoor recreation purposes. When requested by a state agency or public body, the committee may enter into and administer agreements with the United States or any appropriate agency thereof for planning, acquisition, and development projects involving participating federal-aid funds on behalf of any state agency, public body, or subdivision of this state: PROVIDED, That recipients of funds give necessary assurances to the committee that they have available sufficient matching funds to meet their shares, if any, of the cost of the project and that the acquired or developed areas will be operated and maintained at the expense of such state agency, public body, or subdivision for public outdoor recreation use. [1967 ex.s. c 62 § 6.]

43.99.130 Assistance furnished by state departments—Appointment of director and personnel—Civil service exemption. When requested by the committee, members employed by the state shall furnish assistance to the committee from their departments for the analysis and review of proposed plans and projects, and such assistance shall be a proper charge against the appropriations to the several agencies represented on the committee. Assistance may be in the form of money, personnel, or equipment and supplies, whichever is most suitable to the needs of the committee.

The director shall be appointed by, and serve at the pleasure of, the governor. The governor shall select the director from a list of three candidates submitted by the committee. However, the governor may request and the committee shall provide an additional list or lists from which the governor may select the director. The lists compiled by the committee shall not be subject to public disclosure. The director shall have background and experience in the areas of recreation management and policy. The director shall be paid a salary to be fixed by the governor in accordance with the provisions of RCW 43.03.040. The director shall appoint such personnel as may be necessary to carry out the duties of the committee. Not more than three employees appointed by the director shall be exempt from the provisions of chapter 41.06 RCW. [1989 c 237 § 3; 1981 c 206 § 2; 1967 ex.s. c 62 § 3; 1965 c 5 § 13 (Initiative Measure No. 215, approved November 3, 1964).]

Effective date—1989 c 237: See note following RCW 43.99.010.

Effective date—1981 c 206: See note following RCW 43.99.110.

43.99.135 Washington state recreation trails system, duties of interagency committee for outdoor recreation. See chapter 67.32 RCW.

43.99.142 Public parks and recreation sites guide. In addition to its other powers and duties the director is authorized to coordinate the preparation of a comprehensive guide of public parks and recreation sites in the state of Washington. Such guide may include one or more maps showing the locations of such public parks and recreation areas, and may also include information as to the facilities and recreation opportunities available. All state agencies providing public recreational facilities shall participate. Cooperation of federal agencies providing public recreational facilities within the state shall be solicited.

The director shall determine the costs of providing and distributing such a guide and pursue the most feasible means of paying the costs of initial production. The guide shall be sold for an amount to cover the reasonable production and distribution costs involved, and the director may contract with any state agency, local government agency, or private firm as otherwise allowed by law for any part of such production or distribution. [1989 c 237 § 5; 1979 ex.s. c 24 § 1.]

Effective date—1989 c 237: See note following RCW 43.99.010.

Plan submittal: "The committee shall submit a plan for production and distribution of the guide to the State Legislature on or before January 1, 1981." [1979 ex.s. c 24 § 3.]

43.99.144 Guide of public parks and recreation sites—Receipts allowed—Deposit—Use. The committee may receive gifts, donations, and grants from any source, and moneys from all such gifts, donations, and grants shall be deposited in the outdoor recreation account of the general fund for the use of the committee in carrying out its duties relating to the guide. [1979 ex.s. c 24 § 2.]

43.99.146 Public parks and recreation sites guide—Review and update. The director shall periodically review and have updated the guide authorized by RCW 43.99.142. [1989 c 237 § 6; 1979 ex.s. c 24 § 4.]

Effective date—1989 c 237: See note following RCW 43.99.010.

43.99.150 Appropriations by subsequent legislatures. The 1967 and subsequent legislatures shall appropriate funds requested in the budget for state agencies from the outdoor recreation account directly to the state agencies which are to expend such funds, and shall appropriate funds requested in the budget for grants to public bodies from the outdoor recreation account to the committee for allocation and disbursement. [1965 c 5 § 15 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.900 Severability—1965 c 5. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1965 c 5 § 17 (Initiative Measure No. 215, approved November 3, 1964).]

43.99.910 Short title. This chapter shall be known and may be cited as the Marine Recreation Land Act of 1964. [1965 c 5 § 18 (Initiative Measure No. 215, approved November 3, 1964).]

Chapter 43.99A

OUTDOOR RECREATIONAL AREAS AND FACILITIES—1967 BOND ACT

Sections

- 43.99A.010 Declaration of purpose.
- 43.99A.020 General obligation bonds authorized.
- 43.99A.030 Form of bonds—Rate of interest—Sale and issuance.
- 43.99A.040 Full faith and credit of state pledged—Call prior to due date—Facsimile signatures.
- 43.99A.050 Disposition of proceeds of sale.
- 43.99A.060 Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in.
- 43.99A.070 Proceeds from sale of bonds—Administration—Disposition and use.
- 43.99A.080 Construction of phrase "acquisition and development of outdoor recreational areas and facilities."
- 43.99A.090 Legislature may provide additional means for payment of bonds.
- 43.99A.100 Bonds legal investment for funds of state and municipal corporations.
- 43.99A.110 Referral to electorate.

Outdoor recreational facilities—1963 bond act: Chapter 43.98 RCW.

43.99A.010 Declaration of purpose. The state of Washington possesses unsurpassed natural wealth in the form of mountains, forests, and waters, ideal not only for recreation, but for supplying the special kind of spiritual regeneration that only close association with the outdoors can provide. As the state grows in population, this wilderness is increasingly threatened; prompt action is necessary to preserve it before much of it permanently disappears. Further, the physical expansion of our cities and towns has made it imperative that outdoor breathing space be set aside and permanently reserved for the people who live in them. Such breathing space may take the form of "green belts" especially planned to relieve the monotony of miles of uninterrupted urban or suburban development, or it may take the form of traditional parks. In any case, it must be

acquired as soon as possible, while land is still available; and where appropriate, this land must be developed in order to meet the recreational needs of growing numbers of potential users. [1967 ex.s. c 126 § 1.]

43.99A.020 General obligation bonds authorized. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of forty million dollars or so much thereof as may be required to finance the projects described in RCW 43.99A.070 and 43.99A.080. These bonds shall be paid and discharged within twenty years of the date of issuance. [1970 ex.s. c 40 § 1; 1967 ex.s. c 126 § 2.]

Effective, when—1970 ex.s. c 40: "Sections 1 and 2 of this 1970 amendatory act shall not become effective unless this act is adopted and ratified at the referendum election provided for in section 3 of this 1970 amendatory act." [1970 ex.s. c 40 § 4.] "Sections 1 and 2 of this act" consist of the 1970 ex.s. c 40 amendments to RCW 43.99A.020 and 43.99A.030.

Referral to electorate—1970 ex.s. c 40: "In the event all of the bonds authorized by RCW 43.99A.010 through 43.99A.110 have not been issued on or before September 2, 1970, then this act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1970, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution as amended, and the laws adopted to facilitate the operation thereof." [1970 ex.s. c 40 § 3.] "This act" [1970 ex.s. c 40] was adopted and ratified by the people at the November 3, 1970, general election (Referendum Bill No. 21).

43.99A.030 Form of bonds—Rate of interest—Sale and issuance. The state finance committee is authorized to prescribe the form of the bonds, the maximum rate of interest the same shall bear, the time of sale of all or any portion of them, and the conditions of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1970 ex.s. c 40 § 2; 1967 ex.s. c 126 § 3.]

Effective, when—Referral to electorate—1970 ex.s. c 40: See notes following RCW 43.99A.020.

43.99A.040 Full faith and credit of state pledged—Call prior to due date—Facsimile signatures. The bonds shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to their due date under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1967 ex.s. c 126 § 4.]

43.99A.050 Disposition of proceeds of sale. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the outdoor recreation account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of the chapter and for payment of the expense incurred in the issuance and sale of the bonds. [1967 ex.s. c 126 § 5.]

43.99A.060 Outdoor recreational bond redemption fund of 1967—Created—Use—Sales tax revenues deposited in. The outdoor recreational bond redemption fund of 1967 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the outdoor recreational bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1971 c 37 § 1; 1967 ex.s. c 126 § 6.]

43.99A.070 Proceeds from sale of bonds—Administration—Disposition and use. The proceeds from the sale of bonds deposited in the outdoor recreation account of the general fund under the terms of RCW 43.99A.050 shall be administered by the interagency committee for outdoor recreation. All such proceeds shall be divided into two equal shares. One share shall be allocated for the acquisition and development of outdoor recreation areas and facilities on behalf of the state as the legislature may direct by appropriation. The other share shall be allocated to public bodies as defined in RCW 43.99.020 for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of such public bodies. The interagency committee for outdoor recreation is authorized to use or permit the use of any funds derived from the sale of bonds authorized under this chapter as matching funds in any case where federal or other funds are made available on a matching basis for projects within the purposes of this chapter. [1967 ex.s. c 126 § 7.]

43.99A.080 Construction of phrase "acquisition and development of outdoor recreational areas and facilities." As used in this chapter, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed in accordance with the broad interpretation suggested by RCW 43.99A.010. It shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land, and the development of outdoor areas and facilities for either a single recreational use or multiple recreational uses. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under this chapter. [1967 ex.s. c 126 § 8.]

43.99A.090 Legislature may provide additional means for payment of bonds. The legislature may provide

additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1967 ex.s. c 126 § 9.]

43.99A.100 Bonds legal investment for funds of state and municipal corporations. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of municipal corporations. [1967 ex.s. c 126 § 10.]

43.99A.110 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November 1968, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1967 ex.s. c 126 § 11.]

Reviser's note: Chapter 43.99A RCW was adopted and ratified by the people at the November 5, 1968, general election (Referendum Bill No. 18). Governor's proclamation declaring approval of measure is dated December 5, 1968. State Constitution Art. 2 § 1(d) provides: "... Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved"

Chapter 43.99B

OUTDOOR RECREATIONAL AREAS AND FACILITIES—BOND ISSUES

Sections

1979 BOND ISSUE

- 43.99B.010 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99B.012 Form, terms, conditions, etc., of bonds.
- 43.99B.014 Proceeds to be deposited in outdoor recreation account.
- 43.99B.016 Administration of proceeds.
- 43.99B.018 Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.99B.020 Definitions.
- 43.99B.022 Legislature may provide additional means for payment of bonds.
- 43.99B.024 Legal investment for public funds.
- 43.99B.026 Severability—1979 ex.s. c 229.

1981 BOND ISSUE

- 43.99B.028 General obligation bonds—Authorized—Issuance, sale terms—Appropriation required.
- 43.99B.030 Proceeds to be deposited in outdoor recreation account—Use.
- 43.99B.032 Administration of proceeds.
- 43.99B.034 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders.
- 43.99B.036 Definitions.
- 43.99B.038 Legislature may provide additional means for payment of bonds.
- 43.99B.040 Legal investment for public funds.
- 43.99B.042 Severability—1981 c 236.

1979 BOND ISSUE

43.99B.010 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of eight million nine hundred forty-five thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by RCW 43.99B.010 through 43.99B.026 shall be offered for sale without prior legislative appropriation, and these bonds shall be paid and discharged within thirty years of the date of issuance. [1987 1st ex.s. c 3 § 11; 1979 ex.s. c 229 § 1.]

Severability—1987 1st ex.s. c 3: See RCW 43.99G.901.

43.99B.012 Form, terms, conditions, etc., of bonds. The issuance, sale, and retirement of the bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds; the time or times of sale of all or any portion of them; and the conditions and manner of their sale, issuance, and redemption. None of the bonds authorized in RCW 43.99B.010 through 43.99B.026 may be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of the bonds and notes, if any. The bonds shall be payable at such places as the committee may provide. [1979 ex.s. c 229 § 2.]

43.99B.014 Proceeds to be deposited in outdoor recreation account. The proceeds from the sale of the bonds authorized by RCW 43.99B.010 through 43.99B.026 shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.99B.010 through 43.99B.026 and for the payment of expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 229 § 3.]

43.99B.016 Administration of proceeds. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be administered by the interagency committee for outdoor recreation, subject to legislative appropriation, and allocated to any agency or department of the state of Washington and, as grants, to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies. The interagency committee for outdoor recreation may use or permit the use of any funds derived from the sale of the bonds authorized under RCW 43.99B.010 through 43.99B.026 as matching funds in any case where federal, local, or other funds are made available on a matching basis for projects within the

purposes of RCW 43.99B.010 through 43.99B.026. [1979 ex.s. c 229 § 4.]

43.99B.018 Retirement of bonds from outdoor recreational bond redemption fund of 1979—Retirement of bonds from general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The outdoor recreational bond redemption fund of 1979 is hereby created in the state treasury, which fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.99B.010 through 43.99B.026. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the outdoor recreational bond redemption fund of 1979 an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by RCW 43.99B.010 through 43.99B.026, the state general obligation bond retirement fund shall be used for purposes of RCW 43.99B.010 through 43.99B.026 in lieu of the outdoor recreational bond redemption fund of 1979, and the outdoor recreational bond redemption fund of 1979 shall cease to exist.

Bonds issued under RCW 43.99B.010 through 43.99B.026 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 229 § 5.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99B.020 Definitions. As used in RCW 43.99B.010 through 43.99B.026, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land, and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under RCW 43.99B.010 through 43.99B.026.

As used in RCW 43.99B.010 through 43.99B.026, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized as Indian tribes by the federal government for participation in the federal land and water conservation program and which may

constitutionally receive grants from the state of Washington. [1979 ex.s. c 229 § 6.]

43.99B.022 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99B.010 through 43.99B.026, and RCW 43.99B.010 through 43.99B.026 shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 229 § 7.]

43.99B.024 Legal investment for public funds. The bonds authorized in RCW 43.99B.010 through 43.99B.026 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1979 ex.s. c 229 § 8.]

43.99B.026 Severability—1979 ex.s. c 229. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 229 § 9.]

1981 BOND ISSUE

43.99B.028 General obligation bonds—Authorized—Issuance, sale terms—Appropriation required. For the purpose of providing funds for the acquisition and development of outdoor recreational areas and facilities in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of thirteen million four hundred thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds authorized by RCW 43.99B.028 through 43.99B.040 may be offered for sale without prior legislative appropriation. [1981 c 236 § 1.]

43.99B.030 Proceeds to be deposited in outdoor recreation account—Use. The proceeds from the sale of the bonds authorized by RCW 43.99B.028 through 43.99B.040 shall be deposited in the outdoor recreation account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 43.99B.028 through 43.99B.040 and for the payment of expenses incurred in the issuance and sale of the bonds. [1981 c 236 § 2.]

43.99B.032 Administration of proceeds. The proceeds from the sale of the bonds deposited in the outdoor recreation account of the general fund shall be allocated to the interagency committee for outdoor recreation as grants to public bodies for the acquisition and development of outdoor recreational areas and facilities within the jurisdiction of the agencies, departments, or public bodies or to any agency or department of the state of Washington, subject to legislative appropriation. The interagency committee for outdoor recreation may use or permit the use of any funds derived from the sale of the bonds authorized under RCW 43.99B.028 through 43.99B.040 as matching funds in any

case where federal, local, or other funds are made available on a matching basis for projects within the purposes of RCW 43.99B.028 through 43.99B.040. [1981 c 236 § 3.]

43.99B.034 Retirement of bonds from state general obligation bond retirement fund—Pledge and promise—Remedies of bondholders. The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by RCW 43.99B.028 through 43.99B.040.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Bonds issued under RCW 43.99B.028 through 43.99B.040 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1981 c 236 § 4.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99B.036 Definitions. As used in RCW 43.99B.028 through 43.99B.040, the phrase "acquisition and development of outdoor recreational areas and facilities" shall be liberally construed and shall include, but shall not be limited to, acquisition of fee simple or any lesser interests in land and the development of outdoor areas and facilities. Swimming pools constructed with proceeds from these bonds may be enclosed at the sponsor's expense. The preservation of land or water areas in an unspoiled or undeveloped state shall be among the alternatives permissible under RCW 43.99B.028 through 43.99B.040.

As used in RCW 43.99B.028 through 43.99B.040, the term "public body" means any political subdivision, taxing district, or municipal corporation of the state of Washington and those Indian tribes now or hereafter recognized as Indian tribes by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants from the state of Washington. [1981 c 236 § 5.]

43.99B.038 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99B.028 through 43.99B.040, and RCW 43.99B.028 through 43.99B.040 shall not be deemed to provide an exclusive method for the payment. [1981 c 236 § 6.]

43.99B.040 Legal investment for public funds. The bonds authorized in RCW 43.99B.028 through 43.99B.038 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1981 c 236 § 7.]

43.99B.042 Severability—1981 c 236. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1981 c 236 § 8.]

Chapter 43.99C

HANDICAPPED FACILITIES BOND ISSUE

Sections

- 43.99C.010 Declaration.
- 43.99C.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99C.020 Definitions.
- 43.99C.025 Bond anticipation notes—Payment.
- 43.99C.030 Form, terms, conditions, etc., of bonds and notes.
- 43.99C.035 Pledge and promise.
- 43.99C.045 Administration of proceeds—Distribution—Transfer of fixed assets.
- 43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents.
- 43.99C.050 Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund.
- 43.99C.055 Legislature may provide additional means for payment of bonds.
- 43.99C.060 Bonds legal investment for public funds.

43.99C.010 Declaration. The physical and mental health of the people of the state directly affects the achievement of economic progress and full employment. The establishment of a system of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps will provide the improved and convenient services needed for an efficient work force and a healthy and secure people. [1979 ex.s. c 221 § 1.]

Severability—1979 ex.s. c 221: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1979 ex.s. c 221 § 13.]

Referral to electorate—1979 ex.s. c 221: "This act shall be submitted to the people for their adoption and ratification, or rejection, at a special election hereby ordered by the legislature, which election shall be held in conjunction with the next succeeding general election to be held in this state, all in accordance with the provisions of Article II, section 1 of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof." [1979 ex.s. c 221 § 14.]

Reviser's note: "This act," chapter 43.99C RCW (1979 ex.s. c 221), was adopted and ratified by the people at the November 6, 1979, general election (Referendum Bill No. 37). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

43.99C.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of financing the planning, acquisition, construction, renovation, improvement, and

equipping of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps, the state finance committee is authorized to issue and sell general obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. No bonds or bond anticipation notes authorized by this chapter shall be offered for sale without prior legislative appropriation and the bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1979 ex.s. c 221 § 2.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.020 Definitions. As used in this chapter, the term "facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps" means real property and any interest therein, equipment, buildings, structures, mobile units, parking facilities, utilities, landscaping, and all incidental improvements and appurtenances thereto, developed and owned by any public body within the state for purposes of the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps when used in the following limited programs as designated by the department of social and health services: nonprofit group training homes, community centers, close to home living units, sheltered workshops, vocational rehabilitation centers, developmental disability training centers, and community homes for the mentally ill.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof. [1979 ex.s. c 221 § 3.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.025 Bond anticipation notes—Payment. When the state finance committee has determined to issue the general obligation bonds, or a portion thereof, it may, pending the issuance of the bonds, issue in the name of the state temporary notes in anticipation of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for the payment of principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued. [1979 ex.s. c 221 § 4.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.030 Form, terms, conditions, etc., of bonds and notes. The state finance committee is authorized to determine the amounts, dates, form, terms, conditions, denominations, interest rates, maturities, rights and manner of redemption prior to maturity, registration privileges, place(s) of payment, and covenants of the bonds and the bond anticipation notes; the time or times of sale of all or any portion of them; and the conditions and manner of their sale, issuance, and redemption. [1979 ex.s. c 221 § 5.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.035 Pledge and promise. Each bond and bond anticipation note shall state that it is a general obligation of the state of Washington, shall contain a pledge of the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain the state's unconditional promise to pay the principal and interest as the same shall become due. [1979 ex.s. c 221 § 6.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.045 Administration of proceeds—Distribution—Transfer of fixed assets. Subject to legislative appropriation, all principal proceeds of the bonds and bond anticipation notes authorized in this chapter shall be administered by the state department of social and health services exclusively for the purposes specified in this chapter and for the payment of expenses incurred in connection with the sale and issuance of the bonds and bond anticipation notes.

In carrying out the purposes of this chapter all counties of the state shall be eligible to participate in the distribution of the bond proceeds. The share coming to each county shall be determined by a division among all counties according to the relation which the population of each county, as shown by the last federal or official state census, whichever is the later, bears to the total combined population of all counties, as shown by such census; except that, each county with a population of less than twelve thousand shall receive an aggregate amount of up to seventy-five thousand dollars if, through a procedure established in rule, the department has determined there is a demonstrated need and the share determined for such county is less than seventy-five thousand dollars. No single project in a county with a population of one million or more shall be eligible for more than fifteen percent of such county's total distribution of bond proceeds.

In carrying out the purposes specified in this chapter, the department may use or permit the use of the proceeds by direct expenditures, grants, or loans to any public body, including but not limited to grants to a public body as matching funds in any case where federal, local, or other funds are made available on a matching basis for purposes specified in this chapter.

In carrying out the purpose of this chapter, fixed assets acquired under this chapter, and no longer utilized by the program having custody of the assets, may be transferred to other public bodies either in the same county or another county. Prior to such transfer the department shall first determine if the assets can be used by another program as designated by the department of social and health services in RCW 43.99C.020. Such programs shall have priority in obtaining the assets to ensure the purpose of this chapter is carried out. [1991 c 363 § 121; 1989 c 265 § 1; 1980 c 136 § 1; 1979 ex.s. c 221 § 8.]

Purpose—Captions not law—1991 c 363: See notes following RCW 2.32.180.

Appropriation—1980 c 136: "There is hereby appropriated to the department of social and health services from the 1979 handicapped facilities construction account in the general fund the sum of twenty-five million dollars for the purposes of chapter 43.99C RCW. This appropriation shall be limited by the conditions contained in section 2 of this act." [1980

c 136 § 3.] Section 2 of this act consists of the enactment of RCW 43.99C.047.

Severability—1980 c 136: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1980 c 136 § 4.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.047 Prohibition of expenditures not submitted in budget document or schedule—Capital appropriation—Exception—Contents. (1) No expenditure of funds shall be allowed for facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps which have not been submitted to the legislature in a budget document or schedule as specified in RCW 43.88.030(3), and have been approved through a capital appropriation; except that, the fiscal committees of the legislature may approve such facilities which have been, not later than December 1, 1980, verified by the department of social and health services as meeting the assessed need of a county and being ready to proceed.

(2) In order to assure compliance with RCW 43.99C.045, such document or schedule shall indicate the population of each county, all requests submitted from each county for participation in the distribution of the bond proceeds, the requests which are proposed to be accepted, and the basis for acceptance. [1980 c 136 § 2.]

Appropriation—Severability—1980 c 136: See notes following RCW 43.99C.045.

43.99C.050 Retirement of bonds and notes from 1979 handicapped facilities bond redemption fund—Retirement of bonds and notes from state general obligation bond retirement fund. The 1979 handicapped facilities bond redemption fund, hereby created in the state treasury, shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenue received in the state treasury and deposit in the 1979 handicapped facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the 1979 handicapped facilities bond redemption fund, and the 1979 handicapped facilities bond redemption fund shall cease to exist. [1979 ex.s. c 221 § 9.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

State general obligation bond retirement fund: RCW 43.83.160.

43.99C.055 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and the interest on the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for the payment. [1979 ex.s. c 221 § 10.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

43.99C.060 Bonds legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1979 ex.s. c 221 § 11.]

Severability—Referral to electorate—1979 ex.s. c 221: See notes following RCW 43.99C.010.

Chapter 43.99D

WATER SUPPLY FACILITIES—1979 BOND ISSUE

Sections

- 43.99D.005 Transfer of duties to the department of health.
- 43.99D.010 Declaration.
- 43.99D.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99D.020 Proceeds to be deposited in state and local improvements revolving account—Water supply facilities.
- 43.99D.025 Administration of proceeds—Use of funds.
- 43.99D.030 Definitions.
- 43.99D.035 Form, terms, conditions, etc., of bonds.
- 43.99D.040 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99D.045 Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.99D.050 Legislature may provide additional means for payment of bonds.
- 43.99D.055 Bonds legal investment for public funds.
- 43.99D.900 Severability—1979 ex.s. c 258.

43.99D.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 241.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

43.99D.010 Declaration. The development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment, including the furnishing of an adequate supply of water for domestic and industrial purposes. [1979 ex.s. c 258 § 1.]

43.99D.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of ten million dollars or so much thereof as may be required to finance the improve-

ments defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1979 ex.s. c 258 § 2.]

43.99D.020 Proceeds to be deposited in state and local improvements revolving account—Water supply facilities. The proceeds from the sale of bonds authorized by this chapter, and any interest earned on the interim investment of the proceeds, shall be deposited in the state and local improvements revolving account—water supply facilities in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 258 § 3.]

43.99D.025 Administration of proceeds—Use of funds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account—water supply facilities of the general fund under the terms of this chapter shall be administered by the state department of health subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1991 c 3 § 301; 1979 ex.s. c 258 § 4.]

43.99D.030 Definitions. As used in this chapter, the term "water supply facilities" means municipal and industrial water supply and distribution systems including, but not limited to, all equipment, utilities, structures, real property, and interests in and improvements on real property, necessary for or incidental to the acquisition, construction, installation, or use of any municipal and industrial water supply or distribution system.

As used in this chapter, the term "public body" means the state of Washington, or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government for participation in the federal land and water conservation program and which may constitutionally receive grants or loans from the state of Washington. [1979 ex.s. c 258 § 5.]

43.99D.035 Form, terms, conditions, etc., of bonds. The state finance committee shall prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds authorized by this chapter shall be sold for less than their par value. [1979 ex.s. c 258 § 6.]

43.99D.040 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue such bonds or a portion thereof, it may,

pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on the anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1979 ex.s. c 258 § 7.]

43.99D.045 Retirement of bonds from 1979 water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The 1979 water supply facilities bond redemption fund is created in the state treasury. This fund shall be used for the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1979 water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess., and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the 1979 water supply facilities bond redemption fund, and the water supply facilities bond redemption fund shall cease to exist.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 258 § 8.]

State general obligation bond retirement fund: RCW 43.83.160.

43.99D.050 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1979 ex.s. c 258 § 9.]

43.99D.055 Bonds legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1979 ex.s. c 258 § 10.]

43.99D.900 Severability—1979 ex.s. c 258. If any provision of this act or its application to any person or

circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 258 § 13.]

Chapter 43.99E

WATER SUPPLY FACILITIES—1980 BOND ISSUE

Sections

- 43.99E.005 Transfer of duties to the department of health.
- 43.99E.010 Declaration.
- 43.99E.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
- 43.99E.020 Deposit of proceeds in state and local improvements revolving account—Water supply facilities—Use.
- 43.99E.025 Administration of proceeds.
- 43.99E.030 Definitions.
- 43.99E.035 Form, terms, conditions, etc., of bonds.
- 43.99E.040 Anticipation notes—Payment—Pledge and promise—Seal.
- 43.99E.045 Retirement of bonds from public water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders.
- 43.99E.050 Legislature may provide additional means for payment of bonds.
- 43.99E.055 Bonds legal investment for public funds.
- 43.99E.900 Severability—1979 ex.s. c 234.

43.99E.005 Transfer of duties to the department of health. The powers and duties of the department of social and health services under this chapter shall be performed by the department of health. [1989 1st ex.s. c 9 § 242.]

Effective date—Severability—1989 1st ex.s. c 9: See RCW 43.70.910 and 43.70.920.

43.99E.010 Declaration. The long-range development goals for the state of Washington must include the provision of those supportive public services necessary for the development and expansion of industry, commerce, and employment including the furnishing of an adequate supply of water for domestic, industrial, agricultural, municipal, fishery, recreational, and other beneficial uses. [1979 ex.s. c 234 § 1.]

Referral to electorate—1979 ex.s. c 234: "This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1980, in accordance with Article VIII, section 3 of the state Constitution, in accordance with Article II, section 1 of the state Constitution, and the laws adopted to facilitate the operation thereof." [1979 ex.s. c 234 § 12.]

Reviser's note: "This act," chapter 43.99E RCW (1979 ex.s. c 234), was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 38). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

43.99E.015 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds for the planning, acquisition, construction, and improvement of water supply facilities within the state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of sixty-five million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged

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within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. No bonds authorized by this chapter may be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1990 1st ex.s. c 15 § 8. Prior: 1989 1st ex.s. c 14 § 11; 1989 c 136 § 4; 1979 ex.s. c 234 § 2.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: See note following RCW 43.83A.020.

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.020 Deposit of proceeds in state and local improvements revolving account—Water supply facilities—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account—water supply facilities hereby created in the general fund and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1979 ex.s. c 234 § 3.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.025 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account—water supply facilities of the general fund under the terms of this chapter shall be divided into two shares as follows:

(1) Seventy-five million dollars, or so much thereof as may be required, shall be used for domestic, municipal, and industrial water supply facilities; and

(2) Fifty million dollars, or so much thereof as may be required, shall be used for water supply facilities for agricultural use alone or in combination with fishery, recreational, or other beneficial uses of water.

The share of seventy-five million dollars shall be administered by the department of health and the share of fifty million dollars shall be administered by the department of ecology, subject to legislative appropriation. The administering departments may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for the issuance of the bonds by direct expenditures and by grants or loans to public bodies, including grants to public bodies as matching funds in any case where federal, local, or other funds are made available on a matching basis for improvements within the purposes of this chapter. [1991 c 3 § 302; 1979 ex.s. c 234 § 4.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.030 Definitions. As used in this chapter, the term "water supply facilities" means domestic, municipal, industrial, and agricultural (and any associated fishery, recreational, or other beneficial use) water supply or distribution systems including but not limited to all equipment, utilities, structures, real property, and interests in and improvements on real property necessary for or incidental to the acquisition, construction, installation, or use of any such water supply or distribution system.

[Title 43 RCW—page 421]

As used in this chapter, the term "public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal or public corporation thereof; an agency of the federal government; and those Indian tribes which may constitutionally receive grants or loans from the state of Washington. [1979 ex.s. c 234 § 5.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.035 Form, terms, conditions, etc., of bonds.

The state finance committee is authorized to prescribe the forms, terms, conditions, and covenants of the bonds; the time or times of sale of all or any portion of them; and the conditions and manner of their sale and issuance. [1989 c 136 § 5; 1979 ex.s. c 234 § 6.]

Intent—1989 c 136: See note following RCW 43.83A.020.

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.040 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue the bonds, or a portion of the bonds, it may, pending the issuance of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on the anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1979 ex.s. c 234 § 7.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.045 Retirement of bonds from public water supply facilities bond redemption fund—Retirement of bonds from state general obligation bond retirement fund—Remedies of bondholders. The public water supply facilities bond redemption fund is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the public water supply facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. If a state general obligation bond retirement fund is created in the state treasury by chapter 230, Laws of 1979 1st ex. sess. and becomes effective by statute prior to the issuance of any of the bonds authorized by this chapter, the state general obligation bond retirement fund shall be used for purposes of this chapter in lieu of the public water

supply facilities bond redemption fund, and the public water supply facilities bond redemption fund shall cease to exist. The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1979 ex.s. c 234 § 8.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

State general obligation bond retirement fund: RCW 43.83.160.

43.99E.050 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be considered to provide an exclusive method for the payment. [1979 ex.s. c 234 § 9.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.055 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1979 ex.s. c 234 § 10.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

43.99E.900 Severability—1979 ex.s. c 234. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 ex.s. c 234 § 11.]

Referral to electorate—1979 ex.s. c 234: See note following RCW 43.99E.010.

Chapter 43.99F

WASTE DISPOSAL FACILITIES—1980 BOND ISSUE

Sections	
43.99F.010	Declaration.
43.99F.020	General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required.
43.99F.030	Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use.
43.99F.040	Administration of proceeds.
43.99F.050	Definitions.
43.99F.060	Form, terms, conditions, etc., of bonds.
43.99F.070	Anticipation notes—Payment—Pledge and promise—Seal.
43.99F.080	Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders.
43.99F.090	Legislature may provide additional means for payment of bonds.
43.99F.100	Bonds legal investment for public funds.
43.99F.110	Referral to electorate.

43.99F.010 Declaration. The long-range development goals for the state of Washington must include the protection of the resources and environment of the state, the health and safety of its people, and the beneficial uses of water by providing facilities and systems, among others, for the general control, collection, treatment, or disposal of nonra-

radioactive solid and nonradioactive liquid waste materials. The purpose of this chapter is to assist the state and local governments in providing that protection but it is not the purpose of this chapter to provide funding for facilities which encourage development. A high priority in the expenditure of these funds shall be the protection of sole-source aquifers designated pursuant to the federal Safe Drinking Water Act (88 Stat. 1660) which aquifers have been designated as of July 24, 1983. [1983 c 269 § 1; 1980 c 159 § 1.]

43.99F.020 General obligation bonds—Authorized—Issuance, sale, terms—Appropriation required. For the purpose of providing funds to public bodies for the planning, design, acquisition, construction, and improvement of public waste disposal and management facilities, or for purposes of assisting a public body to obtain an ownership interest in waste disposal and management facilities and/or to defray a part of the payments made by a public body to a service provider under a service agreement entered into pursuant to RCW 70.150.060, in this state, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of three hundred thirty million dollars, or so much thereof as may be required, to finance the improvements defined in this chapter and all costs incidental thereto. The department may not use or permit the use of any funds derived from the sale of bonds authorized by this chapter for: (1) the support of a solid waste recycling activity or service in a locale if the department determines that the activity or service is reasonably available to persons within that locale from private enterprise; or (2) the construction of municipal wastewater facilities unless said facilities have been approved by a general purpose unit of local government in accordance with chapter 36.94 RCW, chapter 35.67 RCW, or RCW 56.08.020. These bonds shall be paid and discharged within thirty years of the date of issuance. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of the bonds to be sold. [1990 1st ex.s. c 15 § 9. Prior: 1989 1st ex.s. c 14 § 12; 1989 c 136 § 6; 1987 c 436 § 2; 1980 c 159 § 2.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

Intent—1989 c 136: See note following RCW 43.83A.020.

43.99F.030 Deposit of proceeds in state and local improvements revolving account, Waste Disposal Facilities, 1980—Use. The proceeds from the sale of bonds authorized by this chapter shall be deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 hereby created in the state treasury and shall be used exclusively for the purpose specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1991 sp.s. c 13 § 44; 1985 c 57 § 56; 1980 c 159 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.99F.040 Administration of proceeds. The proceeds from the sale of the bonds deposited in the state and local improvements revolving account, Waste Disposal Facilities, 1980 of the general fund under the terms of this chapter shall be administered by the state department of ecology subject to legislative appropriation. The department may use or permit the use of any funds derived from the sale of bonds authorized under this chapter to accomplish the purpose for which the bonds are issued by direct expenditures and by grants or loans to public bodies, including grants to public bodies as cost-sharing funds in any case where federal, local, or other funds are made available on a cost-sharing basis for improvements within the purposes of this chapter. The department shall ensure that funds derived from the sale of bonds authorized under this chapter do not constitute more than seventy-five percent of the total cost of any waste disposal or management facility. Not more than two percent of the proceeds of the bond issue may be used by the department of ecology in relation to the administration of the expenditures, grants, and loans.

At least one hundred fifty million dollars of the proceeds of the bonds authorized by this chapter shall be used exclusively for waste management systems capable of producing renewable energy or energy savings as a result of the management of the wastes. "Renewable energy" means, but is not limited to, the production of steam, hot water for steam heat, electricity, cogeneration, gas, or fuel through the use of wastes by incineration, refuse-derived fuel processes, pyrolysis, hydrolysis, or bioconversion, and energy savings through material recovery from waste source separation and/or recycling.

The department of ecology shall present a progress report of actual projects committed by the department to the senate committee on ways and means and the house of representatives committee on appropriations no later than November 30th of each year.

Integration of the management and operation of systems for solid waste disposal with systems of liquid waste disposal holds promise of improved waste disposal efficiency and greater environmental protection and restoration. To encourage the planning for and development of such integration, the department may provide for special grant incentives to public bodies which plan for or operate integrated waste disposal management systems.

Funds provided for waste disposal and management facilities under this chapter may be used for payments to a service provider under a service agreement pursuant to RCW 70.150.060. If funds are to be used for such payments, the department may make periodic disbursements to a public body or may make a single lump sum disbursement. Disbursements of funds with respect to a facility owned or operated by a service provider shall be equivalent in value to disbursements that would otherwise be made if that facility were owned or operated by a public body. Payments under this chapter for waste disposal and management facilities made to public bodies entering into service agreements pursuant to RCW 70.150.060 shall not exceed amounts paid to public bodies not entering into service agreements. [1987 c 436 § 3; 1980 c 159 § 4.]

43.99F.050 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Waste disposal and management facilities" means any facilities or systems for the control, collection, storage, treatment, disposal, recycling, or recovery of nonradioactive liquid wastes or nonradioactive solid wastes, or a combination thereof, including but not limited to, sanitary sewage, storm water, residential, industrial, commercial, and agricultural wastes, and concentrations of organic sediments waste, inorganic nutrients, and toxic materials which are causing environmental degradation and loss of the beneficial use of the environment, and material segregated into recyclables and nonrecyclables. Waste disposal and management facilities may include all equipment, utilities, structures, real property, and interest in and improvements on real property necessary for or incidental to such purpose. As used in this chapter, the phrase "waste disposal and management facilities" shall not include the acquisition of equipment used to collect residential or commercial garbage.

(2) "Public body" means the state of Washington or any agency, political subdivision, taxing district, or municipal corporation thereof, an agency of the federal government, and those Indian tribes now or hereafter recognized as such by the federal government.

(3) "Control" means those measures necessary to maintain and/or restore the beneficial uses of polluted land and water resources including, but not limited to, the diversion, sedimentation, flocculation, dredge and disposal, or containment or treatment of nutrients, organic waste, and toxic material to restore the beneficial use of the state's land and water resources and prevent the continued pollution of these resources.

(4) "Planning" means the development of comprehensive plans for the purpose of identifying state-wide or regional needs for specific waste disposal facilities as well as the development of plans specific to a particular project.

(5) "Department" means the department of ecology. [1987 c 436 § 4; 1980 c 159 § 5.]

43.99F.060 Form, terms, conditions, etc., of bonds. The state finance committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. [1989 c 136 § 7; 1980 c 159 § 6.]

Intent—1989 c 136: See note following RCW 43.83A.020.

43.99F.070 Anticipation notes—Payment—Pledge and promise—Seal. When the state finance committee has decided to issue the bonds, or a portion thereof, it may, pending the issuing of the bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes." Such portion of the proceeds of the sale of the bonds as may be required for this purpose shall be applied to the payment of the principal of and interest on any of these anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when

due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of the bonds and notes. [1980 c 159 § 7.]

43.99F.080 Retirement of bonds from waste disposal facilities bond redemption fund—Remedies of bondholders. The waste disposal facilities bond redemption fund shall be used for the purpose of the payment of the principal of and redemption premium, if any, and interest on the bonds and the bond anticipation notes authorized to be issued under this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds. Not less than thirty days prior to the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the waste disposal facilities bond redemption fund an amount equal to the amount certified by the state finance committee to be due on the payment date. The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this chapter. [1980 c 159 § 8.]

43.99F.090 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized in this chapter, and this chapter shall not be deemed to provide an exclusive method for such payment. [1980 c 159 § 9.]

43.99F.100 Bonds legal investment for public funds. The bonds authorized in this chapter shall be a legal investment for all state funds or for funds under state control and for all funds of any other public body. [1980 c 159 § 10.]

43.99F.110 Referral to electorate. This act shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1980, in accordance with the provisions of Article VIII, section 3, of the Constitution of the state of Washington, and in accordance with the provisions of Article II, section 1, of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1980 c 159 § 12.]

Reviser's note: "This act," chapter 43.99F RCW, was adopted and ratified by the people at the November 4, 1980, general election (Referendum Bill No. 39). State Constitution Art. 2 § 1(d) provides: ". . . Such measure [initiatives and referendums] shall be in operation on and after the thirtieth day after the election at which it is approved . . ."

Chapter 43.99G

BONDS FOR CAPITAL PROJECTS

Sections

1985 BOND ISSUE

- 43.99G.010 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations.
- 43.99G.020 Conditions and limitations—Deposit of proceeds—Administration.
- 43.99G.030 Retirement of bonds from state general obligation bond retirement fund.
- 43.99G.040 Retirement of bonds from higher education bond retirement fund of 1979.
- 43.99G.050 Retirement of bonds from state higher education bond retirement fund of 1977.
- 43.99G.060 Pledge and promise—Remedies of bondholders.
- 43.99G.070 Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund.
- 43.99G.080 Legislature may provide additional means for payment of bonds.
- 43.99G.090 Bonds legal investment for public funds.

1987 BOND ISSUE

- 43.99G.100 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations.
- 43.99G.102 Conditions and limitations—Deposit of proceeds—Administration.
- 43.99G.104 Retirement of bonds from state general obligation bond retirement fund.
- 43.99G.108 Pledge and promise—Remedies of bondholders.
- 43.99G.112 Legislature may provide additional means for payment of bonds.
- 43.99G.114 Bonds legal investment for public funds.

CONSTRUCTION

- 43.99G.900 Severability—1985 ex.s. c 4.
- 43.99G.901 Severability—1987 1st ex.s. c 3.

1985 BOND ISSUE

43.99G.010 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of two hundred eighty-five million eight hundred fifty-one thousand dollars, or so much thereof as may be required, to finance the projects authorized in RCW 43.99G.020 and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for

the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1985 ex.s. c 4 § 1.]

43.99G.020 Conditions and limitations—Deposit of proceeds—Administration. Bonds issued under RCW 43.99G.010 are subject to the following conditions and limitations:

(1) General obligation bonds of the state of Washington in the sum of thirty-eight million fifty-four thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for grants and loans to local governments and subdivisions of the state for capital projects through the community economic revitalization board and for the department of general administration, military department, parks and recreation commission, and department of corrections to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of general administration, subject to legislative appropriation.

(2) General obligation bonds of the state of Washington in the sum of four million six hundred thirty-five thousand dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the planning, design, acquisition, construction, and improvement of a Washington state agricultural trade center, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(3) General obligation bonds of the state of Washington in the sum of twenty-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the department of social and health services and the department of corrections to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, and grounds, and to

provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the social and health services construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of social and health services, subject to legislative appropriation.

(4) General obligation bonds of the state of Washington in the sum of one million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the *department of fisheries to acquire real property and perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the fisheries capital projects account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the department of fisheries, subject to legislative appropriation.

(5) General obligation bonds of the state of Washington in the sum of fifty-three million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for state agencies and the institutions of higher education, including the community colleges, to perform capital renewal projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, lands, and waters, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state facilities renewal account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered as provided in the capital budget acts, subject to legislative appropriation.

(6) General obligation bonds of the state of Washington in the sum of twenty-two million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the University of Washington and the state community colleges to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, improving, furnishing, and equipping of state

buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education reimbursable short-term bond account hereby created in the state treasury, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the University of Washington, subject to legislative appropriation.

(7) General obligation bonds of the state of Washington in the sum of twenty-eight million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the higher education construction account, shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by Washington State University, subject to legislative appropriation.

(8) General obligation bonds of the state of Washington in the sum of seventy-five million dollars, or so much thereof as may be required, shall be issued for the purpose of providing funds for the institutions of higher education, including facilities for the community college system, to perform capital projects which consist of the planning, designing, constructing, remodeling, repairing, furnishing, and equipping of state buildings, structures, utilities, roads, grounds, and lands, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. The proceeds from the sale of the bonds issued for the purposes of this subsection, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the state higher education construction account in the state treasury and shall be used exclusively for the purposes specified in this subsection and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection. [1989 1st ex.s. c 14 § 13; 1988 c 36 § 22; 1986 c 103 § 1; 1985 ex.s. c 4 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.030 Retirement of bonds from state general obligation bond retirement fund. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.020 (1) through (6) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 19; 1985 ex.s. c 4 § 3.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.040 Retirement of bonds from higher education bond retirement fund of 1979. Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(7) shall be payable from the higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 20; 1985 ex.s. c 4 § 4.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.050 Retirement of bonds from state higher education bond retirement fund of 1977. Both principal of and interest on the bonds issued for the purposes of RCW 43.99G.020(8) shall be payable from the state higher education bond retirement fund of 1977. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state higher education bond retirement fund of 1977, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 21; 1985 ex.s. c 4 § 5.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.060 Pledge and promise—Remedies of bondholders. Bonds issued under RCW 43.99G.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1985 ex.s. c 4 § 6.]

43.99G.070 Institutions of higher education—Apportionment of principal and interest payments—Transfer of moneys to general fund. On or before June 30th of each year and in accordance with the provisions of the bond proceedings the state finance committee shall determine the relative shares of the principal and interest payments determined pursuant to RCW 43.99G.040, exclusive of deposit interest credit, attributable to each of the institutions of higher education in proportion to the principal amount of bonds issued for the purposes of RCW 43.99G.020(7) for projects for each institution. On each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of each institution of higher education shall cause the amount so computed to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury. [1989 1st ex.s. c 14 § 22; 1985 ex.s. c 4 § 7.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.080 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.010, and RCW 43.99G.030 through 43.99G.050 shall not be deemed to provide an exclusive method for the payment. [1985 ex.s. c 4 § 8.]

43.99G.090 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1985 ex.s. c 4 § 9.]

1987 BOND ISSUE

43.99G.100 General obligation bonds authorized—Terms—Appropriation required—Short-term obligations. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of four hundred twelve million three hundred thousand dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989

fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance or letters of credit and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal of or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1987 1st ex.s. c 3 § 1.]

43.99G.102 Conditions and limitations—Deposit of proceeds—Administration. Bonds issued under RCW 43.99G.100 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of four hundred four million four hundred thousand dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1987-1989 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited as follows:

One hundred forty million five hundred thousand dollars in the state building construction account created in RCW 43.83.020.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this subsection, and shall be administered by the office of financial management, subject to legislative appropriation. [1989 1st ex.s. c 14 § 14; 1987 1st ex.s. c 3 § 2.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.104 Retirement of bonds from state general obligation bond retirement fund. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99G.102 shall be payable from the state general obligation bond retirement fund. The state finance commit-

tee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1989 1st ex.s. c 14 § 23; 1987 1st ex.s. c 3 § 3.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.108 Pledge and promise—Remedies of bondholders. Bonds issued under RCW 43.99G.100 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1987 1st ex.s. c 3 § 5.]

43.99G.112 Legislature may provide additional means for payment of bonds. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99G.100 and 43.99G.104 shall not be deemed to provide an exclusive method for the payment. [1989 1st ex.s. c 14 § 24; 1987 1st ex.s. c 3 § 7.]

Severability—Effective dates—1989 1st ex.s. c 14: See RCW 43.99H.900 and 43.99H.901.

43.99G.114 Bonds legal investment for public funds. The bonds authorized in RCW 43.99G.100 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1987 1st ex.s. c 3 § 8.]

CONSTRUCTION

43.99G.900 Severability—1985 ex.s. c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 ex.s. c 4 § 16.]

43.99G.901 Severability—1987 1st ex.s. c 3. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 1st ex.s. c 3 § 13.]

Chapter 43.99H

FINANCING FOR CAPITAL AND OPERATING APPROPRIATIONS—1989-1991 FISCAL BIENNIUM

Sections

- 43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
- 43.99H.020 Conditions and limitations.
- 43.99H.030 Retirement of bonds.
- 43.99H.040 Retirement of bonds.
- 43.99H.050 Pledge and promise—Remedies.
- 43.99H.060 Reimbursement of general fund.
- 43.99H.070 East capitol campus construct account—Additional means of reimbursement.
- 43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest.
- 43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment.
- 43.99H.900 Severability—1989 1st ex.s. c 14.
- 43.99H.901 Effective dates—1989 1st ex.s. c 14.

43.99H.010 1989-1991 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1989-1991 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto, and to provide for reimbursement of bond-funded accounts from the 1987-1989 fiscal biennium.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is conditioned upon the failure of the state to pay the principal or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1990 1st ex.s. c 15 § 1; 1989 1st ex.s. c 14 § 1.]

Severability—1990 1st ex.s. c 15: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 15 § 14.]

43.99H.020 Conditions and limitations. Bonds issued under RCW 43.99H.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion four hundred four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1989-91 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 1987-89 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83A.030, to be used for the purposes described in RCW 43.83A.020;

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by *RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facilities, 1980 created by RCW 43.99F.030, to be used for the purposes described in RCW 43.99F.020;

(4) Forty million dollars to the common school construction fund as referenced in RCW 28A.515.320.

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(6) Eight hundred five million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.99G.020(6);

(8) Twenty-nine million seven hundred thirty thousand dollars to the outdoor recreation account created by RCW 43.99.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.99E.020 to be used for the purposes described in chapter 43.99E RCW;

(10) Four million three hundred thousand dollars to the state social and health services construction account created by RCW 43.83H.030;

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83I.040;

(12) Four million nine hundred thousand dollars to the state facilities renewal account created by RCW 43.99G.020(5);

(13) Two million three hundred thousand dollars to the essential rail assistance account created by **RCW 47.76.030;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 28B.14D.040;

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury;

(18) Seventy-five million dollars to the higher education construction account created by RCW 28B.14D.040;

(19) Twenty-six million five hundred fifty thousand dollars to the habitat conservation account hereby created in the state treasury; and

(20) Eight million dollars to the public safety reimbursable bond account hereby created in the state treasury.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the medical aid fund created in RCW 51.44.020 to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of RCW 43.99H.060(4) during the life of the bonds. [1990 1st ex.s. c 15 § 2; 1990 c 33 § 582; 1989 1st ex.s. c 14 § 2.]

Reviser's note: (1) This section was amended by 1990 c 33 § 582 and by 1990 1st ex.s. c 15 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

*(2) RCW 75.48.030 was repealed by 1991 sp.s. c 13 § 122, effective July 1, 1991.

** (3) RCW 47.76.030 was recodified as RCW 47.76.250 pursuant to 1993 c 224 § 15.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

43.99H.030 Retirement of bonds. Both principal of and interest on the bonds issued for the purposes specified in RCW 43.99H.020 (1) through (3), (5) through (14), and (19) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the

bond proceedings. [1991 sp.s. c 31 § 13; 1990 1st ex.s. c 15 § 4; 1989 1st ex.s. c 14 § 3.]

Severability—1991 sp.s. c 31: See RCW 43.99H.900.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.040 Retirement of bonds. (1) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(16) shall be payable from the higher education bond retirement fund of 1979. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the higher education bond retirement fund of 1979, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(2) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(15) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(3) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(17) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(4) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(18) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(5) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(20) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings.

(6) Both principal of and interest on the bonds issued for the purposes of RCW 43.99H.020(4) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 31 § 14; 1990 1st ex.s. c 15 § 5; 1989 1st ex.s. c 14 § 4.]

Severability—1991 sp.s. c 31: See RCW 43.99I.900.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.050 Pledge and promise—Remedies. Bonds issued under RCW 43.99H.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1989 1st ex.s. c 14 § 5.]

43.99H.060 Reimbursement of general fund. (1) For bonds issued for the purposes of RCW 43.99H.020(16), on each date on which any interest or principal and interest payment is due, the board of regents or the board of trustees of Washington State University shall cause the amount computed in RCW 43.99H.040(1) to be paid out of the appropriate building account or capital projects account to the state treasurer for deposit into the general fund of the state treasury.

(2) For bonds issued for the purposes of RCW 43.99H.020(15), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in RCW 43.99H.040(2) from the capitol campus reserve account, hereby created in the state treasury, to the general fund of the state treasury. At the time of sale of the bonds issued for the purposes of RCW 43.99H.020(15), and on or before June 30th of each succeeding year while such bonds remain outstanding, the state finance committee shall determine, based on current balances and estimated receipts and expenditures from the capitol campus reserve account, that portion of principal and interest on such RCW 43.99H.020(15) bonds which will, by virtue of payments from the capitol campus reserve account, be reimbursed from sources other than "general state revenues" as that term is defined in Article VIII, section 1 of the state Constitution. The amount so determined by the state finance committee, as from time to time adjusted in accordance with this subsection, shall not constitute indebtedness for purposes of the limitations set forth in RCW 39.42.060.

(3) For bonds issued for the purposes of RCW 43.99H.020(17), on each date on which any interest or principal and interest payment is due, the director of the department of labor and industries shall cause fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the accident fund created in RCW 51.44.010 and fifty percent of the amount computed in RCW 43.99H.040(3) to be transferred from the medical aid fund created in RCW 51.44.020, to the general fund of the state treasury.

(4) For bonds issued for the purposes of RCW 43.99H.020(18), on each date on which any interest or principal and interest payment is due, the board of regents of the University of Washington shall cause the amount computed in RCW 43.99H.040(4) to be paid out of University of Washington nonappropriated local funds to the state treasurer for deposit into the general fund of the state treasury.

(5) For bonds issued for the purposes of RCW 43.99H.020(20), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer the amount computed in RCW 43.99H.040(5) from the public safety and education account created in RCW 43.08.250 to the general fund of the state treasury.

(6) For bonds issued for the purposes of RCW 43.99H.020(4), on each date on which any interest or principal and interest payment is due, the state treasurer shall transfer from property taxes in the state general fund levied for the support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99H.040(6).

[1991 sp.s. c 31 § 15; 1990 1st ex.s. c 15 § 6; 1989 1st ex.s. c 14 § 6.]

Severability—1991 sp.s. c 31: See RCW 43.991.900.

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.070 East capitol campus construct account—Additional means of reimbursement. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99H.020(15), the following revenues may be collected:

(1) The director of general administration may assess a charge against each state board, commission, agency, office, department, activity, or other occupant of the facility or building constructed with bonds issued for the purposes of RCW 43.99H.020(15) for payment of a proportion of costs for each square foot of floor space assigned to or occupied by the entity. Payment of the amount billed to the entity for such occupancy shall be made quarterly during each fiscal year. The director of general administration shall deposit the payment in the capitol campus reserve account.

(2) The director of general administration may pledge a portion of the parking rental income collected by the department of general administration from parking space developed as a part of the facility constructed with bonds issued for the purposes of RCW 43.99H.020(15). The pledged portion of this income shall be deposited in the capitol campus reserve account. The unpledged portion of this income shall continue to be deposited in the state capitol vehicle parking account.

(3) The state treasurer shall transfer four million dollars from the capitol building construction account to the capitol campus reserve account each fiscal year from 1990 to 1995. Beginning in fiscal year 1996, the director of general administration, in consultation with the state finance committee, shall determine the necessary amount for the state treasurer to transfer from the capitol building construction account to the capitol campus reserve account for the purpose of repayment of the general fund of the costs of the bonds issued for the purposes of RCW 43.99H.020(15).

(4) Any remaining balance in the state building and parking bond redemption account after the final debt service payment shall be transferred to the capitol campus reserve account. [1989 1st ex.s. c 14 § 7.]

43.99H.080 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal and interest on the bonds authorized in RCW 43.99H.010. RCW 43.99H.030 and 43.99H.040 shall not be deemed to provide an exclusive method for the payment. [1990 1st ex.s. c 15 § 3; 1989 1st ex.s. c 14 § 8.]

Severability—1990 1st ex.s. c 15: See note following RCW 43.99H.010.

43.99H.090 1989-1991 Fiscal biennium general obligation bonds for capital and operating appropriations act—Legal investment. The bonds authorized in RCW

43.99H.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1989 1st ex.s. c 14 § 9.]

43.99H.900 Severability—1989 1st ex.s. c 14. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 14 § 26.]

43.99H.901 Effective dates—1989 1st ex.s. c 14. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1989, except for section 18 of this act which shall take effect immediately [June 1, 1989]. [1989 1st ex.s. c 14 § 28.]

Chapter 43.99I

FINANCING FOR CAPITAL AND OPERATING APPROPRIATIONS—1991-1993 FISCAL BIENNIUM

Sections

43.991.010	1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act.
43.991.020	Conditions and limitations.
43.991.030	Retirement of bonds.
43.991.040	Reimbursement of general fund.
43.991.050	Reimbursement of general fund.
43.991.060	Pledge and promise—Remedies.
43.991.070	Additional means for payment of principal and interest.
43.991.080	Legal investment.
43.991.090	Dairy products commission—Bond conditions and limitations.
43.991.100	Data processing building construction account.
43.991.110	Dairy products commission facility account.
43.991.900	Severability—1991 sp.s. c 31.

43.99I.010 1991-1993 Fiscal biennium—General obligation bonds for capital and operating appropriations act. The state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one billion two hundred eighty-four million dollars, or so much thereof as may be required, to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1991-1993 fiscal biennium and subsequent fiscal biennia, and all costs incidental thereto.

Bonds authorized in this section shall be sold in such manner, at such time or times, in such amounts, and at such price as the state finance committee shall determine. No such bonds may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. The state finance committee may obtain insurance, letters of credit, or other credit enhancements and may authorize the execution and delivery of agreements, promissory notes, and other obligations for the purpose of insuring the payment or enhancing the marketability of bonds authorized in this section. Promissory notes or other obligations issued pursuant to this section shall not constitute a debt or the contracting of indebtedness under any constitutional or statutory indebtedness limitation if their payment is condi-

tioned upon the failure of the state to pay the principal or interest on the bonds with respect to which the same relate.

The state finance committee shall consider the issuance of short-term obligations in lieu of long-term obligations for the purposes of more favorable interest rates, lower total interest costs, and increased marketability and for the purpose of retiring the bonds during the life of the project for which they were issued. [1992 c 235 § 1; 1991 sp.s. c 31 § 1.]

43.99I.020 Conditions and limitations. Bonds issued under RCW 43.99I.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred eighty-four million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1991-93 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Eight hundred thirty-five thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(2) Eight hundred seventy-one million dollars to the state building construction account created by RCW 43.83.020;

(3) Fifteen million dollars to the energy efficiency construction account created by RCW 39.35C.100;

(4) Three million fifty thousand dollars to the energy efficiency services account created by RCW 39.35C.110;

(5) Two hundred fifty-five million five hundred thousand dollars to the common school reimbursable construction account hereby created in the state treasury;

(6) Ninety-eight million six hundred forty-eight thousand dollars to the higher education reimbursable construction account hereby created in the state treasury;

(7) Three million two hundred eighty-four thousand dollars to the data processing building construction account created in RCW 43.99I.100; and

(8) Nine hundred thousand dollars to the Washington state dairy products commission facility account created in RCW 43.99I.110.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation. [1992 c 235 § 2; 1991 sp.s. c 31 § 2.]

43.99I.030 Retirement of bonds. (1) Both principal and interest on the bonds issued for the purposes specified

in *RCW 43.99I.020 (1) through (7) shall be payable from the state general obligation bond retirement fund. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required to provide for the payment of principal and interest on such bonds during the ensuing fiscal year in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the state general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. [1991 sp.s. c 31 § 3.]

*Reviser's note: 1992 c 235 § 2 added a subsection (8) to RCW 43.99I.020.

43.99I.040 Reimbursement of general fund. (1) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020 (3) and (4), the state treasurer shall transfer from the energy efficiency construction account created in RCW 39.35C.100 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020 (3) and (4).

(2) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(5), the state treasurer shall transfer from property taxes in the state general fund levied for this support of the common schools under RCW 84.52.065 to the general fund of the state treasury for unrestricted use the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(5).

(3) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(6), the state treasurer shall transfer from higher education operating fees deposited in the general fund to the general fund of the state treasury for unrestricted use, or if chapter 231, Laws of 1992 (Senate Bill No. 6285) becomes law and changes the disposition of higher education operating fees from the general fund to another account, the state treasurer shall transfer the proportional share from the University of Washington operating fees account, the Washington State University operating fees account, and the Central Washington University operating fees account the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(7).

(4) On each date on which any interest or principal and interest payment is due on bonds issued for the purposes of RCW 43.99I.020(7), the state treasurer shall transfer from the data processing revolving account [fund] created in RCW 43.105.080 to the general fund of the state treasury the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(7).

(5) On each date on which any interest or principal and interest payment is due on bonds issued for the purpose of RCW 43.99I.020(8), the Washington state dairy products commission shall cause the amount computed in RCW 43.99I.030 for the bonds issued for the purposes of RCW 43.99I.020(8) to be paid out of the commission's general operating fund to the state treasurer for deposit into the

general fund of the state treasury. [1992 c 235 § 3; 1991 sp.s. c 31 § 4.]

43.99I.050 Reimbursement of general fund. In addition to any other charges authorized by law and to assist in the reimbursement of principal and interest payments on bonds issued for the purposes of RCW 43.99I.020 (3) and (4), the director of the energy office shall cause to be accumulated in the energy efficiency construction account, from project revenues, loan repayments, and other moneys legally available for such purposes, amounts adequate to make payments of principal of and interest coming due on general obligation bonds issued for the purposes of RCW 43.99I.020 (3) and (4). As needed during each fiscal year, the director shall cause amounts so accumulated to be deposited into the general fund of the state treasury. If the director is unable to accumulate and transfer the full amount necessary for such payments of principal of and interest coming due on the bonds, any shortfall shall be credited to an account receivable from the energy office to the state treasury. [1991 sp.s. c 31 § 5.]

43.99I.060 Pledge and promise—Remedies. Bonds issued under RCW 43.99I.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1991 sp.s. c 31 § 6.]

43.99I.070 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99I.010, and RCW 43.99I.030 and 43.99I.040 shall not be deemed to provide an exclusive method for the payment. [1991 sp.s. c 31 § 7.]

43.99I.080 Legal investment. The bonds authorized in RCW 43.99I.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1991 sp.s. c 31 § 8.]

43.99I.090 Dairy products commission—Bond conditions and limitations. The bonds authorized by RCW 43.99I.020(8) shall be issued only after the director of financial management has (a) certified that, based on the future income from assessments levied pursuant to chapter 15.44 RCW and other revenues collected by the Washington state dairy products commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99I.040(4) for the life of the bonds; and (b) approved the facility to be acquired using the bond proceeds. [1992 c 235 § 5.]

43.99I.100 Data processing building construction account. The data processing building construction account is created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for acquisition of land for and construction of a data processing building. [1992 c 235 § 7.]

43.99I.110 Dairy products commission facility account. The Washington state dairy products commission facility account is hereby created in the state treasury. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for acquisition, renovation, or construction of a permanent facility for the Washington state dairy products commission. [1992 c 235 § 8.]

43.99I.900 Severability—1991 sp.s. c 31. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 sp.s. c 31 § 18.]

Chapter 43.99J

FINANCING FOR CAPITAL AND OPERATING OPERATIONS—1993-1995 FISCAL BIENNIUM

Sections

- 43.99J.010 1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts.
- 43.99J.020 Conditions and limitations.
- 43.99J.030 Retirement of bonds—Pledge and promise—Remedies.
- 43.99J.040 Additional means for payment of principal and interest.
- 43.99J.050 Legal investment.
- 43.99J.060 Washington state fruit commission—Reimbursement of general fund.
- 43.99J.070 Washington state fruit commission—Bond conditions and limitations.
- 43.99J.080 Fruit commission facility account.
- 43.99J.900 Severability—1993 sp.s. c 12.

43.99J.010 1993-1995 Fiscal biennium—General obligation bonds for capital and operating appropriations acts. For the purpose of providing funds to finance the projects described and authorized by the legislature in the capital and operating appropriations acts for the 1993-95 fiscal biennium, and all costs incidental thereto, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of nine hundred twenty-six million seven hundred thirty-seven thousand dollars, or so much thereof as may be required, to finance these projects and all costs incidental thereto. Bonds authorized in this section may be sold at such price as the state finance committee shall determine. No bonds authorized in this section may be offered for sale without prior legislative appropriation of the net proceeds of the sale of the bonds. [1993 sp.s. c 12 § 1.]

43.99J.020 Conditions and limitations. The proceeds from the sale of the bonds authorized in RCW 43.99J.010 shall be deposited in the state building construction account

(1) Nine hundred three million dollars to remain in the state building construction account created by RCW 43.83.020; and

(2) One million five hundred thousand dollars to the fruit commission facility account.

These proceeds shall be used exclusively for the purposes specified in this section, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management subject to legislative appropriation. [1993 sp.s. c 12 § 2.]

43.99J.030 Retirement of bonds—Pledge and promise—Remedies. (1) The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.020.

(2) The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet the bond retirement and interest requirements. On the date on which any interest or principal and interest payment is due, the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

(3) Bonds issued under RCW 43.99J.010 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

(4) The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate proceeding require the transfer and payment of funds as directed in this section. [1993 sp.s. c 12 § 3.]

43.99J.040 Additional means for payment of principal and interest. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 43.99J.010, and RCW 43.99J.030 shall not be deemed to provide an exclusive method for the payment. [1993 sp.s. c 12 § 7.]

43.99J.050 Legal investment. The bonds authorized in RCW 43.99J.010 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1993 sp.s. c 12 § 8.]

43.99J.060 Washington state fruit commission—Reimbursement of general fund. On each date on which any interest or principal and interest payment is due for the purposes of RCW 43.99J.020(2), the Washington state fruit commission shall cause the amount computed by the state finance committee in RCW 43.99J.030 for the purposes of RCW 43.99J.020(2) to be paid out of the commission's general operating fund to the state treasurer for deposit into the general fund of the state treasury. [1993 sp.s. c 12 § 4.]

43.99J.070 Washington state fruit commission—Bond conditions and limitations. The bonds authorized in RCW 43.99J.020(2) may be issued only after the director of financial management has: (1) Certified that, based on the future income from assessments levied under this chapter and other revenues collected by the commission, an adequate balance will be maintained in the commission's general operating fund to pay the interest or principal and interest payments due under RCW 43.99J.060 for the life of the bonds; and (2) approved the plans for facility. [1993 sp.s. c 12 § 5.]

43.99J.080 Fruit commission facility account. The fruit commission facility account is created in the state treasury. Moneys in the account may be spent only after appropriation. [1993 sp.s. c 12 § 6.]

43.99J.900 Severability—1993 sp.s. c 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 sp.s. c 12 § 10.]

Chapter 43.101

**CRIMINAL JUSTICE TRAINING COMMISSION—
EDUCATION AND TRAINING STANDARDS
BOARDS**

Sections

- 43.101.010 Definitions.
- 43.101.020 Commission created—Purpose.
- 43.101.030 Membership.
- 43.101.040 Terms of members—Vacancies.
- 43.101.050 Cessation of membership upon termination of office or employment.
- 43.101.060 Chairnan and vice chairman—Quorum—Meetings.
- 43.101.070 Compensation—Reimbursement of travel expenses.
- 43.101.080 Commission powers and duties—Rules and regulations.
- 43.101.170 Training and education obtained at approved existing institutions.
- 43.101.180 Priorities.
- 43.101.190 Receipt of grants, funds or gifts authorized—Administration—Utilization of federal funds.
- 43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide.
- 43.101.210 Criminal justice training costs—Assessments on bail forfeitures and certain penalties—Criminal justice training account created.
- 43.101.220 Training for corrections personnel.
- 43.101.230 Training for Indian tribe officers and employees authorized—Conditions.
- 43.101.240 Community-police partnership.
- 43.101.250 Firearms certificate program for private detectives.
- 43.101.260 Firearms certificate program for security guards.
- 43.101.270 Sexual assault—Training for investigating and prosecuting.
- 43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training.
- 43.101.290 Training in crimes of malicious harassment.
- 43.101.300 Juvenile runaways—Policy manual.
- 43.101.900 Severability—1974 ex.s. c 94.

43.101.010 Definitions. When used in this chapter:
(1) The term "commission" means the Washington state criminal justice training commission.

(2) The term "boards" means the education and training standards boards, the establishment of which are authorized by this chapter.

(3) The term "criminal justice personnel" means any person who serves in a county, city, state, or port commission agency engaged in crime prevention, crime reduction, or enforcement of the criminal law.

(4) The term "law enforcement personnel" means any public employee or volunteer having as a primary function the enforcement of criminal laws in general or any employee or volunteer of, or any individual commissioned by, any municipal, county, state, or combination thereof, agency having as its primary function the enforcement of criminal laws in general as distinguished from an agency possessing peace officer powers, the primary function of which is the implementation of specialized subject matter areas. For the purposes of this subsection "primary function" means that function to which the greater allocation of resources is made.

(5) The term "correctional personnel" means any employee or volunteer who by state, county, municipal, or combination thereof, statute has the responsibility for the confinement, care, management, training, treatment, education, supervision, or counseling of those individuals whose civil rights have been limited in some way by legal sanction. [1981 c 132 § 2; 1977 ex.s. c 212 § 1; 1974 ex.s. c 94 § 1.]

43.101.020 Commission created—Purpose. There is hereby created and established a state commission to be known and designated as the Washington state criminal justice training commission.

The purpose of such commission shall be to provide programs and standards for the training of criminal justice personnel. [1974 ex.s. c 94 § 2.]

43.101.030 Membership. The commission shall consist of twelve members, who shall be selected as follows:

(1) The governor shall appoint two incumbent sheriffs and two incumbent chiefs of police.

(2) The governor shall appoint one person employed in a county correctional system and one person employed in the state correctional system.

(3) The governor shall appoint one incumbent county prosecuting attorney or municipal attorney.

(4) The governor shall appoint one elected official of a local government.

(5) The governor shall appoint one private citizen.

(6) The three remaining members shall be:

(a) The attorney general;

(b) The special agent in charge of the Seattle office of the federal bureau of investigation; and

(c) The chief of the state patrol. [1981 c 132 § 3; 1979 ex.s. c 55 § 1; 1974 ex.s. c 94 § 3.]

43.101.040 Terms of members—Vacancies. All members appointed to the commission by the governor shall be appointed for terms of six years, such terms to commence on July first, and expire on June thirtieth: PROVIDED, That of the members first appointed three shall be appointed for two year terms, three shall be appointed for four year terms, and three shall be appointed for six year terms: PROVIDED, FURTHER, That the terms of the two members appoint-

ed as incumbent police chiefs shall not expire in the same year nor shall the terms of the two members appointed as representing correctional systems expire in the same year nor shall the terms of the two members appointed as incumbent sheriffs expire in the same year. Any member chosen to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is to succeed. Any member may be reappointed for additional terms. [1974 ex.s. c 94 § 4.]

43.101.050 Cessation of membership upon termination of office or employment. Any member of the commission appointed pursuant to RCW 43.101.030 as an incumbent official or as an employee in a correctional system, as the case may be, shall immediately upon the termination of his holding of said office or employment, cease to be a member of the commission. [1974 ex.s. c 94 § 5.]

43.101.060 Chairman and vice chairman—Quorum—Meetings. The commission shall elect a chairman and a vice chairman from among its members. Six members of the commission shall constitute a quorum. The governor shall summon the commission to its first meeting.

Meetings may be called by the chairman and shall be called by him upon the written request of five members. [1974 ex.s. c 94 § 6.]

43.101.070 Compensation—Reimbursement of travel expenses. Members of the commission shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for their travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060. Attendance at meetings of the commission shall be deemed performance by a member of the duties of his employment. [1984 c 287 § 85; 1975-'76 2nd ex.s. c 34 § 126; 1974 ex.s. c 94 § 7.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.101.080 Commission powers and duties—Rules and regulations. The commission shall have all of the following powers:

(1) To meet at such times and places as it may deem proper;

(2) To adopt any rules and regulations as it may deem necessary;

(3) To contract for services as it deems necessary in order to carry out its duties and responsibilities;

(4) To cooperate with and secure the cooperation of any department, agency, or instrumentality in state, county, and city government, and other commissions affected by or concerned with the business of the commission;

(5) To do any and all things necessary or convenient to enable it fully and adequately to perform its duties and to exercise the power granted to it;

(6) To select and employ an executive director, and to empower him to perform such duties and responsibilities as it may deem necessary;

(7) To assume legal, fiscal, and program responsibility for all training conducted by the commission;

(8) To establish, by rule and regulation, standards for the training of criminal justice personnel where such standards are not prescribed by statute;

(9) To establish and operate, or to contract with other qualified institutions or organizations for the operation of, training and education programs for criminal justice personnel and to lease, subject to the approval of the department of general administration, a training facility or facilities necessary to the conducting of such programs: PROVIDED, That the commission shall not have the power to invest any moneys received by it from any source for the purchase of a training facility without prior approval of the legislature;

(10) To establish, by rule and regulation, minimum curriculum standards for all training programs conducted for employed criminal justice personnel;

(11) To review and approve or reject standards for instructors of training programs for criminal justice personnel, and to employ personnel on a temporary basis as instructors without any loss of employee benefits to those instructors;

(12) To direct the development of alternative, innovate, and interdisciplinary training techniques;

(13) To review and approve or reject training programs conducted for criminal justice personnel and rules establishing and prescribing minimum training and education standards recommended by the training standards and education boards;

(14) To allocate financial resources among training and education programs conducted by the commission;

(15) To allocate training facility space among training and education programs conducted by the commission;

(16) To issue diplomas certifying satisfactory completion of any training or education program conducted or approved by the commission to any person so completing such a program;

(17) To provide for the employment of such personnel as may be practical to serve as temporary replacements for any person engaged in a basic training program as defined by the commission;

(18) To establish rules and regulations recommended by the training standards and education boards prescribing minimum standards relating to physical, mental and moral fitness which shall govern the recruitment of criminal justice personnel where such standards are not prescribed by statute or constitutional provision.

All rules and regulations adopted by the commission shall be adopted and administered pursuant to the administrative procedure act, chapter 34.05 RCW, and the open public meetings act, chapter 42.30 RCW. [1982 c 124 § 1; 1975-'76 2nd ex.s. c 17 § 3. Prior: 1975 1st ex.s. c 103 § 1; 1975 1st ex.s. c 82 § 1; 1974 ex.s. c 94 § 8.]

43.101.170 Training and education obtained at approved existing institutions. In establishing standards for training and education, the commission may, so far as consistent with the purposes of *RCW 43.101.160, permit required training and education of any criminal justice personnel to be obtained at existing institutions approved for such training by the commission. [1974 ex.s. c 94 § 17.]

*Reviser's note: RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

43.101.180 Priorities. The first priority of the commission shall be to provide for basic law enforcement training, corrections training, and education programs. In addition, the commission shall provide training programs for other criminal justice personnel. [1981 c 136 § 27; 1974 ex.s. c 94 § 18.]

Effective date—1981 c 136: See RCW 72.09.900.

43.101.190 Receipt of grants, funds or gifts authorized—Administration—Utilization of federal funds. The commission, or the executive director acting on its behalf, is authorized to accept, receive, disburse, and administer grants or other funds or gifts from any source, including private individuals or agencies, the federal government, and other public agencies, for the purpose of carrying out the provisions of this chapter.

The services provided by the state through the establishment and maintenance of the programs of the commission are primarily intended for the benefit of the criminal justice agencies of the counties, cities, and towns of this state. To the extent that funds available to the state under the Crime Control Act of 1973 are utilized by the commission, it is the determination of the legislature that, to the maximum extent permitted by federal law, such funds as are so utilized shall be charged against that portion of United States law enforcement assistance administration funds which the state is required to make available to units of local government pursuant to section 303(a)(2) of Part C of the Crime Control Act of 1973. [1974 ex.s. c 94 § 19.]

43.101.200 Law enforcement personnel—Basic law enforcement training required—Commission to provide.

(1) All law enforcement personnel, except volunteers, and reserve officers whether paid or unpaid, initially employed on or after January 1, 1978, shall engage in basic law enforcement training which complies with standards adopted by the commission pursuant to RCW 43.101.080. For personnel initially employed before January 1, 1990, such training shall be successfully completed during the first fifteen months of employment of such personnel unless otherwise extended or waived by the commission and shall be requisite to the continuation of such employment. Personnel initially employed on or after January 1, 1990, shall commence basic training during the first six months of employment unless the basic training requirement is otherwise waived or extended by the commission. Successful completion of basic training is requisite to the continuation of employment of such personnel initially employed on or after January 1, 1990.

(2) The commission shall provide the aforementioned training together with necessary facilities, supplies, materials, and the board and room of noncommuting attendees for seven days per week. Additionally, to the extent funds are provided for this purpose, the commission shall reimburse to participating law enforcement agencies with ten or less full-time commissioned patrol officers the cost of temporary replacement of each officer who is enrolled in basic law enforcement training: PROVIDED, That such reimbursement

shall include only the actual cost of temporary replacement not to exceed the total amount of salary and benefits received by the replaced officer during his or her training period. [1993 sp.s. c 24 § 920; 1993 sp.s. c 21 § 5; 1989 c 299 § 2; 1977 ex.s. c 212 § 2.]

Reviser's note: This section was amended by 1993 sp.s. c 21 § 5 and by 1993 sp.s. c 24 § 920, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective dates—1993 sp.s. c 21: See note following RCW 82.14.310.

43.101.210 Criminal justice training costs—Assessments on bail forfeitures and certain penalties—Criminal justice training account created.

Reviser's note: RCW 43.101.210 was amended by 1985 c 57 § 57 without reference to its repeal by 1984 c 258 § 339. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.101.220 Training for corrections personnel. (1) The corrections personnel of the state and all counties and municipal corporations initially employed on or after January 1, 1982, shall engage in basic corrections training which complies with standards adopted by the commission pursuant to *RCW 43.101.160. The training shall be successfully completed during the first six months of employment of the personnel, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(2) The corrections personnel of the state and all counties and municipal corporations transferred or promoted to a supervisory or management position on or after January 1, 1982, shall engage in supervisory and/or management training which complies with standards adopted by the commission pursuant to *RCW 43.101.160. The training shall be successfully completed prior to or within the first six months of employment, unless otherwise extended or waived by the commission, and shall be requisite to the continuation of employment.

(3) The commission shall provide the training required in this section, together with facilities, supplies, materials, and the room and board for noncommuting attendees.

(4) Nothing in this section shall affect or impair the employment status of any employee whose employer does not provide him with the opportunity to engage in the required training. [1981 c 136 § 26.]

***Reviser's note:** RCW 43.101.160 was repealed by 1983 c 197 § 55, effective June 30, 1987.

Effective date—1981 c 136: See RCW 72.09.900.

43.101.230 Training for Indian tribe officers and employees authorized—Conditions. Indian tribe officers and employees who are engaged in law enforcement activities and who do not qualify as "criminal justice personnel" or "law enforcement personnel" under RCW 43.101.010, as now law or hereafter amended, may be provided training under this chapter if: (a) The tribe is recognized by the federal government, and (b) the tribe pays to the commission the full cost of providing such training. The commission

shall place all money received under this section into the criminal justice training account. [1981 c 134 § 1.]

43.101.240 Community-police partnership. (1) The criminal justice training commission in cooperation with the United States department of justice department of community relations (region X) shall conduct an assessment of successful community-police partnerships throughout the United States. The commission shall develop training for local law enforcement agencies targeted toward those communities where there has been a substantial increase in drug crimes. The purpose of the training is to facilitate cooperative community-police efforts and enhanced community protection to reduce drug abuse and related crimes. The training shall include but not be limited to conflict management, ethnic sensitivity, cultural awareness, and effective community policing.

(2) Local law enforcement agencies are encouraged to form community-police partnerships in all neighborhoods and particularly areas with high rates of criminal activity. These partnerships are encouraged to organize citizen-police task forces which meet on a regular basis to promote greater citizen involvement in combatting drug abuse and to reduce tension between police and citizens. Partnerships that are formed are encouraged to report to the criminal justice training commission of their formation and progress. [1994 1st sp.s. c 7 § 311; 1989 c 271 § 423.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

Captions not law—1989 c 271: See note following RCW 69.50.520.

Severability—1989 c 271: See note following RCW 9.94A.310.

43.101.250 Firearms certificate program for private detectives. The commission shall establish a program for issuing firearms certificates to private detectives for the purposes of obtaining armed private detective licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

(a) Be at least twenty-one years of age;

(b) Possess a current private detective license; and

(c) Present a written request from the owner or qualifying agent of a licensed private detective agency that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and adminis-

tration of this section consistent with chapter 34.05 RCW. [1991 c 328 § 28.]

Severability—1991 c 328: See RCW 18.165.900.

43.101.260 Firearms certificate program for security guards. The commission shall establish a program for issuing firearms certificates to security guards for the purposes of obtaining armed security guard licenses. The commission shall adopt rules establishing the fees, training requirements, and procedures for obtaining and annually renewing firearms certificates. The fees charged by the commission shall recover the costs incurred by the commission in administering the firearms certificate program.

(1) Firearms training must be provided by an organization or trainer approved by the commission and must consist of at least eight hours of classes and proficiency training.

(2) Applications for firearms certificates shall be filed with the commission on a form provided by the commission. The commission may require any information and documentation that reasonably relates to the need to determine whether the applicant qualifies for a firearms certificate. Applicants must:

(a) Be at least twenty-one years of age;
 (b) Possess a current private security guard license; and
 (c) Present a written request from the owner or qualifying agent of a licensed private security company that the applicant be issued a firearms certificate.

(3) The commission shall consult with the private security industry and law enforcement before adopting or amending the training requirements of this section.

(4) The commission may adopt rules that are reasonable and necessary for the effective implementation and administration of this section consistent with chapter 34.05 RCW. [1991 c 334 § 29.]

Severability—1991 c 334: See RCW 18.170.900.

43.101.270 Sexual assault—Training for investigating and prosecuting. (1) Each year the criminal justice training commission shall offer an intensive, integrated training session on investigating and prosecuting sexual assault cases. The training shall place particular emphasis on the development of professionalism and sensitivity towards the victim and the victim's family.

(2) The commission shall seek advice from the Washington association of prosecuting attorneys, the Washington defender association, the Washington association of sheriffs and police chiefs, and the Washington coalition of sexual assault programs.

(3) The training shall be an integrated approach to sexual assault cases so that prosecutors, law enforcement, defenders, and victim advocates can all benefit from the training.

(4) The training shall be self-supporting through fees charged to the participants of the training. [1991 c 267 § 2.]

Findings—1991 c 267: "The safety of all children is enhanced when sexual assault cases are properly investigated and prosecuted. The victim of the sexual assault and the victim's family have a right to be treated with sensitivity and professionalism, which also increases the likelihood of their continued cooperation with the investigation and prosecution of the case. The legislature finds the sexual assault cases, particularly those involving victims who are children, are difficult to prosecute successfully. The cooperation of a victim and the victim's family through the investigation and prosecution of the sexual assault case is enhanced and the trauma

(1994 Ed.)

associated with the investigation and prosecution is reduced when trained victim advocates assist the victim and the victim's family through the investigation and prosecution of the case. Trained victim advocates also assist law enforcement, prosecutors, and defense attorneys, by relieving some of the burden of explaining the investigation and prosecution process and possible delays to the victim and accompanying the victim during interviews by the police, prosecutor, and defense attorney, and accompanying the victim during hearings and the trial.

The legislature finds that counties should give priority to the successful prosecution of sexual assault cases, especially those that involve children, by ensuring that prosecutors, investigators, defense attorneys, and victim advocates are properly trained and available. Therefore, the legislature intends to establish a mechanism to provide the necessary training of prosecutors, law enforcement investigators, defense attorneys, and victim advocates and ensure the availability of victim advocates for victims of sexual assault and their families." [1991 c 267 § 1.]

Effective date—1991 c 267: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991." [1991 c 267 § 7.]

43.101.280 Ethnic and cultural diversity—Development of curriculum for understanding—Training. The criminal justice training commission shall develop, in consultation with the administrator for the courts and the commissions established under chapters 43.113, 43.115, and 43.117 RCW, a curriculum for a general understanding of ethnic and cultural diversity and its implications for working with youth of color and their families. The curriculum shall be developed by October 1, 1993. The commission shall ensure that ethnic and diversity training becomes an integral part of the training of law enforcement personnel so as to incorporate cultural sensitivity and awareness into the daily activities of law enforcement personnel. [1993 c 415 § 4.]

Intent—1993 c 415: See note following RCW 2.56.031.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030.

43.101.290 Training in crimes of malicious harassment. The criminal justice training commission shall provide training for law enforcement officers in identifying, responding to, and reporting all violations of RCW 9A.36.080 and any other crimes of bigotry or bias. [1993 c 127 § 5.]

Severability—1993 c 127: See note following RCW 9A.36.078.

43.101.300 Juvenile runaways—Policy manual. The criminal justice training commission shall ensure that every law enforcement agency in the state has an accurate and up-to-date policy manual describing the statutes relating to juvenile runaways. [1994 1st sp.s. c 7 § 509.]

Finding—Intent—Severability—1994 1st sp.s. c 7: See notes following RCW 43.70.540.

43.101.900 Severability—1974 ex.s. c 94. If any provision of this chapter, or its application to any person or circumstance is held invalid, the remainder of the chapter, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 94 § 20.]

Chapter 43.103

WASHINGTON STATE DEATH INVESTIGATIONS
COUNCIL

Sections

- 43.103.010 Purposes.
- 43.103.020 Definitions.
- 43.103.030 Council created—Powers and duties.
- 43.103.040 Membership of council—Appointment.
- 43.103.050 Terms of members—Vacancies.
- 43.103.060 Qualification for continued membership.
- 43.103.070 Chairman—Quorum—Meetings.
- 43.103.080 Travel expenses.
- 43.103.090 Powers.
- 43.103.100 Sudden infant death syndrome—Training.
- 43.103.900 Severability—1983 1st ex.s. c 16.
- 43.103.901 Effective date—1983 1st ex.s. c 16.

Jury source list—Master jury list—Creation—Adoption of rules for implementation of methodology and standards by agencies: RCW 2.36.054 and 2.36.0571.

43.103.010 Purposes. The purposes of *this act are declared by the legislature to be as follows:

- (1) To fund the death investigation system and to make related state and local institutions more efficient;
- (2) To preserve and enhance the state toxicology laboratory which is an essential part of the criminal justice and death investigation systems in the state of Washington;
- (3) To provide resources necessary for the performance, by qualified pathologists, of autopsies which are also essential to the criminal justice and death investigation systems of this state and its counties;
- (4) To improve the performance of death investigations and the criminal justice system through the formal training of county coroners and county medical examiners;
- (5) To establish and maintain a dental identification system; and
- (6) To provide flexibility so that any county may establish a county morgue when it serves the public interest. [1983 1st ex.s. c 16 § 1.]

***Reviser's note:** "This act" consists of the enactment of RCW 43.103.010, 43.103.020, 43.103.030, 43.103.040, 43.103.050, 43.103.060, 43.103.070, 43.103.080, 43.103.090, 43.103.900, 43.103.901, 43.79.445, 68.08.350, 68.08.355, and 68.08.360, an appropriation section, and a temporary section (uncodified); and the 1983 1st ex.s. c 16 amendments to RCW 68.08.107, 43.20A.630, 43.101.090, 43.101.100, 68.08.104, and 68.12.010.

43.103.020 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

- (1) "Council" means the Washington state death investigations council.
- (2) "Toxicology laboratory" means the Washington state toxicology laboratory. [1983 1st ex.s. c 16 § 2.]

43.103.030 Council created—Powers and duties. There is created the Washington state death investigations council. The council shall oversee the state toxicology laboratory and, together with the president of the University of Washington, control the laboratory's operation. The council may also study and recommend cost-efficient improvements to the death investigation system in Washington and report its findings to the legislature.

Further, the council shall, jointly with the chairperson of the pathology department of the University of Washington's School of Medicine, or the chairperson's designee, oversee the state forensic pathology fellowship program, determine the budget for the program and set the fellow's annual salary, and take those steps necessary to administer the program. [1991 c 176 § 2; 1983 1st ex.s. c 16 § 3.]

Forensic pathology fellowship program: RCW 28B.20.426.

43.103.040 Membership of council—Appointment. The council shall consist of nine members who shall be selected as follows: One county coroner; one county prosecutor; one county prosecutor who also serves as ex officio county coroner; one county medical examiner; one county sheriff; one chief of police; one representative of the state patrol; one member of a county legislative authority; and one pathologist who is currently in private practice.

All members shall be appointed to the council by the governor. [1983 1st ex.s. c 16 § 4.]

43.103.050 Terms of members—Vacancies. All members of the council are appointed for terms of four years, commencing on July 1 and expiring on June 30. However, of the members appointed to the initial council, five shall be appointed for two-year terms and four shall be appointed for four-year terms. A person chosen to fill a vacancy created other than by the natural expiration of a member's term shall be nominated and appointed as provided in RCW 43.103.040 for the unexpired term of the member he or she is to succeed. Any member may be reappointed for additional terms. [1983 1st ex.s. c 16 § 5.]

43.103.060 Qualification for continued membership. Any member of the council shall immediately cease to be a member if he or she ceases to hold the particular office or employment which was the basis of his or her appointment under RCW 43.103.040. [1983 1st ex.s. c 16 § 6.]

43.103.070 Chairman—Quorum—Meetings. The council shall elect a chairman and a vice chairman from among its members. Five members of the council shall constitute a quorum. The governor shall summon the council to its first meeting. Otherwise, meetings may be called by the chairman and shall be called by him upon the written request of five members of the council. Conference calls by telephone are a proper form of meeting. [1983 1st ex.s. c 16 § 7.]

43.103.080 Travel expenses. (1) Members of the council shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(2) Attendance at meetings of the council shall constitute performance by a council member of the duties of his or her employment or office. [1983 1st ex.s. c 16 § 8.]

43.103.090 Powers. The council has the following powers:

- (1) To meet at such times and places as may be designated by a majority vote of the council members or, if a majority cannot agree, by the chairman;

(2) To adopt rules governing the council and the conduct of its meetings;

(3) To require reports from the state toxicologist on matters pertaining to the toxicology laboratory;

(4) To review and, if necessary, require changes in the budget request of the toxicology laboratory; and

(5) To do anything, necessary or convenient, which enables the council to perform its duties and to exercise its powers. [1983 1st ex.s. c 16 § 9.]

43.103.100 Sudden infant death syndrome—Training. The council shall research and develop an appropriate training component on the subject of sudden, unexplained child death, including but not limited to sudden infant death syndrome. The training component shall include, at a minimum:

(1) Medical information on sudden, unexplained child death for first responders, including awareness and sensitivity in dealing with families and child care providers, and the importance of forensically competent death scene investigation;

(2) Information on community resources and support groups available to assist families who have lost a child to sudden, unexplained death, including sudden infant death syndrome;

(3) Development and adoption of an up-to-date protocol of investigation in cases of sudden, unexplained child death, including the importance of a consistent policy of thorough death scene investigation, and an autopsy in unresolved cases as appropriate;

(4) The value of timely communication between the county coroner or medical examiner and the public health department, when a sudden, unexplained child death occurs, in order to achieve a better understanding of such deaths, and connecting families to various community and public health support systems to enhance recovery from grief.

The council shall work with volunteer groups with expertise in the area of sudden, unexplained child death, including but not limited to the SIDS Northwest Regional Center at Children's Hospital, the Washington chapter of the national SIDS foundation, and the Washington association of county officials.

Upon development of an appropriate curriculum, agreed upon by the council, the training module shall be offered to first responders, coroners, medical examiners, prosecuting attorneys serving as coroners, and investigators, both voluntarily through their various associations and as a course offering at the criminal justice training center. [1991 c 176 § 6.]

Finding—Declaration—1991 c 176: "The legislature finds and declares that sudden and unexplained child deaths are a leading cause of death for children under age three. The public interest is served by research and study of the potential causes and indications of such unexplained child deaths and the prevention of inaccurate and inappropriate designation of sudden infant death syndrome (SIDS) as a cause of death. The legislature further finds and declares that law enforcement officers, fire fighters, emergency medical technicians, and other first responders in emergency situations are not adequately informed regarding sudden, unexplained death in young children including but not limited to sudden infant death syndrome, its signs and typical history, and as a result may compound the family and child care provider's grief through conveyed suspicions of a criminal act. Coroners, investigators, and prosecuting attorneys are also in need of updated training on the identification of unexplained death in children under the age of three, including but not limited to sudden infant

death syndrome awareness and sensitivity and the establishment of a state-wide uniform protocol in cases of sudden, unexplained child death." [1991 c 176 § 5.]

43.103.900 Severability—1983 1st ex.s. c 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 16 § 23.]

43.103.901 Effective date—1983 1st ex.s. c 16. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1983. [1983 1st ex.s. c 16 § 24.]

Chapter 43.105

DEPARTMENT OF INFORMATION SERVICES

(Formerly: Data processing and communications systems)

Sections

43.105.005	Purpose.
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43.105.020	Definitions.
43.105.032	Information services board—Members—Chairperson—Vacancies—Quorum—Compensation and travel expenses.
43.105.041	Powers and duties of board.
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43.105.080	Data processing revolving fund—Created—Use.
43.105.160	Strategic information technology plan—Biennial state performance report on information technology.
43.105.170	Agency strategic information technology plans and performance reports.
43.105.180	Budget request to be evaluated for information technology projects.
43.105.190	Major information technology projects standards and policies.
43.105.200	Application to institutions of higher education.
43.105.210	Data processing expenditures—Authorization—Penalties.
43.105.900	Severability—1973 1st ex.s. c 219.
43.105.901	Severability—1987 c 504.
43.105.902	Effective date—1987 c 504.

Reviser's note—Sunset Act application: The information services board and the department of information services are subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.353. Chapter 43.105 RCW and RCW 41.06.094 and 43.88.560 are scheduled for future repeal under RCW 43.131.354.

43.105.005 Purpose. It is a purpose of this chapter to provide for coordinated planning and management of state information services. The legislature recognizes that information systems, telecommunications, equipment, software, and services must satisfy the needs of end users and that many appropriate and cost-effective alternatives exist for meeting these needs, such as shared mainframe computing, shared voice, data, and video telecommunications services, local area networks, departmental minicomputers, and microcomputers. [1990 c 208 § 1; 1987 c 504 § 1.]

Sunset Act application: See note following chapter digest.

43.105.017 Legislative intent. It is the intent of the legislature that:

(1) State government use voice, data, and video telecommunications technologies to:

(a) Transmit and increase access to live, interactive classroom instruction and training;

(b) Provide for interactive public affairs presentations, including a public forum for state and local issues;

(c) Facilitate communications and exchange of information among state and local elected officials and the general public;

(d) Enhance state-wide communications within state agencies; and

(e) Through the use of telecommunications, reduce time lost due to travel to in-state meetings;

(2) Information be shared and administered in a coordinated manner, except when prevented by agency responsibilities for security, privacy, or confidentiality;

(3) The primary responsibility for the management and use of information, information systems, telecommunications, equipment, software, and services rests with each agency head;

(4) Resources be used in the most efficient manner and services be shared when cost-effective;

(5) A structure be created to:

(a) Plan and manage telecommunications and computing networks;

(b) Increase agencies' awareness of information sharing opportunities; and

(c) Assist agencies in implementing such possibilities;

(6) An acquisition process for equipment, proprietary software, and related services be established that meets the needs of the users, considers the exchange of information, and promotes fair and open competition;

(7) To the greatest extent possible, major information technology projects be implemented on an incremental basis;

(8) The state maximize opportunities to exchange and share data and information by moving toward implementation of open system architecture based upon interface standards providing for application and data portability and interoperability;

(9) To the greatest extent possible, the state recognize any price performance advantages which may be available in midrange and personal computing architecture;

(10) The state improve recruitment, retention, and training of professional staff;

(11) Plans, proposals, and acquisitions for information services be reviewed from a financial and management perspective as part of the budget process; and

(12) State government adopt policies and procedures that maximize the use of existing video telecommunications resources, coordinate and develop video telecommunications in a manner that is cost-effective and encourages shared use, and ensure the appropriate use of video telecommunications to fulfill identified needs. [1992 c 20 § 6; 1990 c 208 § 2; 1987 c 504 § 2.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.020 Definitions. As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(4) "Director" means the director of the department;

(5) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(6) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(7) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(8) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(9) "Information services" means data processing, telecommunications, and office automation;

(10) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, and cables;

(11) "Proprietary software" means that software offered for sale or license;

(12) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW. [1993 c 280 § 78; 1990 c 208 § 3; 1987 c 504 § 3; 1973 1st ex.s. c 219 § 3; 1967 ex.s. c 115 § 2.]

Sunset Act application: See note following chapter digest.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Effective date—1967 ex.s. c 115: "This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1967." [1967 ex.s. c 115 § 8.]

43.105.032 Information services board—Members—Chairperson—Vacancies—Quorum—Compensation and travel expenses. There is hereby created the Washington state information services board. The board shall be

composed of nine members. Seven members shall be appointed by the governor, one of which shall be a representative of higher education, one of which shall be a representative of an agency under a state-wide elected official other than the governor, and one of which shall be a representative of the private sector. One member shall represent the judicial branch and be appointed by the chief justice of the supreme court. One member shall represent the legislative branch and shall be selected by the president of the senate and the speaker of the house of representatives. These members shall constitute the membership of the board with full voting rights. Members of the board shall serve at the pleasure of the appointing authority. The director shall be an ex officio, nonvoting member of the board. The board shall select a chairperson from among its members.

Vacancies shall be filled in the same manner that the original appointments were made.

A majority of the members of the board shall constitute a quorum for the transaction of business.

Members of the board shall be compensated for service on the board in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. [1992 c 20 § 8; 1987 c 504 § 4; 1984 c 287 § 86; 1975-'76 2nd ex.s. c 34 § 128; 1973 1st ex.s. c 219 § 5.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.105.041 Powers and duties of board. The board shall have the following powers and duties related to information services:

(1) To develop standards governing the acquisition and disposition of equipment, proprietary software and purchased services, and confidentiality of computerized data;

(2) To purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services, or to delegate to other agencies and institutions of state government, under appropriate standards, the authority to purchase, lease, rent, or otherwise acquire, dispose of, and maintain equipment, proprietary software, and purchased services: PROVIDED, That, agencies and institutions of state government are expressly prohibited from acquiring or disposing of equipment, proprietary software, and purchased services without such delegation of authority. The acquisition and disposition of equipment, proprietary software, and purchased services is exempt from RCW 43.19.1919 and, as provided in RCW 43.19.1901, from the provisions of RCW 43.19.190 through 43.19.200. This subsection does not apply to the legislative branch;

(3) To develop state-wide or interagency technical policies, standards, and procedures;

(4) To assure the cost-effective development and incremental implementation of a state-wide video telecommunications system to serve: Public schools; educational service districts; vocational-technical institutes; community colleges; colleges and universities; state and local govern-

ment; and the general public through public affairs programming;

(5) To provide direction concerning strategic planning goals and objectives for the state. The board shall seek input from the legislature and the judiciary;

(6) To develop and implement a process for the resolution of appeals by:

(a) Vendors concerning the conduct of an acquisition process by an agency or the department; or

(b) A customer agency concerning the provision of services by the department or by other state agency providers;

(7) To establish policies for the periodic review by the department of agency performance which may include but are not limited to analysis of:

(a) Planning, management, control, and use of information services;

(b) Training and education; and

(c) Project management;

(8) To set its meeting schedules and convene at scheduled times, or meet at the request of a majority of its members, the chair, or the director; and

(9) To review and approve that portion of the department's budget requests that provides for support to the board. [1990 c 208 § 6; 1987 c 504 § 5; 1983 c 3 § 115; 1973 1st ex.s. c 219 § 6.]

Sunset Act application: See note following chapter digest.

43.105.047 Department of information services created—Director—Appointment—Salary—Duties. There is created the department of information services. The department shall be headed by a director appointed by the governor with the consent of the senate. The director shall serve at the governor's pleasure and shall receive such salary as determined by the governor. The director shall:

(1) Appoint a confidential secretary and such deputy and assistant directors as needed to administer the department. However, the total number of deputy and assistant directors shall not exceed four;

(2) Maintain and fund a planning component separate from the services component of the department;

(3) Appoint, after consulting with the board, the assistant director for the planning component;

(4) Appoint such professional, technical, and clerical assistants and employees as may be necessary to perform the duties imposed by this chapter;

(5) Report to the governor and the board any matters relating to abuses and evasions of this chapter; and

(6) Recommend statutory changes to the governor and the board. [1992 c 20 § 9; 1987 c 504 § 6.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

Civil service exemptions: RCW 41.06.094.

43.105.052 Powers and duties of department. The department shall:

(1) Perform all duties and responsibilities the board delegates to the department, including but not limited to:

(a) The review of agency acquisition plans and requests; and

(b) Implementation of state-wide and interagency policies, standards, and guidelines;

(2) Make available information services to state agencies and local governments on a full cost-recovery basis. These services may include, but are not limited to:

(a) Telecommunications services for voice, data, and video;

(b) Mainframe computing services;

(c) Support for departmental and microcomputer evaluation, installation, and use;

(d) Equipment acquisition assistance, including leasing, brokering, and establishing master contracts;

(e) Facilities management services for information technology equipment, equipment repair, and maintenance service;

(f) Negotiation with local cable companies and local governments to provide for connection to local cable services to allow for access to these public and educational channels in the state;

(g) Office automation services;

(h) System development services; and

(i) Training.

These services are for discretionary use by customers and customers may elect other alternatives for service if those alternatives are more cost-effective or provide better service. Agencies may be required to use the backbone network portions of the telecommunications services during an initial start-up period not to exceed three years;

(3) Establish rates and fees for services provided by the department to assure that the services component of the department is self-supporting. A billing rate plan shall be developed for a two-year period to coincide with the budgeting process. The rate plan shall be subject to review at least annually by the customer oversight committees. The rate plan shall show the proposed rates by each cost center and will show the components of the rate structure as mutually determined by the department and the customer oversight committees. The same rate structure will apply to all user agencies of each cost center. The rate plan and any adjustments to rates shall be approved by the office of financial management. The services component shall not subsidize the operations of the planning component;

(4) With the advice of the information services board and agencies, develop a state strategic information technology plan and performance reports as required under RCW 43.105.160;

(5) Develop plans for the department's achievement of state-wide goals and objectives set forth in the state strategic information technology plan required under RCW 43.105.160. These plans shall address such services as telecommunications, central and distributed computing, local area networks, office automation, and end user computing. The department shall seek the advice of customer oversight committees and the board in the development of these plans;

(6) Under direction of the information services board and in collaboration with the department of personnel, and other agencies as may be appropriate, develop training plans and coordinate training programs that are responsive to the needs of agencies;

(7) Identify opportunities for the effective use of information services and coordinate appropriate responses to those opportunities;

(8) Assess agencies' projects, acquisitions, plans, or overall information processing performance as requested by the board, agencies, the director of financial management, or the legislature. Agencies may be required to reimburse the department for agency-requested reviews;

(9) Develop planning, budgeting, and expenditure reporting requirements, in conjunction with the office of financial management, for agencies to follow;

(10) Assist the office of financial management with budgetary and policy review of agency plans for information services;

(11) Provide staff support from the planning component to the board for:

(a) Meeting preparation, notices, and minutes;

(b) Promulgation of policies, standards, and guidelines adopted by the board;

(c) Supervision of studies and reports requested by the board;

(d) Conducting reviews and assessments as directed by the board;

(12) Be the lead agency in coordinating video telecommunications services for all state agencies and develop, pursuant to board policies, standards and common specifications for leased and purchased telecommunications equipment. The department shall not evaluate the merits of school curriculum, higher education course offerings, or other education and training programs proposed for transmission and/or reception using video telecommunications resources. Nothing in this section shall abrogate or abridge the legal responsibilities of licensees of telecommunications facilities as licensed by the federal communication commission on March 27, 1990; and

(13) Perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1993 c 281 § 53; 1992 c 20 § 10; 1990 c 208 § 7; 1987 c 504 § 8.]

Sunset Act application: See note following chapter digest.

Effective date—1993 c 281: See note following RCW 41.06.022.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.055 Advisory committees. (1) The director shall appoint advisory committees to assist the department. Advisory committees shall include, but are not limited to, customer oversight committees.

(2) Customer oversight committees shall provide the department with advice concerning the type, quality, and cost of the department's services. The number of customer oversight committees and their membership shall be determined by the director to assure that all services are subject to oversight by a representative selection of customers. At least annually, these committees shall meet to recommend, review, and comment on the service goals and objectives of the department and the budgets for operations of those services and the rates to be charged for those services. The committees may call upon the board to resolve disputes between agencies and the department which may arise with regard to service offerings, budgets, or rates.

(3) Any advisory committee created by the director may be convened by a majority of its members, by its chair, or by the director. [1987 c 504 § 9.]

Sunset Act application: See note following chapter digest.

43.105.057 Rule-making authority. The department of information services and the information services board, respectively, shall adopt rules as necessary under chapter 34.05 RCW to implement the provisions of this chapter. [1992 c 20 § 11; 1990 c 208 § 13.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.060 Contracts by state and local agencies with department. State and local government agencies are authorized to enter into any contracts with the department or its successor which may be necessary or desirable to effectuate the purposes and policies of this chapter or for maximum utilization of facilities and services which are the subject of this chapter. [1987 c 504 § 10; 1973 1st ex.s. c 219 § 9; 1967 ex.s. c 115 § 6.]

Sunset Act application: See note following chapter digest.

Effective date—1967 ex.s. c 115: See note following RCW 43.105.020.

43.105.070 Confidential or privileged information. This chapter shall in no way affect or impair any confidence or privilege imposed by law. Confidential or privileged information shall not be subject to submittal to the common data bank: PROVIDED, That where statistical information can be derived from such classified material without violating any such confidence, the submittal of such statistical material may be required. [1969 ex.s. c 212 § 4.]

Sunset Act application: See note following chapter digest.

43.105.080 Data processing revolving fund—Created—Use. There is created a revolving fund to be known as the data processing revolving fund in the custody of the state treasurer. The revolving fund shall be used for the acquisition of equipment, software, supplies, and services and the payment of salaries, wages, and other costs incidental to the acquisition, development, operation, and administration of information services, telecommunications, systems, software, supplies and equipment, including the payment of principal and interest on bonds issued for capital projects, by the department, Washington State University's computer services center, the department of personnel's personnel information systems division, the office of financial management's financial systems management group, and other users as jointly determined by the department and the office of financial management. The revolving fund is subject to the allotment procedure provided under chapter 43.88 RCW. Disbursements from the revolving fund for the services component of the department are not subject to appropriation. Disbursements for the planning component of the department are subject to appropriation. All disbursements from the fund are subject to the allotment procedures provided under chapter 43.88 RCW. The department shall establish and implement a billing structure to assure all agencies pay an equitable share of the costs.

As used in this section, the word "supplies" shall not be interpreted to delegate or abrogate the division of purchasing's responsibilities and authority to purchase

supplies as described in RCW 43.19.190 and 43.19.200. [1992 c 235 § 6; 1987 c 504 § 11; 1983 c 3 § 116; 1974 ex.s. c 129 § 1.]

Sunset Act application: See note following chapter digest.

43.105.160 Strategic information technology plan—Biennial state performance report on information technology. (1) The department shall prepare a state strategic information technology plan which shall establish a state-wide mission, goals, and objectives for the use of information technology. The plan shall be developed in accordance with the standards and policies established by the board and shall be submitted to the board for review, modification as necessary, and approval. The department shall seek the advice of the board in the development of this plan.

The plan approved under this section shall be updated as necessary and submitted to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives.

(2) The department shall prepare a biennial state performance report on information technology based on agency performance reports required under RCW 43.105.170 and other information deemed appropriate by the department. The report shall include, but not be limited to:

(a) An evaluation of performance relating to information technology;

(b) An assessment of progress made toward implementing the state strategic information technology plan;

(c) An analysis of the success or failure, feasibility, progress, costs, and timeliness of implementation of major information technology projects under RCW 43.105.190;

(d) Identification of benefits, cost avoidance, and cost savings generated by major information technology projects developed under RCW 43.105.190; and

(e) An inventory of state information services, equipment, and proprietary software.

Copies of the report shall be distributed biennially to the governor and the chairs and ranking minority members of the appropriations committees of the senate and the house of representatives. [1992 c 20 § 1.]

Sunset Act application: See note following chapter digest.

Severability—1992 c 20: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1992 c 20 § 14.]

Captions not law—1992 c 20: "Captions used in this act do not constitute any part of the law." [1992 c 20 § 16.]

43.105.170 Agency strategic information technology plans and performance reports. (1) Each agency shall develop an agency strategic information technology plan which establishes agency goals and objectives regarding the development and use of information technology. Plans shall include, but not be limited to, the following:

(a) A statement of the agency's mission, goals, and objectives for information technology;

(b) An explanation of how the agency's mission, goals, and objectives for information technology support and conform to the state strategic information technology plan developed under RCW 43.105.160;

(c) Projects and resources required to meet the objectives of the plan; and

(d) Where feasible, estimated schedules and funding required to implement identified projects.

(2) Plans developed under subsection (1) of this section shall be submitted to the department for review and forwarded along with the department's recommendations to the board for review and approval. The board may reject, require modification to, or approve plans as deemed appropriate by the board. Plans submitted under this subsection shall be updated and submitted for review and approval as necessary.

(3) Each agency shall prepare and submit to the department a biennial performance report. The report shall include:

(a) An evaluation of the agency's performance relating to information technology;

(b) An assessment of progress made toward implementing the agency strategic information technology plan; and

(c) An inventory of agency information services, equipment, and proprietary software.

(4) The department, with the approval of the board, shall establish standards, elements, form, and format for plans and reports developed under this section.

(5) The board may exempt any agency from any or all of the requirements of this section. [1992 c 20 § 2.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.180 Budget request to be evaluated for information technology projects. Upon request of the office of financial management, the department shall evaluate agency budget requests for major information technology projects identified under RCW 43.105.190. The department shall submit recommendations for funding all or part of such requests to the office of financial management.

The department, with the advice and approval of the office of financial management, shall establish criteria for the evaluation of agency budget requests under this section. Criteria shall include, but not be limited to: Feasibility of the proposed projects, consistency with state and agency strategic information technology plans, consistency with agency goals and objectives, costs, and benefits. [1992 c 20 § 3.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.190 Major information technology projects standards and policies. (1) The department, with the approval of the board, shall establish standards and policies governing the planning, implementation, and evaluation of major information technology projects. The standards and policies shall:

(a) Establish criteria to identify projects which are subject to this section. Such criteria shall include, but not be limited to, significant anticipated cost, complexity, or state-wide significance of the project; and

(b) Establish a model process and procedures which agencies shall follow in developing and implementing project plans. Agencies may propose, for approval by the department, a process and procedures unique to the agency.

The department may accept or require modification of such agency proposals or the department may reject such agency proposals and require use of the model process and procedures established under this subsection. Any process and procedures developed under this subsection shall require (i) distinct and identifiable phases upon which funding may be based, (ii) user validation of products through system demonstrations and testing of prototypes and deliverables, and (iii) other elements identified by the board.

Project plans and any agreements established under such plans shall be approved and mutually agreed upon by the director, the director of financial management, and the head of the agency proposing the project.

The director may terminate a major project if the director determines that the project is not meeting or is not expected to meet anticipated performance standards.

(2) The office of financial management shall establish policies and standards governing the funding of projects developed under this section. The policies and standards shall provide for:

(a) Funding of a project under terms and conditions mutually agreed to by the director, the director of financial management, and the head of the agency proposing the project. However, the office of financial management may require incremental funding of a project on a phase-by-phase basis whereby funds for a given phase of a project may be released only when the office of financial management determines, with the advice of the department, that the previous phase is satisfactorily completed;

(b) Acceptance testing of products to assure that products perform satisfactorily before they are accepted and final payment is made; and

(c) Other elements deemed necessary by the office of financial management.

(3) The department shall evaluate projects at three stages of development as follows: (a) Initial needs assessment; (b) feasibility study including definition of scope, development of tasks and timelines, and estimated costs and benefits; and (c) final project implementation plan based upon available funding.

Copies of project evaluations conducted under this subsection shall be submitted to the office of financial management and the chairs, ranking minority members, and staff coordinators of the appropriations committees of the senate and house of representatives. [1992 c 20 § 4.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.200 Application to institutions of higher education. In the case of institutions of higher education, the provisions of chapter 20, Laws of 1992, apply to business and administrative applications but do not apply to academic and research applications. [1992 c 20 § 5.]

Sunset Act application: See note following chapter digest.

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

43.105.210 Data processing expenditures—Authorization—Penalties. No state agency may expend any moneys for major information technology projects

subject to review by the department of information services under RCW 43.105.190 unless specifically authorized by the legislature. An intentional or negligent violation of this section constitutes a violation of RCW 43.88.290 and shall subject the head of the agency to forfeiture of office and other civil penalties as provided under RCW 43.88.300.

If the director of information services intentionally or negligently approved an expenditure in violation of this section, then all sanctions described in this section and RCW 43.88.300 shall also apply to the director of information services. [1993 sp.s. c 1 § 903.]

Severability—1993 sp.s. c 1: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1993 sp.s. c 1 § 904.]

Effective date—1993 sp.s. c 1: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 18, 1993]." [1993 sp.s. c 1 § 905.]

43.105.900 Severability—1973 1st ex.s. c 219. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 1st ex.s. c 219 § 10.]

Sunset Act application: See note following chapter digest.

43.105.901 Severability—1987 c 504. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 504 § 25.]

Sunset Act application: See note following chapter digest.

43.105.902 Effective date—1987 c 504. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987. [1987 c 504 § 26.]

Sunset Act application: See note following chapter digest.

Chapter 43.110

MUNICIPAL RESEARCH COUNCIL

Sections

- 43.110.010 Council created—Membership—Terms—Travel expenses.
- 43.110.020 Transmission of funds to council from general fund for allocation—Contracts—Purposes.
- 43.110.030 Municipal research and services—Provision to cities and towns.

43.110.010 Council created—Membership—Terms—Travel expenses. There shall be a state agency which shall be known as the municipal research council. The council shall be composed of eighteen members. Four members shall be appointed by the president of the senate, with equal representation from each of the two major political parties; four members shall be appointed by the speaker of the house of representatives, with equal representation from each of the two major political parties; one member shall be appointed by the governor; and the other nine

members, who shall be city officials, shall be appointed by the board of directors of the association of Washington cities. Of the members appointed by the association, at least one shall be an official of a city having a population of twenty thousand or more; at least one shall be an official of a city having a population of one thousand five hundred to twenty thousand; and at least one shall be an official of a town having a population of less than one thousand five hundred.

The terms of members shall be for two years and shall not be dependent upon continuance in legislative or city office. The terms of all members except legislative members shall commence on the first day of August in every odd-numbered year. The speaker of the house of representatives and the president of the senate shall make their appointments on or before the third Monday in January in each odd-numbered year, and the terms of the members thus appointed shall commence on the third Monday of January in each odd-numbered year.

Council members shall receive no compensation but shall be reimbursed for travel expenses at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, except that members of the council who are also members of the legislature shall be reimbursed at the rates provided by RCW 44.04.120. [1990 c 104 § 1; 1983 c 22 § 1; 1975-'76 2nd ex.s. c 34 § 129; 1975 1st ex.s. c 218 § 1; 1969 c 108 § 2.]

Effective date—1983 c 22: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983." [1983 c 22 § 5.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability—Effective date—1969 c 108: See notes following RCW 82.44.160.

43.110.020 Transmission of funds to council from general fund for allocation—Contracts—Purposes. See RCW 82.44.160.

43.110.030 Municipal research and services—Provision to cities and towns. The municipal research council shall contract for the provision of municipal research and services to cities and towns. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of council members are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the council members are qualified to provide such support.

Municipal research and services shall consist of: (1) Studying and researching municipal government and issues relating to municipal government; (2) acquiring, preparing, and distributing publications related to municipal government and issues relating to municipal government; (3) providing educational conferences relating to municipal government and issues relating to municipal government; and (4) furnishing legal, technical, consultative, and field services to cities and towns concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to municipal government.

The activities, programs, and services of the municipal research council shall be carried on, and all expenditures shall be made, in cooperation with the cities and towns of the state acting through the board of directors of the association of Washington cities, which is recognized as their official agency or instrumentality. [1990 c 104 § 2.]

Chapter 43.113

COMMISSION ON AFRICAN-AMERICAN AFFAIRS

Sections

- 43.113.005 Legislative declaration.
- 43.113.010 Commission created.
- 43.113.020 Membership—Terms—Vacancies—Quorum—Expenses.
- 43.113.030 Powers and duties.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.113.005 Legislative declaration. The legislature declares that it is the public policy of this state to insure equal opportunity for all of its citizens. The legislature finds that, for economic, social, and historical reasons, a disproportionate number of African-Americans find themselves disadvantaged or isolated from the benefits of equal opportunity. The legislature believes that it is the duty of this state to improve the well-being of African-Americans by enabling them to participate fully in all fields of endeavor and by assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of African-Americans can be improved by establishing a focal point in state government for the interests of African-American citizens. Therefore, the legislature deems it necessary to establish in statute the commission on African-American affairs to further these purposes. [1992 c 96 § 1.]

43.113.010 Commission created. The Washington state commission on African-American affairs is created. The commission shall be administered by an executive director, who shall be appointed by, and serve at the pleasure of, the governor. The governor shall set the salary of the executive director. The executive director shall employ the staff of the commission. [1992 c 96 § 2.]

43.113.020 Membership—Terms—Vacancies—Quorum—Expenses. The commission shall consist of nine members, appointed by the governor. The commission shall make recommendations to the governor on appointment of the chair of the commission. The governor shall appoint the chair of the commission. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on African-American population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. However, of the initial appointees, one-third shall serve three-year terms, one-third shall serve two-year terms, and one-third shall serve a one-year term. In the case of a vacancy, appointment shall be for the remainder of the unexpired term. No member shall serve more than two full consecutive terms. Members shall be reimbursed for travel expenses incurred in the performance of their duties in

accordance with RCW 43.03.050 and 43.03.060. Five members shall constitute a quorum for the purposes of conducting business. [1992 c 96 § 3.]

43.113.030 Powers and duties. The commission shall have the following powers and duties:

(1) Examine and define issues pertaining to the rights and needs of African-Americans, and make recommendations to the governor and state agencies for changes in programs and laws.

(2) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of African-Americans.

(3) Acting in concert with the governor, advise the legislature on issues of concern to the African-American community.

(4) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for African-Americans.

(5) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [1992 c 96 § 4.]

Chapter 43.115

STATE COMMISSION ON HISPANIC AFFAIRS

Sections

- 43.115.010 Legislative declaration.
- 43.115.020 Commission created.
- 43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum.
- 43.115.040 Officers and employees—Rules and regulations.
- 43.115.045 Executive director.
- 43.115.060 Relationships with local government and private industry.
- 43.115.900 Severability—1971 ex.s. c 34.

Reviser's note—Sunset Act application: The Washington state commission on Hispanic affairs is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.341. RCW 43.115.010 through 43.115.060 and 43.115.900 are scheduled for future repeal under RCW 43.131.342.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.115.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature believes that it is the duty of the state to improve the well-being of Hispanics by enabling them to participate fully in all fields of endeavor and assisting them in obtaining governmental services. The legislature further finds that the development of public policy and the delivery of governmental services to meet the special needs of Hispanics can be improved by establishing a focal point in state government for the interests of Hispanics. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1993 c 261 § 1; 1987 c 249 § 1; 1971 ex.s. c 34 § 1.]

Sunset Act application: See note following chapter digest.

43.115.020 Commission created. There is created a Washington state commission on Hispanic affairs. [1987 c 249 § 2; 1971 ex.s. c 34 § 2.]

Sunset Act application: See note following chapter digest.

43.115.030 Membership—Terms—Vacancies—Travel expenses—Quorum. (1) The commission shall consist of eleven members of Hispanic origin appointed by the governor. To the extent practicable, appointments to the commission shall be made to achieve a balanced representation based on the Hispanic population distribution within the state, geographic considerations, sex, age, and occupation. Members shall serve three-year terms. No member shall serve more than two full consecutive terms. Vacancies shall be filled in the same manner as the original appointments.

(2) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) Six members of the commission shall constitute a quorum for the purpose of conducting business. [1993 c 261 § 2; 1987 c 249 § 3; 1981 c 338 § 15; 1975-'76 2nd ex.s. c 34 § 130; 1971 ex.s. c 34 § 3.]

Sunset Act application: See note following chapter digest.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.115.040 Officers and employees—Rules and regulations. The commission shall have the following powers and duties:

(1) Elect one of its members to serve as chairman;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Examine and define issues pertaining to the rights and needs of Hispanics, and make recommendations to the governor and state agencies for changes in programs and laws;

(4) Advise the governor and state agencies on the development and implementation of policies, plans, and programs that relate to the special needs of Hispanics;

(5) Advise the legislature on issues of concern to the Hispanic community;

(6) Establish relationships with state agencies, local governments, and private sector organizations that promote equal opportunity and benefits for Hispanics; and

(7) Receive gifts, grants, and endowments from public or private sources that are made for the use or benefit of the commission and expend, without appropriation, the same or any income from the gifts, grants, or endowments according to their terms. [1993 c 261 § 3; 1987 c 249 § 4; 1971 ex.s. c 34 § 4.]

Sunset Act application: See note following chapter digest.

43.115.045 Executive director. (1) The commission shall be administered by an executive director, who shall be appointed by and serve at the pleasure of the governor. The governor shall base the appointment of the executive director on recommendations of the commission. The salary of the executive director shall be set by the governor.

(2) The executive director shall employ a staff, who shall be state employees pursuant to Title 41 RCW. The

executive director shall prescribe the duties of the staff as may be necessary to implement the purposes of this chapter. [1993 c 261 § 4.]

43.115.060 Relationships with local government and private industry. In carrying out its duties the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity for Hispanics in government, education and employment. [1987 c 249 § 6; 1971 ex.s. c 34 § 6.]

Sunset Act application: See note following chapter digest.

43.115.900 Severability—1971 ex.s. c 34. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1971 ex.s. c 34 § 7.]

Sunset Act application: See note following chapter digest.

Chapter 43.117

STATE COMMISSION ON ASIAN-AMERICAN AFFAIRS

Sections

43.117.010 Legislative declaration.

43.117.020 Definitions.

43.117.030 Commission established.

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director.

43.117.050 Officers—Rules and regulations—Meetings.

43.117.060 Staff.

43.117.070 Duties of commission—State agencies to give assistance.

43.117.080 Promotion of equal opportunity and benefits.

43.117.090 Hearings—Information to be furnished to commission.

43.117.100 Gifts, grants and endowments—Receipt and expenditure.

43.117.900 Severability—1974 ex.s. c 140.

Ethnic and cultural diversity—Development of curriculum for understanding: RCW 2.56.030 and 43.101.280.

43.117.010 Legislative declaration. The legislature declares that the public policy of this state is to insure equal opportunity for all of its citizens. The legislature finds that Asian-Americans have unique and special problems. It is the purpose of this chapter to improve the well-being of Asian-Americans by insuring their access to participation in the fields of government, business, education, and other areas. The legislature is particularly concerned with the plight of those Asian-Americans who, for economic, linguistic, or cultural reasons, find themselves disadvantaged or isolated from American society and the benefits of equal opportunity. The legislature further finds that it is necessary to aid Asian-Americans in obtaining governmental services in order to promote the health, safety, and welfare of all the residents of this state. Therefore the legislature deems it necessary to create a commission to carry out the purposes of this chapter. [1983 c 119 § 1; 1974 ex.s. c 140 § 1.]

Effective date—1983 c 119: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect June 30, 1983." [1983 c 119 § 5.]

43.117.020 Definitions. As used in this chapter unless the context indicates otherwise:

(1) "Asian-Americans" include persons primarily of Japanese, Chinese, Filipino, or Korean ancestry; "Asian-Americans" also include persons of Samoan, Guamanian, Thai, Viet-Nameese, other Far East or South East Asian and Pacific Island ancestry.

(2) "Commission" means the Washington state commission on Asian-American affairs in the office of the governor. [1974 ex.s. c 140 § 2.]

43.117.030 Commission established. There is established a Washington state commission on Asian-American affairs in the office of the governor. The now existing Asian-American advisory council shall become the commission upon enactment of this chapter. The council may transfer all office equipment, including files and records to the commission. [1974 ex.s. c 140 § 3.]

43.117.040 Membership—Terms—Vacancies—Travel expenses—Quorum—Executive director. (1) The commission shall consist of twelve members appointed by the governor. In making such appointments, the governor shall give due consideration to recommendations submitted to him by the commission. The governor may also consider nominations of members made by the various Asian-American organizations in the state. The governor shall consider nominations for membership based upon maintaining a balanced distribution of Asian-ethnic, geographic, sex, age, and occupational representation, where practicable.

(2) Appointments shall be for three years except in case of a vacancy, in which event appointment shall be only for the remainder of the unexpired term for which the vacancy occurs. Vacancies shall be filled in the same manner as the original appointments.

(3) Members shall receive reimbursement for travel expenses incurred in the performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(4) Seven members shall constitute a quorum for the purpose of conducting business.

(5) The governor shall appoint an executive director based upon recommendations made by the council. [1982 c 68 § 1; 1981 c 338 § 16; 1975-'76 2nd ex.s. c 34 § 131; 1974 ex.s. c 140 § 4.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

43.117.050 Officers—Rules and regulations—Meetings. The commission shall:

(1) Elect one of its members to serve as chairman; and also such other officers as necessary to form an executive committee;

(2) Adopt rules and regulations pursuant to chapter 34.05 RCW;

(3) Meet at the call of the chairman or the call of a majority of its members, but in no case less often than once during any three month period;

(4) Be authorized to appoint such citizen task force as it deems appropriate. [1974 ex.s. c 140 § 5.]

43.117.060 Staff. The executive director shall employ a staff who shall be state employees pursuant to Title 41

RCW and prescribe their duties as may be necessary to implement the purposes of this chapter. [1974 ex.s. c 140 § 6.]

43.117.070 Duties of commission—State agencies to give assistance. (1) The commission shall examine and define issues pertaining to the rights and needs of Asian-Americans, and make recommendations to the governor and state agencies with respect to desirable changes in program and law.

(2) The commission shall further advise such state government agencies on the development and implementation of comprehensive and coordinated policies, plans, and programs focusing on the special problems and needs of Asian-Americans.

(3) Each state department and agency shall provide appropriate and reasonable assistance to the commission as needed in order that the commission may carry out the purposes of this chapter. [1974 ex.s. c 140 § 7.]

43.117.080 Promotion of equal opportunity and benefits. In carrying out its duties, the commission may establish such relationships with local governments and private industry as may be needed to promote equal opportunity and benefits to Asian-Americans in government, education, economic development, employment, and services. [1974 ex.s. c 140 § 8.]

43.117.090 Hearings—Information to be furnished to commission. (1) The commission may for the purpose of carrying out the purposes of this chapter hold such public hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the commission may deem advisable. The commission may administer oaths or affirmations to witnesses appearing before it. At least five members of the commission must be present to conduct a hearing.

(2) The commission may secure directly from any department or agency of the state information necessary to enable it to carry out the purposes of this chapter. Upon request of the chairman of the commission, the head of such department or agency shall furnish such information to the commission. [1974 ex.s. c 140 § 9.]

43.117.100 Gifts, grants and endowments—Receipt and expenditure. The commission shall have authority to receive such gifts, grants, and endowments from public or private sources as may be made from time to time in trust or otherwise for the use and benefit of the purposes of the commission and to expend the same or any income therefrom according to the terms of said gifts, grants, or endowments. [1974 ex.s. c 140 § 10.]

43.117.900 Severability—1974 ex.s. c 140. If any provision of this 1974 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1974 ex.s. c 140 § 11.]

Chapter 43.121

COUNCIL FOR THE PREVENTION OF CHILD ABUSE AND NEGLECT

Sections

- 43.121.010 Legislative declaration, intent.
- 43.121.015 Definitions.
- 43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.
- 43.121.030 Compensation and travel expenses of members.
- 43.121.040 Executive director, salary—Staff.
- 43.121.050 Council powers and duties—Generally—Rules.
- 43.121.060 Contracts for services—Scope of programs—Funding.
- 43.121.070 Contracts for services—Factors in awarding.
- 43.121.080 Contracts for services—Partial funding by administering organization, what constitutes.
- 43.121.090 Reports to governor and legislature.
- 43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund.
- 43.121.110 Parenting skills—Legislative findings.
- 43.121.120 Community-based early parenting skills programs—Funding.
- 43.121.130 Decreased state funding of parenting skills programs—Evaluation—Report.
- 43.121.140 Shaken baby syndrome—Outreach campaign.
- 43.121.910 Severability—1982 c 4.

43.121.010 Legislative declaration, intent. The legislature recognizes that child abuse and neglect is a threat to the family unit and imposes major expenses on society. The legislature further declares that there is a need to assist private and public agencies in identifying and establishing community based educational and service programs for the prevention of child abuse and neglect. It is the intent of the legislature that an increase in prevention programs will help reduce the breakdown in families and thus reduce the need for state intervention and state expense. It is further the intent of the legislature that prevention of child abuse and child neglect programs are partnerships between communities, citizens, and the state. [1982 c 4 § 1.]

43.121.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Child" means an unmarried person who is under eighteen years of age.

(2) "Council" means the Washington council for the prevention of child abuse and neglect.

(3) "Primary prevention" of child abuse and neglect means any effort designed to inhibit or preclude the initial occurrence of child abuse and neglect, both by the promotion of positive parenting and family interaction, and the remediation of factors linked to causes of child maltreatment.

(4) "Secondary prevention" means services and programs that identify and assist families under such stress that abuse or neglect is likely or families display symptoms associated with child abuse or neglect. [1988 c 278 § 4; 1987 c 351 § 2.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

43.121.020 Council established—Members, chairperson—Appointment, qualifications, terms, vacancies.

(1) There is established in the executive office of the

governor a Washington council for the prevention of child abuse and neglect subject to the jurisdiction of the governor.

(2) The council shall be composed of the chairperson and twelve other members as follows:

(a) The chairperson and six other members shall be appointed by the governor and shall be selected for their interest and expertise in the prevention of child abuse. A minimum of four designees by the governor shall not be affiliated with governmental agencies. The appointments shall be made on a geographic basis to assure state-wide representation. Members appointed by the governor shall serve for three-year terms. Vacancies shall be filled for any unexpired term by appointment in the same manner as the original appointments were made.

(b) The secretary of social and health services or the secretary's designee and the superintendent of public instruction or the superintendent's designee shall serve as voting members of the council.

(c) In addition to the members of the council, four members of the legislature shall serve as nonvoting, ex officio members of the council, one from each political caucus of the house of representatives to be appointed by the speaker of the house of representatives and one from each political caucus of the senate to be appointed by the president of the senate. [1994 c 48 § 1; 1989 c 304 § 4; 1987 c 351 § 3; 1984 c 261 § 1; 1982 c 4 § 2.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

Severability—1984 c 261: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1984 c 261 § 8.]

43.121.030 Compensation and travel expenses of members. Council members shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060. Attendance at meetings of the council shall be deemed performance by a member of the duties of a member's employment. [1984 c 287 § 87; 1982 c 4 § 3.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.121.040 Executive director, salary—Staff. The governor may employ an executive director who shall be exempt from the provisions of chapter 41.06 RCW, and such other staff as are necessary to carry out the purposes of this chapter. The salary of the executive director shall be fixed by the governor pursuant to RCW 43.03.040. [1982 c 4 § 4.]

43.121.050 Council powers and duties—Generally—Rules. To carry out the purposes of this chapter, the council may:

(1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of community-based educational and service programs designed to:

(a) Reduce the occurrence of child abuse and neglect; and

(b) Provide for parenting skills which include: Consistency in parenting; providing children with positive discipline

that provides firm order without hurting children physically or emotionally; and preserving and nurturing the family unit. Programs to provide these parenting skills may include the following:

(i) Programs to teach positive methods of disciplining children;

(ii) Programs to educate parents about the physical, mental, and emotional development of children;

(iii) Programs to enhance the skills of parents in providing for their children's learning and development; and

(iv) Learning experiences for children and parents to help prepare parents and children for the experiences in school. Contracts also may be awarded for research programs related to primary and secondary prevention of child abuse and neglect, and to develop and strengthen community child abuse and neglect prevention networks. Each contract entered into by the council shall contain a provision for the evaluation of services provided under the contract. Contracts for services to prevent child abuse and child neglect shall be awarded as demonstration projects with continuation based upon goal attainment. Contracts for services to prevent child abuse and child neglect shall be awarded on the basis of probability of success based in part upon sound research data.

(2) Facilitate the exchange of information between groups concerned with families and children.

(3) Consult with applicable state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect.

(4) Establish fee schedules to provide for the recipients of services to reimburse the state general fund for the cost of services received.

(5) Adopt its own bylaws.

(6) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1988 c 278 § 5; 1987 c 351 § 4; 1982 c 4 § 5.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

43.121.060 Contracts for services—Scope of programs—Funding. Programs contracted for under this chapter are intended to provide primary child abuse and neglect prevention services. Such programs may include, but are not limited to:

(1) Community-based educational programs on prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, and coping with family stress; and

(2) Community-based programs relating to crisis care, aid to parents, child-abuse counseling, support groups for abusive or potentially abusive parents and their children, and early identification of families where the potential for child abuse and neglect exists.

The council shall develop policies to determine whether programs will be demonstration or will receive continuous funding. Nothing in this chapter requires continued funding by the state. [1982 c 4 § 6.]

43.121.070 Contracts for services—Factors in awarding. In awarding contracts under RCW 43.121.060, consideration shall be given to factors such as need, diversity of geographic locations, coordination with or enhancement of existing services, and the extensive use of volunteers in the program. Further consideration shall be given to the extent to which contract proposals are based on prior research that indicates a probability of goal achievement. [1982 c 4 § 7.]

43.121.080 Contracts for services—Partial funding by administering organization, what constitutes. Twenty-five percent of the funding for programs under this chapter shall be provided by the organization administering the program. Contributions of materials, supplies, or physical facilities may be considered as all or part of the funding provided by the organization. [1982 c 4 § 8.]

43.121.090 Reports to governor and legislature. Subject to RCW 40.07.040, the council shall report biennially to the governor and to the legislature concerning the council's activities and the effectiveness of those activities in fostering the prevention of child abuse and neglect. [1987 c 505 § 38; 1984 c 261 § 2; 1982 c 4 § 9.]

Severability—1984 c 261: See note following RCW 43.121.020.

43.121.100 Contributions, grants, gifts—Depository for and disbursement and expenditure control of moneys received—Children's trust fund. The council may accept contributions, grants, or gifts in cash or otherwise, including funds generated by the sale of "heirloom" birth certificates under chapter 70.58 RCW from persons, associations, or corporations. All moneys received by the council or any employee thereof from contributions, grants, or gifts and not through appropriation by the legislature shall be deposited in a depository approved by the state treasurer to be known as the children's trust fund. Disbursements of such funds shall be on the authorization of the council or a duly authorized representative thereof and only for the purposes stated in RCW 43.121.050. In order to maintain an effective expenditure and revenue control, such funds shall be subject in all respects to chapter 43.88 RCW, but no appropriation shall be required to permit expenditure of such funds. [1987 c 351 § 5; 1984 c 261 § 3; 1982 c 4 § 10.]

Legislative findings—1987 c 351: See note following RCW 70.58.085.

Severability—1984 c 261: See note following RCW 43.121.020.

43.121.110 Parenting skills—Legislative findings. The legislature believes that parents who have developed good early parenting skills provide homes where children are treated with dignity and respect and where closeness and trust among family members provide children with the basis for a productive adult life. The legislature also believes that children raised in this positive atmosphere will develop self esteem and are unlikely to become dependent upon the social service system or to be involved in the criminal justice system. The legislature further believes that teaching parents good early parenting skills can help eliminate physical and emotional abuse of children. [1988 c 278 § 1.]

43.121.120 Community-based early parenting skills programs—Funding. (1) In order to increase the knowledge of early parenting skills of parents in Washington state, voluntary community based programs on early parenting skills shall be established. The council shall fund, within available funds, and monitor community-based early parenting skills programs in at least three geographically balanced areas around the state. Successful programs which the council and the national center on child abuse and neglect have funded or currently fund, may be used as models for the projects.

(2) The early parenting education program shall be designed to serve families with children ranging from infants through three years old and also to serve expectant parents. The projects may include the following:

- (a) Education for parents about the physical, mental, and emotional development of children;
- (b) Programs to enhance the skills of parents in providing for learning and development of their children;
- (c) Shared learning experiences for children and parents;
- (d) Activities designed to screen for children's physical, mental, emotional, or behavioral problems that may cause learning problems;
- (e) Resources for educational materials which may be borrowed for home use;
- (f) Information on related community resources;
- (g) Group support which may include counseling for parents under stress;
- (h) Emphasis to encourage participation by fathers; or
- (i) Other programs or activities consistent with this chapter.

(3) The programs shall be reviewed periodically to provide that the instruction and materials are not racially, culturally, or sexually biased.

(4) The services provided by the projects shall be coordinated with schools and social services provided in the community to avoid duplication of services.

(5) A sliding fee scale shall be utilized at the discretion of the council. [1988 c 278 § 2.]

43.121.130 Decreased state funding of parenting skills programs—Evaluation—Report. (1) Funding shall be provided, as funds are available, in decreasing amounts over a two-year period, with the goal of having the programs become supported by local communities at the end of a two-year period. State funding may be continued in areas where local funding would be difficult to obtain due to local economic conditions to the extent funding is made available to the council.

(2) The council shall work with the projects in the program to evaluate the results of the projects. The council shall make recommendations on these projects and the program. A project agreeing to develop an evaluation component shall be considered for a three-year funding schedule. A report on the evaluations shall be made available to the legislature at the beginning of the legislative session in 1992. [1988 c 278 § 3.]

43.121.140 Shaken baby syndrome—Outreach campaign. The council shall conduct a proactive, public information and communication outreach campaign regarding

the dangers of shaking infants and young children, and the causes and prevention of shaken baby syndrome.

The public information campaign shall include production and distribution of a readily understandable brochure regarding shaken baby syndrome, explaining its medical effects upon infants and emphasizing preventive measures.

The brochure shall be distributed free of charge to the parents or guardians of each newborn, upon discharge from a hospital or other health facility. In the event of home birth attended by a licensed midwife, the midwife shall be responsible for presenting the brochure to the parents of the newborn.

The public information campaign may, within available funds, also include communication by electronic media, telephone hotlines, and existing parenting education events funded by the council. [1993 c 107 § 2.]

Finding—1993 c 107: "The legislature finds that shaken baby syndrome is a medically serious, sometimes fatal, usually unintentional matter affecting newborns and very young children.

Vigorous shaking of an infant can result in bleeding inside the head, causing irreversible brain damage, blindness, cerebral palsy, hearing loss, spinal cord injury, seizures, learning disabilities, or death. Many healthy, intelligent infants suffer from shaken baby syndrome because their caregivers were unaware of the dangers. The damage is preventable through education and awareness." [1993 c 107 § 1.]

43.121.910 Severability—1982 c 4. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 c 4 § 15.]

Chapter 43.126 GEOGRAPHIC NAMES

Sections

- 43.126.015 Purposes.
- 43.126.025 State board on geographic names created—Membership—Chairman.
- 43.126.035 Powers and duties.
- 43.126.045 Policies—Criteria.
- 43.126.055 Adoption of names—Procedure—Effect.
- 43.126.065 Meetings—Rules—Publication of adopted names.
- 43.126.075 Compensation and travel expenses of members.
- 43.126.085 Naming geographic features without board approval prohibited.

43.126.015 Purposes. The purposes of this chapter are: To establish a procedure for the retention and formal recognition of existing geographical names; to standardize the procedures for naming or renaming geographical features within the state of Washington; to identify one body as the responsible agency to coordinate this important activity between local, state, and federal agencies; to identify the responsible agency for the purpose of serving the public interest; to avoid the duplication of names for similar features whenever possible; and as far as possible, to retain the significance, spelling, and color of names associated with the early history of Washington. [1983 c 273 § 1.]

43.126.025 State board on geographic names created—Membership—Chairman. There is hereby

created a Washington state board on geographic names composed of:

- (1) The state librarian or a representative;
- (2) The commissioner of public lands or a representative;
- (3) The chairperson of the Washington state heritage council created by 1983 law; and
- (4) Four members from the general public to be appointed by the commissioner of public lands.

The commissioner of public lands or his or her representative shall be chairman of the board.

The members of the initial board to be appointed by the commissioner shall be appointed as follows: One member for a one-year term, one member for a two-year term, one member for a three-year term, and one member for a four-year term. Thereafter, each member shall be appointed for a three-year term. Each member of the board shall continue in office until a successor is appointed. [1983 c 273 § 2.]

43.126.035 Powers and duties. It shall be the duty of the Washington state board on geographic names and it shall have the power and authority to:

(1) Establish the official names for the lakes, mountains, streams, places, towns, and other geographic features within the state and the spellings thereof except when a name is specified by law. For the purposes of this subsection geographic features do not include man-made features or administrative areas such as parks, game reserves, and dams, but shall include man-made lakes;

(2) Assign names to lakes, mountains, streams, places, towns, and other geographic features in the state for which no single generally accepted name has been in use;

(3) Cooperate with county commissioners, state departments, and agencies, and with the United States board on geographic names to establish, change and/or determine the appropriate names of the lakes, mountains, streams, places, towns, and other geographic features for the purpose of eliminating, as far as possible, duplication of place names within the state;

(4) Serve as a state of Washington liaison with the United States board on geographic names;

(5) Periodically issue a list of names approved by the board. [1983 c 273 § 3.]

43.126.045 Policies—Criteria. The board is authorized to establish policies to carry out the purposes of this chapter. In determining the names and spelling of geographic place names within the state of Washington, the board's decisions shall be made only after a careful consideration of all available information relating to such names, including the recommendations of the United States board on geographic names, with which the board shall cooperate. [1983 c 273 § 4.]

43.126.055 Adoption of names—Procedure—Effect. Adoption of names by the board shall take place only after consideration at a previous meeting. All board determinations shall be filed with the code reviser and shall be compiled and indexed in the same manner as agency rules under RCW 34.05.210. Determinations by the board shall not be considered a rule under RCW 34.05.010. Whenever the

state board on geographic names has given a name to any lake, stream, place, or other geographic feature within the state, that name shall be used in all maps, records, documents, and other publications issued by the state or any of its departments and political subdivisions, and that name shall be the official name of the geographic feature. [1983 c 273 § 5.]

43.126.065 Meetings—Rules—Publication of adopted names. (1) The board shall hold at least two meetings each year, and shall hold special meetings as called by the chairman or a majority of the board.

(2) All meetings shall be open to the public.

(3) Notice of all board meetings shall be as provided in RCW 42.30.080. This notice includes those names to be considered by the board and those names to be adopted by the board.

(4) Four board members shall constitute a quorum.

(5) The board shall establish rules for the conduct of its affairs and to carry out the purposes of this chapter.

(6) The department of natural resources shall furnish secretarial and administrative services and shall serve as custodian of the records.

(7) All geographic names adopted by the board shall be published in the Washington State Register. [1983 c 273 § 6.]

43.126.075 Compensation and travel expenses of members. Members of the board who are not otherwise public employees shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060, which shall be paid by the agency that each member represents and, for the four members of the general public, by the department of natural resources. [1984 c 287 § 88; 1983 c 273 § 7.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.126.085 Naming geographic features without board approval prohibited. A person shall not, in any advertisement or publication, attempt to change local usage or name unnamed geographic features without first obtaining approval of the board. [1983 c 273 § 8.]

Chapter 43.130

ECONOMIC IMPACT ACT—CLOSING OF STATE FACILITIES

Sections

- 43.130.010 Purpose.
- 43.130.020 Definitions.
- 43.130.030 Excluded employment and employees.
- 43.130.040 Benefits.
- 43.130.050 Eligibility—Conditions.
- 43.130.060 Reimbursement of public employees' retirement system.
- 43.130.900 Severability—1973 2nd ex.s. c 37.
- 43.130.910 Emergency—Operative dates—Termination of benefits.

43.130.010 Purpose. When either for fiscal reasons, obsolescence or other extraordinary reasons, it becomes necessary to close a state facility, as defined by RCW

43.130.020(2), the state has a responsibility to provide certain benefits to affected employees.

It is the purpose of this chapter to establish an economic impact act for the state of Washington to meet the emergency situation now in existence for state employees affected by the closure of state facilities, as defined in RCW 43.130.020. [1973 2nd ex.s. c 37 § 1.]

43.130.020 Definitions. For purposes of this chapter:

(1) "Employees" includes those persons performing services for the state on a salaried or hourly basis including, but not limited to, persons in "classified service" as defined in RCW 41.06.020(3) and those persons defined as exempt from the state civil service laws pursuant to RCW 41.06.070.

(2) The term "closure of a state facility" means the termination of services being provided by a facility operated by the department of social and health services or in conjunction with the department of natural resources, when such facility is terminated for fiscal reasons, obsolescence, or other extraordinary reasons.

(3) "Classified employees" means those employees performing classified service as defined in RCW 41.06.020(3). [1973 2nd ex.s. c 37 § 2.]

43.130.030 Excluded employment and employees.

Excluded employment and excluded employees under this chapter include, but are not limited to, the following:

(1) State employment related to a single project under a program separately financed by a grant of nonstate funds, federal funds or state funds, or by a combination of such funding, which is designed to provide training or employment opportunities, expertise or additional manpower related to the project or which, because of the nature of the project funding requirements, is not intended as a permanent program.

(2) Activities at least seventy-five percent federally funded by a categorical grant for a specific purpose and any other activities terminated because of actions taken by the federal government or other funding sources other than the state of Washington in eliminating or substantially limiting funding sources, except to the extent that the federal government or such other funding sources may permit the use of nonstate funds to pay for any employee benefits authorized pursuant to this chapter.

(3) The following categories of employees are excluded from benefits under this chapter:

(a) employees refusing transfer to vacant positions in the same or a like job classification and at not more than one full range lower than the same salary range;

(b) classified employees having other than permanent status in the classified service;

(c) employees having less than three years' consecutive state service as an employee, except that such employees shall nonetheless be eligible for the benefits provided in subsections (1), (2), (4) and (5) of RCW 43.130.040.

(d) nothing in this chapter shall affect any other rights currently held by classified employees regarding reduction in force procedures and subsequent reemployment. [1973 2nd ex.s. c 37 § 3.]

43.130.040 Benefits. In order to carry out the purposes of this chapter, the state shall take every reasonable step at its disposal to provide alternative employment and to minimize the economic loss of state employees affected by the closure of state facilities. Affected state employees shall be paid benefits as specified in this section.

(1) Relocation expenses covering the movement of household goods, incurred by the necessity of an employee moving his domicile to be within reasonable commuting distance of a new job site, shall be paid by the state to employees transferring to other state employment by reason of the closure of a facility.

(2) Relocation leave shall be allowed up to five working days' leave with pay for the purpose of locating new residence in the area of employment.

(3) The state shall reimburse the transferring employee to the extent of any unavoidable financial loss suffered by an employee who sells his home at a price less than the true and fair market value as determined by the county assessor not exceeding three thousand dollars: PROVIDED, That this right of reimbursement must be exercised, and sale of the property must be accomplished, within a period of two years from the date other state employment is accepted.

(4) For employees in facilities which have been terminated who do not choose to participate in the transfer program set forth in the preceding subsections, the following terminal pay plan shall be available:

(a) For qualifying employees, for each one year of continuous state service, one week (five working days) of regular compensation shall be provided.

(b) Regular compensation as used in subsection (a) hereof shall include salary compensation at the rate being paid to the employees at the time operation of the facility is terminated.

(c) Terminal pay as set forth in subsections (a) and (b) hereof shall be paid to the employee at the termination of the employees last month of employment or within thirty days after *the effective date of this 1973 act, whichever is later: PROVIDED, That from the total amount of terminal pay, the average sum of unemployment compensation that the qualifying employee is eligible to receive multiplied by the total number of weeks of terminal pay minus one week shall be deducted.

(d) Those employees electing the early retirement benefits as stated in subsection (5) of this section shall not be eligible for the terminal pay provisions as set forth in this subsection.

(e) Those employees who are reemployed by the state during the period they are receiving terminal pay pursuant to subsections (a), (b) and (c) of this section shall reimburse the state for that portion of the terminal pay covered by the period of new employment.

(5) As an option to transferring to other state employment an employee may elect early retirement under the following conditions:

(a) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of fifty-five years, with at least five years creditable service, shall be immediately eligible to retire, with no actuarial reduction in the amount of his pension benefit.

(b) Notwithstanding the age requirements of RCW 41.40.180, any affected employee under this chapter who has attained the age of forty-five years, with at least five years creditable service, shall be immediately eligible to retire with an actuarial reduction in the amount of his pension benefit of three percent for each complete year that such employee is under fifty-five years of age.

(c) Employees who elect to retire pursuant to RCW 41.40.180 shall be eligible to retire while on authorized leave of absence not in excess of one hundred and twenty days.

(d) Employees who elect to retire under the provisions of this section shall not be eligible for any retirement benefit in a year following a year in which their employment income was in excess of six thousand dollars. This six thousand dollars base shall be adjusted annually beginning in 1974 by such cost of living adjustments as are applied by the public employees' retirement system to membership retirement benefits. The public employees retirement system board shall adopt necessary rules and regulations to implement the provisions of this subsection. [1973 2nd ex.s. c 37 § 4.]

***Reviser's note:** The effective date of 1973 2nd ex.s. c 37 was September 26, 1973.

Public employees' retirement system: Chapter 41.40 RCW.

Termination date of benefits under subsection (3) of this section: RCW 43.130.910.

43.130.050 Eligibility—Conditions. (1) Notwithstanding any other provision of this chapter employees affected by the closure of a state facility as defined in RCW 43.130.020(2) who were employed as of May 1, 1973 at such facility, and who are still in employment of the state or on an official leave of absence as of September 26, 1973, who would otherwise qualify for the enumerated benefits of this chapter are hereby declared eligible for such benefits under the following conditions:

(a) such employee must be actively employed by the state of Washington or on an official leave of absence on September 26, 1973, and unless the early retirement or terminal pay provisions of this chapter are elected, continue to be employed or to be available for employment in a same or like job classification at not less than one full range lower than the same salary range for a period of at least thirty days thereafter;

(b) such employee must give written notice of his election to avail himself of such benefits within thirty days after the *passage of this 1973 act or upon closure of the institution, whichever is later. [1973 2nd ex.s. c 37 § 5.]

***Reviser's note:** The effective date of 1973 2nd ex.s. c 37 was September 26, 1973, due to the emergency clause contained in section 9, codified as RCW 43.130.910.

1973 2nd ex.s. c 37 (Engrossed Substitute Senate Bill No. 2603) passed the Senate September 14, 1973, passed the House September 13, 1973, and was approved by the governor September 26, 1973.

Employees to whom chapter is operative: RCW 43.130.910.

43.130.060 Reimbursement of public employees' retirement system. In order to reimburse the public employees' retirement system for any increased costs occasioned by the provisions of this chapter which affect the retirement system, the *public employees' retirement board shall, within thirty days of the date upon which any affected

employee elects to take advantage of the retirement provisions of this chapter, determine the increased present and future cost to the retirement system of such employee's election. Upon the determination of the amount necessary to offset said increased cost, the *retirement board shall bill the department of personnel for the amount of the increased cost: PROVIDED, That such billing shall not exceed eight hundred sixty-one thousand dollars. Such billing shall be paid by the department as, and the same shall be, a proper charge against any moneys available or appropriated to the department for this purpose. [1973 2nd ex.s. c 37 § 6.]

***Reviser's note:** Powers, duties, and functions of the Washington public employees' retirement board were transferred to the director of retirement systems by RCW 41.40.022, which has been decodified. See Table of Disposition of Former RCW Sections, Volume 0.

43.130.900 Severability—1973 2nd ex.s. c 37. If any provision of this 1973 act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1973 2nd ex.s. c 37 § 8.]

43.130.910 Emergency—Operative dates—Termination of benefits. This 1973 act is necessary for the immediate preservation of the public peace, health and safety, the support of state government and its existing public institutions and shall take effect immediately: PROVIDED HOWEVER, That each of the provisions of this 1973 act shall be operative and in effect only for employees of those state facilities closed after May 1, 1973 and prior to September 14, 1974: PROVIDED FURTHER, That benefits under section 4(3) of this 1973 act shall be available until September 14, 1975. [1973 2nd ex.s. c 37 § 9.]

Chapter 43.131

WASHINGTON SUNSET ACT OF 1977

Sections

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- 43.131.910 Severability—1979 c 99.

Master licensing program—Legislative budget committee performance audit: RCW 19.02.885.

Termination of tax preferences: Chapter 43.136 RCW.

43.131.010 Short title. This chapter may be known and cited as the Washington Sunset Act. [1990 c 297 § 1; 1977 ex.s. c 289 § 1.]

43.131.020 Legislative declaration. The state legislature finds that state agencies may fail to deliver services as effectively and efficiently as is expected by the general public and as originally contemplated by the legislature. It further finds that state government actions have produced a substantial increase in numbers of agencies, growth of programs, and proliferation of rules and regulations, and that the entire process has evolved without sufficient legislative and executive oversight, regulatory accountability, or a system of checks and balances. The legislature further finds that by establishing a system for the termination, continuation, or modification of state agencies, coupled with a system of scheduled review of such agencies, it will be in a better position to evaluate the need for the continued existence of existing and future state agencies. The legislature recognizes that the executive branch shares in this duty and responsibility to assure that state government operates in an efficient, orderly, and responsive manner. [1977 ex.s. c 289 § 2.]

43.131.030 Definitions. As used in this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise.

(1) "Committees of reference" means the standing legislative committees designated by the senate and house of representatives to consider termination, modification, or reestablishment of state agencies pursuant to this chapter.

(2) "Person" includes every natural person, firm, partnership, corporation, association, or organization.

(3) "Regulatory entity" means any board, commission, agency, division, or other unit or subunit of state government which licenses or regulates one or more professions, occupations, industries, businesses, or other endeavors in the state of Washington.

(4) "State agency" includes every state office, department, board, commission, regulatory entity and agency of the

state, and where provided by law, programs and activities involving less than the full responsibility of a state agency. [1983 1st ex.s. c 27 § 1; 1977 ex.s. c 289 § 3.]

43.131.040 Reestablishment of state agency scheduled for termination—Review. Any state agency scheduled for termination by the processes provided in this chapter may be reestablished by the legislature for a specified period of time or indefinitely. The legislature may again review the state agency in a manner consistent with the provisions of this chapter and reestablish, modify, or consolidate such state agency or allow it to be terminated. [1983 1st ex.s. c 27 § 2; 1977 ex.s. c 289 § 4.]

43.131.050 Legislative budget committee and office of financial management—Duties—Reports required. The legislative budget committee shall cause to be conducted a program and fiscal review of any state agency or program scheduled for termination by the processes provided in this chapter. Such program and fiscal review shall be completed and a preliminary report prepared on or before June 30th of the year prior to the date established for termination. Upon completion of its preliminary report, the legislative budget committee shall transmit copies of the report to the office of financial management. The office of financial management may then conduct its own program and fiscal review of the agency scheduled for termination and shall prepare a report on or before September 30th of the year prior to the date established for termination. Upon completion of its report the office of financial management shall transmit copies of its report to the legislative budget committee. The legislative budget committee shall prepare a final report that includes the reports of both the office of financial management and the legislative budget committee. The legislative budget committee and the office of financial management shall, upon request, make available to each other all working papers, studies, and other documents which relate to reports required under this section. The legislative budget committee shall transmit the final report to the legislature, to the state agency concerned, to the governor, and to the state library. [1990 c 297 § 2; 1979 c 22 § 1; 1977 ex.s. c 289 § 5.]

43.131.060 Legislative budget committee review of regulatory entity—Factors for consideration. In conducting the review of a regulatory entity, the legislative budget committee shall consider, but not be limited to, the following factors where applicable:

(1) The extent to which the regulatory entity has operated in the public interest and fulfilled its statutory obligations;

(2) The duties of the regulatory entity and the costs incurred in carrying out those duties;

(3) The extent to which the regulatory entity is operating in an efficient, effective, and economical manner;

(4) The extent to which the regulatory entity inhibits competition or otherwise adversely affects the state's economic climate;

(5) The extent to which the regulatory entity duplicates the activities of other regulatory entities or of the private sector, where appropriate; and

(6) The extent to which the absence or modification of regulation would adversely affect, maintain, or improve the public health, safety, or welfare. [1988 c 17 § 1; 1977 ex.s. c 289 § 6.]

43.131.070 Legislative budget committee review of a state agency other than a regulatory entity—Factors for consideration. In conducting the review of a state agency other than a regulatory entity, the legislative budget committee shall consider, but not be limited to, the following factors where applicable:

(1) The extent to which the state agency has complied with legislative intent;

(2) The extent to which the state agency is operating in an efficient and economical manner which results in optimum performance;

(3) The extent to which the state agency is operating in the public interest by effectively providing a needed service that should be continued rather than modified, consolidated, or eliminated;

(4) The extent to which the state agency duplicates the activities of other state agencies or of the private sector, where appropriate; and

(5) The extent to which the termination or modification of the state agency would adversely affect the public health, safety, or welfare. [1977 ex.s. c 289 § 7.]

43.131.080 Committees of reference—Powers and duties. (1) Following receipt of the final report from the legislative budget committee, the appropriate committees of reference in the senate and the house of representatives shall each hold a public hearing, unless a joint hearing is held, to consider the final report and any related data. The committees shall also receive testimony from representatives of the state agency or agencies involved, which shall have the burden of demonstrating a public need for its continued existence; and from the governor or the governor's designee, and other interested parties, including the general public.

(2) When requested by either of the presiding members of the appropriate senate and house committees of reference, a regulatory entity under review shall mail an announcement of any hearing to the persons it regulates who have requested notice of agency rule-making proceedings as provided in RCW 34.05.320, or who have requested notice of hearings held pursuant to the provisions of this section. On request of either presiding member, such mailing shall include an explanatory statement not exceeding one page in length prepared and supplied by the member's committee.

(3) The presiding members of the senate committee on ways and means and the house committee on appropriations may designate one or more liaison members to each committee of reference in their respective chambers for purposes of participating in any hearing and in subsequent committee of reference discussions and to seek a coordinated approach between the committee of reference and the committee they represent in a liaison capacity.

(4) Following any hearing under subsection (1) of this section by the committees of reference, such committees may hold additional meetings or hearings to come to a final determination as to whether a state agency has demonstrated a public need for its continued existence or whether modifi-

cations in existing procedures are needed. In the event that a committee of reference concludes that a state agency shall be reestablished or modified or its functions transferred elsewhere, it shall make such determination as a bill. No more than one state agency shall be reestablished or modified in any one bill. [1989 c 175 § 109; 1983 1st ex.s. c 27 § 3; 1977 ex.s. c 289 § 8.]

Effective date—1989 c 175: See note following RCW 34.05.010.

43.131.090 Termination of state agency—Procedures—Employee transfers—Property disposition—Funds and moneys—Rules—Contracts. Unless the legislature specifies a shorter period of time, a terminated state agency shall continue in existence until June 30th of the next succeeding year for the purpose of concluding its affairs: PROVIDED, That the powers and authority of the state agency shall not be reduced or otherwise limited during this period. Unless otherwise provided:

(1) All employees of terminated state agencies classified under chapter 41.06 RCW, the state civil service law, shall be transferred as appropriate or as otherwise provided in the procedures adopted by the Washington personnel resources board pursuant to RCW 41.06.150;

(2) All documents and papers, equipment, or other tangible property in the possession of the terminated state agency shall be delivered to the custody of the agency assuming the responsibilities of the terminated agency or if such responsibilities have been eliminated, documents and papers shall be delivered to the state archivist and equipment or other tangible property to the department of general administration;

(3) All funds held by, or other moneys due to, the terminated state agency shall revert to the fund from which they were appropriated, or if that fund is abolished to the general fund;

(4) Notwithstanding the provisions of RCW 34.05.020, all rules made by a terminated state agency shall be repealed, without further action by the state agency, at the end of the period provided in this section, unless assumed and reaffirmed by the agency assuming the related legal responsibilities of the terminated state agency;

(5) All contractual rights and duties of a state agency shall be assigned or delegated to the agency assuming the responsibilities of the terminated state agency, or if there is none to such agency as the governor shall direct. [1993 c 281 § 54; 1983 1st ex.s. c 27 § 4; 1977 ex.s. c 289 § 9.]

Effective date—1993 c 281: See note following RCW 41.06.022.

43.131.100 Termination of state agency—Pending business—Savings. This chapter shall not affect the right to institute or prosecute any cause of action by or against a state agency terminated pursuant to this chapter if the cause of action arose prior to the end of the period provided in RCW 43.131.090. Such causes of action may be instituted, prosecuted, or defended in the name of the state of Washington by the office of the attorney general. Any hearing or other proceeding pending before a state agency to be terminated and not completed before the end of the period provided in RCW 43.131.090, may be completed by the agency assuming the responsibilities of the terminated state agency. [1977 ex.s. c 289 § 10.]

43.131.110 Committees—Reference to include successor. Any reference in this chapter to a committee of the legislature including the legislative budget committee shall also refer to the successor of that committee. [1977 ex.s. c 289 § 11.]

43.131.130 Legislature—Powers unaffected by enactment of chapter. Nothing in this chapter or RCW 43.06.010 as now or hereafter amended, shall prevent the legislature from abolishing or modifying a state agency scheduled for termination prior to the agency's established termination date or from abolishing or modifying any other state agency. [1977 ex.s. c 289 § 13.]

43.131.150 Termination of agencies and programs—Review under Sunset Act. The state agencies and programs scheduled for termination under this chapter shall be subject to all of the processes provided in this chapter. [1983 1st ex.s. c 27 § 8; 1979 c 99 § 1.]

43.131.253 *Hospital commission—Termination. The *hospital commission and its powers and duties shall be terminated on June 30, 1989, as provided in RCW 43.131.254. [1984 c 288 § 25; 1982 c 223 § 9.]

***Reviser's note:** All references to hospital commission shall be construed to mean department of health; see RCW 43.70.902.

Severability—1984 c 288: See note following RCW 70.38.105.

43.131.254 *Hospital commission—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1990:

(1) Section 2, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 288, Laws of 1984 and RCW 70.39.010;

(2) Section 3, chapter 5, Laws of 1973 1st ex. sess., section 2, chapter 288, Laws of 1984 and RCW 70.39.020;

(3) Section 4, chapter 5, Laws of 1973 1st ex. sess., section 3, chapter 288, Laws of 1984 and RCW 70.39.030;

(4) Section 5, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 36, Laws of 1977, section 4, chapter 288, Laws of 1984 and RCW 70.39.040;

(5) Section 6, chapter 5, Laws of 1973 1st ex. sess., section 104, chapter 287, Laws of 1984, section 5, chapter 288, Laws of 1984 and RCW 70.39.050;

(6) Section 7, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 35, Laws of 1977, section 6, chapter 288, Laws of 1984 and RCW 70.39.060;

(7) Section 8, chapter 5, Laws of 1973 1st ex. sess., section 17, chapter 125, Laws of 1984, section 7, chapter 288, Laws of 1984 and RCW 70.39.070;

(8) Section 9, chapter 5, Laws of 1973 1st ex. sess., section 8, chapter 288, Laws of 1984 and RCW 70.39.080;

(9) Section 10, chapter 5, Laws of 1973 1st ex. sess., section 9, chapter 288, Laws of 1984 and RCW 70.39.090;

(10) Section 11, chapter 5, Laws of 1973 1st ex. sess., section 10, chapter 288, Laws of 1984 and RCW 70.39.100;

(11) Section 12, chapter 5, Laws of 1973 1st ex. sess., section 11, chapter 288, Laws of 1984 and RCW 70.39.110;

(12) Section 13, chapter 5, Laws of 1973 1st ex. sess., section 12, chapter 288, Laws of 1984 and RCW 70.39.120;

(13) Section 14, chapter 5, Laws of 1973 1st ex. sess., section 82, chapter 75, Laws of 1977, section 13, chapter

288, Laws of 1984, section 58, chapter 505, Laws of 1987 and RCW 70.39.130;

(14) Section 15, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 163, Laws of 1974 ex. sess., section 14, chapter 288, Laws of 1984, section 1, chapter 118, Laws of 1988 and RCW 70.39.140;

(15) Section 16, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 154, Laws of 1977 ex. sess., section 18, chapter 288, Laws of 1984 and RCW 70.39.150;

(16) Section 17, chapter 5, Laws of 1973 1st ex. sess., section 19, chapter 288, Laws of 1984 and RCW 70.39.160;

(17) Section 18, chapter 5, Laws of 1973 1st ex. sess., section 67, chapter 57, Laws of 1985 and RCW 70.39.170;

(18) Section 19, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.180;

(19) Section 20, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.190;

(20) Section 21, chapter 5, Laws of 1973 1st ex. sess., section 20, chapter 288, Laws of 1984 and RCW 70.39.200;

(21) Section 22, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.200;

(22) Section 23, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.210;

(23) Section 15, chapter 288, Laws of 1984 and RCW 70.39.165;

(24) Section 23, chapter 288, Laws of 1984 and RCW 70.39.195;

(25) Section 24, chapter 288, Laws of 1984 and RCW 70.39.125; and

(26) Section 1, chapter 262, Laws of 1988 and RCW 70.39.144. [1990 c 52 § 1; 1984 c 288 § 26; 1982 c 223 § 10.]

***Reviser's note:** All references to hospital commission shall be construed to mean department of health; see RCW 43.70.902.

Severability—1984 c 288: See note following RCW 70.38.105.

43.131.333 Center for international trade in forest products—Termination. The center for international trade in forest products in the college of forest resources at the University of Washington shall be terminated on June 30, 2000, as provided in RCW 43.131.334. [1994 c 282 § 4; 1992 c 121 § 2; 1988 c 288 § 15; 1985 c 122 § 8.]

Effective date—1994 c 282: See note following RCW 76.56.020.

Severability—1985 c 122: See RCW 76.56.900.

43.131.334 Center for international trade in forest products—Repeal. The following acts or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, 2001:

(1) RCW 76.56.010 and 1985 c 122 § 1;

(2) RCW 76.56.020 and 1994 c 282 § 1, 1992 c 121 § 1, 1987 c 195 § 16, & 1985 c 122 § 2;

(3) RCW 76.56.030 and 1985 c 122 § 3;

(4) RCW 76.56.040 and 1985 c 122 § 4;

(5) RCW 76.56.050 and 1994 c 282 § 2, 1987 c 505 § 74, & 1985 c 122 § 5;

(6) RCW 76.56.900 and 1985 c 122 § 6; and

(7) RCW 28B.50.262 and 1994 c 282 § 3. [1994 c 282 § 5; 1992 c 121 § 3; 1988 c 288 § 16; 1985 c 122 § 9.]

Effective date—1994 c 282: See note following RCW 76.56.020.

Severability—1985 c 122: See RCW 76.56.900.

43.131.341 Washington state commission on Hispanic affairs—Termination. The Washington state commission on Hispanic affairs and its powers and duties shall be terminated on June 30, 2021, as provided in RCW 43.131.342. [1993 c 261 § 5; 1987 c 249 § 8.]

43.131.342 Washington state commission on Hispanic affairs—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2022:

(1) Section 1, chapter 34, Laws of 1971 ex. sess., section 1, chapter 249, Laws of 1987, section 1, chapter 261, Laws of 1993 and RCW 43.115.010;

(2) Section 2, chapter 34, Laws of 1971 ex. sess., section 2, chapter 249, Laws of 1987 and RCW 43.115.020;

(3) Section 3, chapter 34, Laws of 1971 ex. sess., section 130, chapter 34, Laws of 1975-'76 2nd ex. sess., section 15, chapter 338, Laws of 1981, section 3, chapter 249, Laws of 1987, section 2, chapter 261, Laws of 1993, and RCW 43.115.030;

(4) Section 4, chapter 34, Laws of 1971 ex. sess., section 4, chapter 249, Laws of 1987, section 3, chapter 261, Laws of 1993 and RCW 43.115.040;

(5) Section 6, chapter 34, Laws of 1971 ex. sess., section 6, chapter 249, Laws of 1987 and RCW 43.115.060;

(6) Section 7, chapter 34, Laws of 1971 ex. sess. and RCW 43.115.900; and

(7) Section 4, chapter 261, Laws of 1993 and RCW 43.115.045. [1993 c 261 § 6; 1987 c 249 § 9.]

43.131.353 Information services board, department of information services—Termination. The information services board and the department of information services and their powers and duties shall be terminated on June 30, 1996, as provided in RCW 43.131.354. [1992 c 20 § 12; 1987 c 504 § 22.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

43.131.354 Information services board, department of information services—Expiration, repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) RCW 41.06.094 and 1987 c 504 § 7;

(2) RCW 43.88.560 and 1992 c 20 § 7;

(3) RCW 43.105.005 and 1990 c 208 § 1 & 1987 c 504 § 1;

(4) RCW 43.105.017 and 1992 c 20 § 6, 1990 c 208 § 2, & 1987 c 504 § 2;

(5) RCW 43.105.020 and 1990 c 208 § 3, 1987 c 504 § 3, 1973 1st ex.s. c 219 § 3, & 1967 ex.s. c 115 § 2;

(6) RCW 43.105.032 and 1992 c 20 § 8, 1987 c 504 § 4, 1984 c 287 § 86, 1975-'76 2nd ex.s. c 34 § 128, & 1973 1st ex.s. c 219 § 5;

(7) RCW 43.105.041 and 1990 c 208 § 6, 1987 c 504 § 5, 1983 c 3 § 115, & 1973 1st ex.s. c 219 § 6;

(8) RCW 43.105.047 and 1992 c 20 § 9 & 1987 c 504 § 6;

(9) RCW 43.105.052 and 1992 c 20 § 10, 1990 c 208 § 7, & 1987 c 504 § 8;

(10) RCW 43.105.055 and 1987 c 504 § 9;

(11) RCW 43.105.057 and 1992 c 20 § 11 & 1990 c 208 § 13;

(12) RCW 43.105.060 and 1987 c 504 § 10, 1973 1st ex.s. c 219 § 9, & 1967 ex.s. c 115 § 6;

(13) RCW 43.105.070 and 1969 ex.s. c 212 § 4;

(14) RCW 43.105.080 and 1987 c 504 § 11, 1983 c 3 § 116, & 1974 ex.s. c 129 § 1;

(15) RCW 43.105.900 and 1973 1st ex.s. c 219 § 10;

(16) RCW 43.105.901 and 1987 c 504 § 25;

(17) RCW 43.105.902 and 1987 c 504 § 26;

(18) RCW 43.105.160 and 1992 c 20 § 1;

(19) RCW 43.105.170 and 1992 c 20 § 2;

(20) RCW 43.105.180 and 1992 c 20 § 3;

(21) RCW 43.105.190 and 1992 c 20 § 4; and

(22) RCW 43.105.200 and 1992 c 20 § 5. [1992 c 20 § 13; 1987 c 504 § 24.]

Severability—Captions not law—1992 c 20: See notes following RCW 43.105.160.

Severability—Effective date—1987 c 504: See RCW 43.105.901 and 43.105.902.

43.131.367 Community diversification program—Termination. The community diversification program and the *advisory council on economic diversification shall be terminated on June 30, 1996, as provided in RCW 43.131.368. [1990 c 278 § 7.]

***Reviser's note:** The section which created the advisory council on economic diversification, 1990 c 278 § 3, was vetoed.

Legislative finding—Severability—1990 c 278: See notes following RCW 43.63A.450.

43.131.368 Community diversification program—Repeal. The following acts, or parts of acts, as now existing or as hereafter amended, are each repealed, effective June 30, 1997:

(1) Section 2, chapter 278, Laws of 1990 and RCW 43.63A.450; and

(2) Section 3, chapter 278, Laws of 1990 and RCW 43.63A.____. [1990 c 278 § 8.]

***Reviser's note:** Section 3, chapter 278, Laws of 1990 was vetoed.

Legislative finding—Severability—1990 c 278: See notes following RCW 43.63A.450.

43.131.369 Puget Sound water quality authority—Termination. The Puget Sound water quality authority and its powers and duties shall be terminated on June 30, 1995, as provided in RCW 43.131.370. [1990 c 115 § 11.]

43.131.370 Puget Sound water quality authority—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

(1) Section 1, chapter 451, Laws of 1985 and RCW 90.70.001;

(2) Section 2, chapter 451, Laws of 1985 and RCW 90.70.005;

(3) Section 3, chapter 451, Laws of 1985, section 2, chapter 115, Laws of 1990 and RCW 90.70.011;

(4) Section 5, chapter 451, Laws of 1985 and RCW 90.70.025;

(5) Section 6, chapter 451, Laws of 1985 and RCW 90.70.035;

(6) Section 7, chapter 451, Laws of 1985, section 72, chapter 36, Laws of 1988, section 3, chapter 115, Laws of 1990 and RCW 90.70.045;

(7) Section 4, chapter 451, Laws of 1985, section 4, chapter 115, Laws of 1990 and RCW 90.70.055;

(8) Section 8, chapter 451, Laws of 1985, section 31, chapter 11, Laws of 1989, section 5, chapter 115, Laws of 1990 and RCW 90.70.060;

(9) Section 9, chapter 451, Laws of 1985, section 6, chapter 115, Laws of 1990 and RCW 90.70.070;

(10) Section 10, chapter 451, Laws of 1985, section 7, chapter 115, Laws of 1990 and RCW 90.70.080; and

(11) Section 14, chapter 451, Laws of 1985 and RCW 90.70.901. [1990 c 115 § 12.]

43.131.373 Pacific Northwest export assistance project—Termination. The Pacific Northwest export assistance project shall be terminated on June 30, 1996, as provided in RCW 43.131.374. [1991 c 314 § 17.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.131.374 Pacific Northwest export assistance project—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1997:

(1) RCW 43.210.100 and 1991 c 314 § 11;

(2) RCW 43.210.110 and 1991 c 314 § 12;

(3) RCW 43.210.120 and 1991 c 314 § 13; and

(4) RCW 43.210.070 and 1991 c 314 § 14. [1991 c 314 § 18.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.131.377 Work force employment and training program—Termination. The work force employment and training program created in chapter 226, Laws of 1993 shall expire June 30, 1998. [1993 c 226 § 18.]

Findings—Purpose, intent—Conflict with federal requirements—Severability—Application—1993 c 226: See notes following RCW 50.24.018.

43.131.378 Work force employment and training program—Repeal. The following acts or parts of acts are each repealed, effective June 30, 1999:

(1) 1993 c 226 § 1 (uncodified);

(2) 1993 c 226 § 2 (uncodified);

(3) RCW 50.24.018 and 1993 c 226 § 3;

(4) RCW 50.16.090 and 1993 c 226 § 4;

(5) RCW 50.16.092 and 1993 c 226 § 5;

(6) RCW 50.16.094 and 1993 c 226 § 6;

(7) RCW 50.16.096 and 1993 c 226 § 8;

(8) RCW 50.29.085 and 1993 c 226 § 15; and

(9) RCW 50.12.261 and 1993 c 226 § 17. [1993 c 226 § 19.]

Findings—Purpose, intent—Conflict with federal requirements—Severability—Application—1993 c 226: See notes following RCW 50.24.018.

43.131.381 Linked deposit program—Termination. The linked deposit program shall be terminated on June 30, 2000, as provided in RCW 43.131.382. [1994 c 126 § 2; 1993 c 512 § 35.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.131.382 Linked deposit program—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2001:

(1) RCW 43.86A.060 and 1993 c 512 § 30;

(2) RCW 43.63A.690 and 1993 c 512 § 31; and

(3) RCW 43.86A.070 and 1993 c 512 § 34. [1994 c 126 § 3; 1993 c 512 § 36.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.131.383 Conservation corps—Termination. The Washington conservation corps and its powers and duties shall be terminated on June 30, 1999, as provided in RCW 43.131.384. [1993 c 516 § 13.]

Short title—Sections captions and part headings—Severability—Conflict with federal requirements—Effective date—1993 c 516: See RCW 43.21J.900 through 43.21J.904.

43.131.384 Conservation corps—Repeal. The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 2000:

(1) RCW 43.220.010 and 1983 1st ex.s. c 40 § 2;

(2) RCW 43.220.020 and 1988 c 36 § 23 & 1983 1st ex.s. c 40 § 1;

(3) RCW 43.220.030 and 1987 c 367 § 1 & 1983 1st ex.s. c 40 § 3;

(4) RCW 43.220.040 and 1987 c 367 § 2 & 1983 1st ex.s. c 40 § 4;

(5) RCW 43.220.050 and 1983 1st ex.s. c 40 § 5;

(6) RCW 43.220.060 and 1987 c 505 § 44 & 1983 1st ex.s. c 40 § 6;

(7) RCW 43.220.070 and 1990 c 71 § 2, 1988 c 78 § 1, & 1986 c 266 § 48;

(8) RCW 43.220.080 and 1983 1st ex.s. c 40 § 8;

(9) RCW 43.220.090 and 1983 1st ex.s. c 40 § 9;

(10) RCW 43.220.120 and 1988 c 36 § 24 & 1983 1st ex.s. c 40 § 12;

(11) RCW 43.220.130 and 1983 1st ex.s. c 40 § 13;

(12) RCW 43.220.140 and 1983 1st ex.s. c 40 § 14;

(13) RCW 43.220.150 and 1983 1st ex.s. c 40 § 15;

(14) RCW 43.220.160 and 1983 1st ex.s. c 40 § 16;

(15) RCW 43.220.170 and 1983 1st ex.s. c 40 § 17;

(16) RCW 43.220.180 and 1983 1st ex.s. c 40 § 18;

(17) RCW 43.220.190 and 1987 c 367 § 3 & 1983 1st ex.s. c 40 § 20;

(18) RCW 43.220.210 and 1987 c 367 § 4 & 1985 c 230 § 1;

(19) RCW 43.220.220 and 1985 c 230 § 2;

(20) RCW 43.220.230 and 1990 c 71 § 3 & 1985 c 230 § 3;

(21) RCW 43.220.240 and 1985 c 230 § 4; and

(22) RCW 43.220.250 and 1985 c 230 § 5. [1993 c 516 § 14.]

Short title—Section captions and part headings—Severability—Conflict with federal requirements—Effective date—1993 c 516: See RCW 43.21J.900 through 43.21J.904.

43.131.900 Expiration of RCW 43.131.010 through 43.131.150—Exception. RCW 43.131.010 through 43.131.150 shall expire on June 30, 2000, unless extended by law for an additional fixed period of time. [1988 c 17 § 2; 1982 c 223 § 16; 1979 c 22 § 3; 1977 ex.s. c 289 § 16.]

43.131.901 Severability—1977 ex.s. c 289. If any provision of this 1977 amendatory act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the 1977 amendatory act which can be given effect without the invalid provision or application, and to this end the provisions of this 1977 amendatory act are declared severable. [1977 ex.s. c 289 § 18.]

43.131.910 Severability—1979 c 99. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1979 c 99 § 90.]

Chapter 43.132

FISCAL IMPACT OF PROPOSED LEGISLATION ON POLITICAL SUBDIVISIONS

Sections

- 43.132.010 Intent.
 - 43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports.
 - 43.132.030 Designation of department of community development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations.
 - 43.132.040 Fiscal notes—Transmission of copies to designated recipients.
 - 43.132.050 Fiscal notes—Transmission of copies upon request.
 - 43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility.
 - 43.132.060 Legislative action upon or validity of measures not affected.
- Legislative fiscal notes: Chapter 43.88A RCW.*

43.132.010 Intent. It is the intent of this chapter to create a uniform and coordinated procedure to determine the fiscal impact of proposed legislation on units of local government. [1977 ex.s. c 19 § 1.]

43.132.020 Fiscal notes—Preparation—Contents—Scope—Revisions—Reports. The director of financial management or the director's designee shall, in cooperation with appropriate legislative committees and legislative staff, establish a mechanism for the determination of the fiscal impact of proposed legislation which if enacted into law would directly or indirectly increase or decrease revenues received or expenditures incurred by counties, cities, towns, or any other political subdivisions of the state. The office of financial management shall, when requested by a member of the state legislature, report in writing as to such fiscal impact and said report shall be known as a "fiscal note".

Such fiscal notes shall indicate by fiscal year the total impact on the subdivisions involved for the first two years the legislation would be in effect and also a cumulative six year forecast of the fiscal impact. Where feasible and applicable, the fiscal note also shall indicate the fiscal impact on each individual county or on a representative sampling of cities, towns, or other political subdivisions.

A fiscal note as defined in this section shall be provided only upon request of any member of the state legislature. A legislator also may request that such a fiscal note be revised to reflect the impact of proposed amendments or substitute bills. Fiscal notes shall be completed within seventy-two hours of the request unless a longer time period is allowed by the requesting legislator. In the event a fiscal note has not been completed within seventy-two hours of a request, a daily report shall be prepared for the requesting legislator by the director of financial management which report summarizes the progress in preparing the fiscal note. If the request is referred to the *director of community development, the daily report shall also include the date and time such referral was made. [1984 c 125 § 16; 1979 c 151 § 149; 1977 ex.s. c 19 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability—Headings—Effective date—1984 c 125: See RCW 43.63A.901 through 43.63A.903.

43.132.030 Designation of *department of community development to prepare fiscal notes—Cooperation of state agencies, legislative staffs, and local government associations. The director of financial management is hereby empowered to designate the *director of community development as the official responsible for the preparation of fiscal notes authorized and required by this chapter. It is the intent of the legislature that when necessary the resources of other state agencies, appropriate legislative staffs, and the various associations of local government may be employed in the development of such fiscal notes. [1985 c 6 § 10; 1979 c 151 § 150; 1977 ex.s. c 19 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.132.040 Fiscal notes—Transmission of copies to designated recipients. When a fiscal note is prepared and approved as to form and completeness by the director of financial management, the director shall transmit copies immediately to:

- (1) The requesting legislator;
- (2) With respect to proposed legislation held by the senate, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairperson of the ways and means committee, the chairperson of the local government committee, and the secretary of the senate; and
- (3) With respect to proposed legislation held by the house of representatives, the chairperson of the committee which holds or has acted upon the proposed legislation, the chairpersons of the revenue and taxation and appropriations committees, the chairperson of the local government commit-

tee, and the chief clerk of the house of representatives. [1986 c 158 § 18; 1979 c 151 § 151; 1977 ex.s. c 19 § 4.]

43.132.050 Fiscal notes—Transmission of copies upon request. The office of financial management may make additional copies of the fiscal note available to members of the legislature and others on request.

At the request of any member of the senate or house of representatives, whichever is considering the proposed legislation, and unless it is prohibited by the rules of the body, copies of the fiscal note or a synopsis thereof shall be placed on the members' desks at the time the proposed legislation takes its place on the second reading calendar.

Whenever proposed legislation accompanied by such a fiscal note is passed by either the senate or the house of representatives, the fiscal note shall be transmitted with the bill to the other house. [1986 c 158 § 19; 1979 c 151 § 152; 1977 ex.s. c 19 § 5.]

43.132.055 Fiscal notes—Expenditures by local government—Fiscal responsibility. When the fiscal note indicates that a bill or resolution would require expenditures of funds by a county, city, town, or other unit of local government, the legislature shall determine the state's fiscal responsibility and shall make every effort to appropriate the funds or provide the revenue generating authority necessary to implement the legislation during the ensuing biennium. [1979 ex.s. c 112 § 2.]

43.132.060 Legislative action upon or validity of measures not affected. Nothing in this chapter shall prevent either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules of the senate and house of representatives, nor shall the lack of any fiscal note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1977 ex.s. c 19 § 6.]

Chapter 43.133

WASHINGTON SUNRISE ACT

Sections

43.133.010	Legislative declaration.
43.133.020	Definitions.
43.133.030	Sunrise notes—Procedure.
43.133.040	Sunrise notes—Contents.
43.133.050	Sunrise notes—Preparation.
43.133.060	Sunrise notes—Filing.
43.133.070	Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district.
43.133.080	Effect of chapter on validity of legislative action.
43.133.900	Short title.

43.133.010 Legislative declaration. Because of the proliferation of boards and special purpose districts, the legislature recognizes the necessity of developing a uniform and coordinated procedure for determining the need for these new units of government. [1987 c 342 § 1.]

43.133.020 Definitions. (1) For purposes of this chapter, "special purpose district" means any unit of local government other than a city, town, county, or school district.

(2) For purposes of this chapter, "board" means a board, commission, council, committee or task force. [1987 c 342 § 2.]

43.133.030 Sunrise notes—Procedure. The office of financial management and the *department of community development shall, in cooperation with appropriate legislative committees and legislative staff, establish a procedure for the provision of sunrise notes on the expected impact of bills and resolutions that authorize the creation of new boards and new types of special purpose districts. [1987 c 342 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.133.040 Sunrise notes—Contents. Sunrise notes shall include:

- (1) The purpose and expected impact of the new board or special purpose district;
- (2) The powers and duties of the new board or special purpose district;
- (3) The direct or potential duplication of the powers and duties of existing boards or special purpose districts; and
- (4) Other information relevant to the need for the new board or special purpose district. [1987 c 342 § 4.]

43.133.050 Sunrise notes—Preparation. (1) The office of financial management shall prepare sunrise notes for legislation concerning the creation of new boards. The *department of community development shall prepare sunrise notes for legislation creating new types of special purpose districts.

(2) A sunrise note shall be prepared for all executive and agency request legislation that creates a board or special purpose district.

(3) The office of financial management or the *department of community development shall also provide a sunrise note at the request of any committee of the legislature. [1987 c 342 § 5.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.133.060 Sunrise notes—Filing. Sunrise notes shall be filed with:

- (1) The committee to which the bill or resolution was referred upon introduction in the house of origin;
- (2) The senate committee on ways and means or its successor;
- (3) The house of representatives committee on ways and means or its successor;
- (4) The senate governmental operations committee or its successor; and
- (5) The house of representatives state government committee or its successor. [1987 c 342 § 6.]

43.133.070 Forwarding of notification and sunrise note to committees when standing committee votes out bill creating board or special purpose district. Legislative standing committees shall forward notification and the sunrise note, if available, to the senate or house of representatives ways and means committee and the senate governmental operations committee or the house of representatives state government committee whenever a bill providing for the creation of a new board or special purpose district is voted out of the standing committee. [1987 c 342 § 7.]

43.133.080 Effect of chapter on validity of legislative action. Nothing in this chapter prevents either house of the legislature from acting on any bill or resolution before it as otherwise provided by the state Constitution, by law, and by the rules and joint rules of the senate and house of representatives, nor shall the lack of any sunrise note as provided in this chapter or any error in the accuracy thereof affect the validity of any measure otherwise duly passed by the legislature. [1987 c 342 § 8.]

43.133.900 Short title. This chapter shall be known as the Washington sunrise act. [1987 c 342 § 9.]

Chapter 43.135

TAX REVENUE LIMITATIONS

Sections

- 43.135.010 Findings—Intent.
- 43.135.020 Definitions.
- 43.135.025 General fund expenditure limit—Computation—Annual limit adjustment—Definitions—Emergency exception—State treasurer duty, penalty.
- 43.135.030 State tax revenue limit.
- 43.135.035 Tax legislation—Conditions and restrictions—Ballot title—Declarations of emergency—Taxes on intangible property—Expenditure limit to reflect program cost shifting or fund transfer.
- 43.135.040 Taxes, fees, charges to be set—Estimated revenue to be within revenue limit.
- 43.135.045 Emergency reserve fund—Excess balance to education construction fund—Appropriation conditions.
- 43.135.050 When revenue limit may be exceeded—Conditions.
- 43.135.055 Fee increase restriction.
- 43.135.060 Prohibition of new or extended programs without reimbursement—Effect of revenue authority and state funding on reimbursement—Transfer of programs—Determination of costs.
- 43.135.070 Priority of principal and interest on state indebtedness—Revenue collected in excess of limit.
- 43.135.900 Severability—1980 c 1.
- 43.135.901 Effective date—Applicability—1980 c 1.
- 43.135.902 Short title—1994 c 2.
- 43.135.903 Severability—1994 c 2.
- 43.135.904 Effective dates—1994 c 2.

43.135.010 Findings—Intent. (Effective until July 1, 1995.) The people of the state of Washington hereby find and declare:

(1) The continuing increases in our state tax burden and the corresponding growth of state government is contrary to the interest of the people of the state of Washington.

(2) It is necessary to limit the rate of growth of state government while assuring adequate funding of essential

services, including basic education as defined by the legislature.

(3) It is therefore the intent of this chapter to:

(a) Establish a limit which will assure that the growth rate of state tax revenue does not exceed the growth rate of state personal income;

(b) Assure that local governments are provided funds adequate to render those services deemed essential by their citizens;

(c) Assure that the state does not impose, on any taxing district, responsibility for new programs or increased levels of service under existing programs unless the costs thereof are paid by the state;

(d) Provide for adjustment of the limit when costs of a program are transferred between the state and another political entity; and

(e) Establish a procedure for exceeding this limit in emergency situations. [1980 c 1 § 1 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.010 Findings—Intent. (Effective July 1, 1995.) The people of the state of Washington hereby find and declare:

(1) The continuing increases in our state tax burden and the corresponding growth of state government is contrary to the interest of the people of the state of Washington.

(2) It is necessary to limit the rate of growth of state government while assuring adequate funding of essential services, including basic education as defined by the legislature.

(3) The current budgetary system in the state of Washington lacks stability. The system encourages crisis budgeting and results in cutbacks during lean years and overspending during surplus years.

(4) It is therefore the intent of this chapter to:

(a) Establish a limit on state expenditures that will assure that the growth rate of state expenditures does not exceed the growth rate of inflation and state population;

(b) Assure that local governments are provided funds adequate to render those services deemed essential by their citizens;

(c) Assure that the state does not impose responsibility on local governments for new programs or increased levels of service under existing programs unless the costs thereof are paid by the state;

(d) Provide for adjustment of the limit when costs of a program are transferred between the state and another political entity;

(e) Establish a procedure for exceeding this limit in emergency situations;

(f) Provide for voter approval of tax increases; and

(g) Avoid overfunding and underfunding state programs by providing stability, consistency, and long-range planning. [1994 c 2 § 1 (Initiative Measure No. 601, approved November 2, 1993); 1980 c 1 § 1 (Initiative Measure No. 62, approved November 6, 1979).]

Referendum—Expiration—1994 c 2: "(1) After December 2, 1993, the state may raise existing taxes, impose new taxes as authorized by law, or make revenue-neutral tax shifts only with approval of a majority of the voters at a November general election. The requirement for a vote at a November general election is in addition to any other requirements established by law.

(2) This section expires on July 1, 1995." [1994 c 2 § 13 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.020 Definitions. (Effective until July 1, 1995.) As used in this chapter, the following terms have the meanings indicated unless otherwise required.

(1) "State tax revenue" means all state moneys received in the treasury from every source except those revenues excluded for the term "general state revenues" by Article VIII, section (1)(c) of the state Constitution other than the state property tax levied for the support of the common schools under RCW 84.52.065, as now or hereafter amended.

(2) "State personal income" means the dollar amount published as total personal income of persons of the state for the calendar year by the United States department of commerce or its successor agency.

(3) "State tax revenue limit" or "limit" means the state tax revenue limit created by this chapter.

(4) "Taxing district" means those districts included within the term "taxing district" under RCW 84.04.120, as now or hereafter amended.

(5) "State personal income ratio" for any calendar year means the quotient formed by dividing (a) state personal income for the calendar year under consideration by (b) the state personal income for the immediately preceding calendar year. [1980 c 1 § 2 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.025 General fund expenditure limit—Computation—Annual limit adjustment—Definitions—Emergency exception—State treasurer duty, penalty. (Effective July 1, 1995.) (1) The state shall not expend from the general fund during any fiscal year state moneys in excess of the state expenditure limit established under this chapter.

(2) Except pursuant to a declaration of emergency under RCW 43.135.035 or pursuant to an appropriation under RCW 43.135.045(4)(b), the state treasurer shall not issue or redeem any check, warrant, or voucher that will result in a state general fund expenditure for any fiscal year in excess of the state expenditure limit established under this chapter. A violation of this subsection constitutes a violation of RCW 43.88.290 and shall subject the state treasurer to the penalties provided in RCW 43.88.300.

(3) The state expenditure limit for any fiscal year shall be the previous fiscal year's state expenditure limit increased by a percentage rate that equals the fiscal growth factor.

(4) For purposes of computing the state expenditure limit for the fiscal year beginning July 1, 1995, the phrase "the previous fiscal year's state expenditure limit" means the total state expenditures from the state general fund, not including federal funds, for the fiscal year beginning July 1, 1989, plus the fiscal growth factor. This calculation is then computed for the state expenditure limit for fiscal years 1992, 1993, 1994, and 1995, and as required under RCW 43.135.035(4).

(5) Each November, the office of financial management shall adjust the expenditure limit for the preceding fiscal year based on actual expenditures and known changes in the fiscal growth factor and then project an expenditure limit for the next two fiscal years. The office of financial management shall notify the legislative fiscal committees of all

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adjustments to the state expenditure limit and projections of future expenditure limits.

(6) "Fiscal growth factor" means the average of the sum of inflation and population change for each of the prior three fiscal years.

(7) "Inflation" means the percentage change in the implicit price deflator for the United States for each fiscal year as published by the federal bureau of labor statistics.

(8) "Population change" means the percentage change in state population for each fiscal year as reported by the office of financial management. [1994 c 2 § 2 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.030 State tax revenue limit. (Effective until July 1, 1995.) (1) The state tax revenue limit for any fiscal year shall be the previous fiscal year's state tax revenue limit multiplied by the average state personal income ratio for the three calendar years immediately preceding the beginning of the fiscal year for which the limit is being computed.

(2) For purposes of computing the state tax revenue limit for the fiscal year beginning July 1, 1980, the phrase "the previous fiscal year's state tax revenue limit" means the state tax revenue collected in the fiscal year beginning July 1, 1978, multiplied by the average state personal income ratio for the calendar years 1976, 1977, and 1978. [1980 c 1 § 3 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.035 Tax legislation—Conditions and restrictions—Ballot title—Declarations of emergency—Taxes on intangible property—Expenditure limit to reflect program cost shifting or fund transfer. (Effective July 1, 1995.) (1) After July 1, 1995, any action or combination of actions by the legislature that raises state revenue or requires revenue-neutral tax shifts may be taken only if approved by a two-thirds vote of each house, and then only if state expenditures in any fiscal year, including the new revenue, will not exceed the state expenditure limits established under this chapter.

(2)(a) If the legislative action under subsection (1) of this section will result in expenditures in excess of the state expenditure limit, then the action of the legislature shall not take effect until approved by a vote of the people at a November general election. The office of financial management shall adjust the state expenditure limit by the amount of additional revenue approved by the voters under this section. This adjustment shall not exceed the amount of revenue generated by the legislative action during the first full fiscal year in which it is in effect. The state expenditure limit shall be adjusted downward upon expiration or repeal of the legislative action.

(b) The ballot title for any vote of the people required under this section shall be substantially as follows:

"Shall taxes be imposed on in order to allow a spending increase above last year's authorized spending adjusted for inflation and population increases?"

(3)(a) The state expenditure limit may be exceeded upon declaration of an emergency for a period not to exceed twenty-four months by a law approved by a two-thirds vote of each house of the legislature and signed by the governor.

The law shall set forth the nature of the emergency, which is limited to natural disasters that require immediate government action to alleviate human suffering and provide humanitarian assistance. The state expenditure limit may be exceeded for no more than twenty-four months following the declaration of the emergency and only for the purposes contained in the emergency declaration.

(b) Additional taxes required for an emergency under this section may be imposed only until thirty days following the next general election, unless an extension is approved at that general election. The additional taxes shall expire upon expiration of the declaration of emergency. The legislature shall not impose additional taxes for emergency purposes under this subsection unless funds in the education construction fund have been exhausted.

(c) The state or any political subdivision of the state shall not impose any tax on intangible property listed in RCW 84.36.070 as that statute exists on January 1, 1993.

(4) If the cost of any state program or function is shifted from the state general fund on or after January 1, 1993, to another source of funding, or if moneys are transferred from the state general fund to another fund or account, the office of financial management shall lower the state expenditure limit to reflect the shift. [1994 c 2 § 4 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.040 Taxes, fees, charges to be set—Estimated revenue to be within revenue limit. (Effective until July 1, 1995.) Except as provided in RCW 43.135.050, taxes, fees, and charges on persons, property, and activities shall be imposed, levied, or set by the legislature in such a manner that the estimated state tax revenue for each fiscal year of the next biennium will not exceed the state tax revenue limit for that fiscal year: PROVIDED, The legislature may at any time adjust such taxes, fees, and charges for the second fiscal year of the biennium. [1980 c 1 § 4 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.045 Emergency reserve fund—Excess balance to education construction fund—Appropriation conditions. (Effective July 1, 1995.) (1) The emergency reserve fund is established in the state treasury. During each fiscal year, the state treasurer shall deposit in the emergency reserve fund all general fund—state revenues in excess of the state expenditure limit for that fiscal year. Deposits shall be made at the end of each fiscal quarter based on projections of state revenues and the state expenditure limit.

(2) The legislature may appropriate moneys from the emergency reserve fund only with approval of at least two-thirds of the members of each house of the legislature, and then only if the appropriation does not cause total expenditures to exceed the state expenditure limit under this chapter.

(3) The emergency reserve fund balance shall not exceed five percent of biennial general fund—state revenues as projected by the official state revenue forecast. Any balance in excess of five percent shall be transferred on a quarterly basis by the state treasurer to the education construction fund hereby created in the treasury.

(4)(a) Funds may be appropriated from the education construction fund exclusively for common school construction or higher education construction.

(b) Funds may be appropriated for any other purpose only if approved by a two-thirds vote of each house of the legislature and if approved by a vote of the people at the next general election. An appropriation approved by the people under this subsection shall result in an adjustment to the state expenditure limit only for the fiscal period for which the appropriation is made and shall not affect any subsequent fiscal period. [1994 c 2 § 3 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.050 When revenue limit may be exceeded—Conditions. (Effective until July 1, 1995.) (1) The state tax revenue limit for any fiscal year may be exceeded in order to meet an emergency as declared by the legislature by two-thirds vote of each house. The legislature, by two-thirds vote of each house, shall set forth the circumstances constituting the emergency and the amount of state tax revenue in excess of the applicable state tax revenue limit necessary to meet the emergency.

(2) Any amount of state tax revenue authorized by subsection (1) of this section in excess of the state tax revenue limit shall be authorized only for the fiscal year in which the vote is taken and/or the next succeeding fiscal year, as directed by the legislature.

(3) Except where the emergency results from a court order, the amount of state tax revenue authorized under subsection (1) of this section in excess of the limit shall not be used in the revenue base used to compute the state tax revenue limit for subsequent years. [1980 c 1 § 5 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.055 Fee increase restriction. No fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor for that fiscal year without prior legislative approval. [1994 c 2 § 8 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.060 Prohibition of new or extended programs without reimbursement—Effect of revenue authority and state funding on reimbursement—Transfer of programs—Determination of costs. (Effective until July 1, 1995.) (1) The legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any taxing district unless the districts are reimbursed for the costs thereof by the state.

(2) The amount of increased local revenue and state appropriations and distributions that are received or could be received by a taxing district as a result of legislative enactments after 1979 shall be included as reimbursement under this section. This subsection does not affect litigation pending on January 1, 1990.

(3) If by order of any court, or legislative enactment, the costs of a federal or taxing district program are transferred to or from the state, the otherwise applicable state tax revenue limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(4) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any taxing district or transferred to or from the state.

(5) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under RCW 29.04.200. [1990 2nd ex.s. c 1 § 601; 1990 c 184 § 2; 1980 c 1 § 6 (Initiative Measure No. 62, approved November 6, 1979).]

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

43.135.060 Prohibition of new or extended programs without full reimbursement—Transfer of programs—Determination of costs. (Effective July 1, 1995.)

(1) After July 1, 1995, the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision of the state unless the subdivision is fully reimbursed by specific appropriation by the state for the costs of the new programs or increases in service levels.

(2) If by order of any court, or legislative enactment, the costs of a federal or local government program are transferred to or from the state, the otherwise applicable state expenditure limit shall be increased or decreased, as the case may be, by the dollar amount of the costs of the program.

(3) The legislature, in consultation with the office of financial management or its successor agency, shall determine the costs of any new programs or increased levels of service under existing programs imposed on any political subdivision or transferred to or from the state.

(4) Subsection (1) of this section does not apply to the costs incurred for voting devices or machines under RCW 29.04.200. [1994 c 2 § 5 (Initiative Measure No. 601, approved November 2, 1993); 1990 2nd ex.s. c 1 § 601; 1990 c 184 § 2; 1980 c 1 § 6 (Initiative Measure No. 62, approved November 6, 1979).]

Severability—1990 2nd ex.s. c 1: See note following RCW 82.14.300.

43.135.070 Priority of principal and interest on state indebtedness—Revenue collected in excess of limit. (Effective until July 1, 1995.) The legislature shall, prior to any other appropriation, provide for the payment of the principal and interest of the indebtedness of the state. State tax revenue collected in any fiscal year in excess of the state tax revenue limit for that fiscal year shall be included as part of the state tax revenue for the succeeding fiscal year. [1980 c 1 § 7 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.900 Severability—1980 c 1. (Effective until July 1, 1995.) If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1980 c 1 § 8 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.901 Effective date—Applicability—1980 c 1. (Effective until July 1, 1995.) This act shall take effect on January 1, 1980: PROVIDED, That the first fiscal year for which the state tax revenue limit shall be in effect is the fiscal year beginning on July 1, 1980. [1980 c 1 § 9 (Initiative Measure No. 62, approved November 6, 1979).]

43.135.902 Short title—1994 c 2. This chapter may be known and cited as the taxpayer protection act. [1994 c 2 § 10 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.903 Severability—1994 c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1994 c 2 § 12 (Initiative Measure No. 601, approved November 2, 1993).]

43.135.904 Effective dates—1994 c 2. (1) Sections 8 and 13 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [December 2, 1993].

(2) Sections 1 through 7 and 9 through 12 of this act shall take effect July 1, 1995. [1994 c 2 § 14 (Initiative Measure No. 601, approved November 2, 1993).]

Chapter 43.136

TERMINATION OF TAX PREFERENCES

Sections

43.136.010 Legislative findings—Intent.

43.136.020 "Tax preference" defined.

43.136.030 Legislative budget committee and department of revenue—Review of tax preferences—Reports.

43.136.040 Legislative budget committee review of tax preferences—Factors for consideration.

43.136.050 Powers and duties of ways and means committees.

43.136.070 Report on existing tax preferences to be provided—Additional information to be provided.

Analysis of desirability of existing tax exemptions by tax advisory council: RCW 43.38.020.

Biennial listing of reduction in revenues from tax exemptions to be submitted to legislature by department of revenue—Periodic review and submission of recommendations to legislature by governor: RCW 43.06.400.

Tax exemption impact report: RCW 82.01.110.

43.136.010 Legislative findings—Intent. The legislature recognizes that tax preferences are enacted by the legislature to meet objectives which are determined to be in the public interest. The legislature finds, however, that some tax preferences may not be efficient or equitable tools for the achievement of current legislative objectives. The legislature finds that unless it can be demonstrated that the public interest is served by the continued existence of tax preferences, they should be terminated or modified. The legislature further finds that periodic evaluations of tax preferences are needed to determine if their continued existence is in the public interest.

It is the intent of the legislature to establish a mechanism for scheduling periodic evaluations of tax preferences together with a system for their termination, continuation, or modification. By this mechanism, the legislature intends to ensure that thorough periodic evaluations are made and that those tax preferences which do not continue to serve the public interest are terminated or modified. [1982 1st ex.s. c 35 § 39.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.020 "Tax preference" defined. As used in this chapter, "tax preference" means an exemption, exclusion, or deduction from the base of a state tax; a credit against a state tax; a deferral of a state tax; or a preferential state tax rate. [1982 1st ex.s. c 35 § 40.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.030 Legislative budget committee and department of revenue—Review of tax preferences—Reports. The legislative budget committee shall review each tax preference for termination by the processes provided in this chapter. The review shall be completed and a report prepared on or before June 30th of the year prior to the date established for termination. Upon completion of its report, the legislative budget committee shall transmit copies of the report to the department of revenue. The department of revenue may then conduct its own review of the tax preference scheduled for termination and shall prepare a report on or before September 30th of the year prior to the date established for termination. Upon completion of its report the department of revenue shall transmit copies of its report to the legislative budget committee. The legislative budget committee shall prepare a final report that includes the reports of both the department of revenue and the legislative budget committee. The legislative budget committee and the department of revenue shall, upon request, make available to each other all working papers, studies, and other documents which relate to reports required under this section. The legislative budget committee shall transmit the final report to all members of the legislature, to the governor, and to the state library. [1982 1st ex.s. c 35 § 41.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.040 Legislative budget committee review of tax preferences—Factors for consideration. In reviewing a tax preference, the legislative budget committee shall develop information needed by the legislature to determine if the tax preference should be terminated as scheduled, modified, or reestablished without modification. The legislative budget committee shall consider, but not be limited to, the following factors in the review.

(1) The persons or organizations whose state tax liabilities are directly affected by the tax preference.

(2) Legislative objectives that might provide a justification for the tax preference.

(3) Evidence that the existence of the tax preference has contributed to the achievement of any of the objectives identified in subsection (2) of this section.

(4) The extent to which continuation of the tax preference beyond its scheduled termination date might contribute to any of the objectives identified in subsection (2) of this section.

(5) Fiscal impacts of the tax preference, including past impacts and expected future impacts if it is not terminated as scheduled.

(6) The extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes. [1982 1st ex.s. c 35 § 42.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.050 Powers and duties of ways and means committees. (1) Following receipt of the final report from the legislative budget committee, the ways and means committees of the house of representatives and the senate shall jointly hold a public hearing to consider the final report and any related data. The committees shall also receive testimony from the governor, or the governor's designee, and other interested parties, including the general public.

(2) Following the joint hearing, the committees may separately hold additional meetings or hearings to come to a final determination as to whether a continuation, modification, or termination of a tax preference is in the public interest. If a committee determines that a tax preference should be continued or modified, it shall make the determination as a bill. No more than one tax preference shall be reestablished or modified in any one bill. [1982 1st ex.s. c 35 § 43.]

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

43.136.070 Report on existing tax preferences to be provided—Additional information to be provided. On or before September 30, 1982, the department of revenue shall provide the *select joint committee with a report on existing tax preferences. The report shall include a list of tax preferences and a description of each one. Upon request of the *select joint committee, the department of revenue shall provide additional information needed by the *select joint committee to meet its responsibilities under this chapter. [1982 1st ex.s. c 35 § 45.]

*Reviser's note: RCW 43.115.050, which created the select joint committee, was repealed by 1993 c 142 § 1.

Severability—Effective dates—1982 1st ex.s. c 35: See notes following RCW 82.08.020.

Chapter 43.140

GEOHERMAL ENERGY

Sections

43.140.010 Purpose.

43.140.020 Definitions.

43.140.030 Geothermal account—Deposit of revenues.

43.140.040 Geothermal account—Limitations on distributions.

43.140.050 Distribution of funds to county of origin.

43.140.060 Appropriation for exploration and assessment of geothermal energy—Reimbursement.

43.140.900 Termination of chapter.

Geothermal resources: RCW 79.12.095.

43.140.010 Purpose. The purpose of this chapter is to provide for the allocation of revenues distributed to the state under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970

(30 U.S.C. Sec. 1001 et. seq.) in order to accomplish the following general objectives:

(1) Reduction of dependence on nonrenewable energy and stimulation of the state's economy through development of geothermal energy.

(2) Mitigation of the social, economic, and environmental impacts of geothermal development.

(3) Financial assistance to counties to offset the costs of providing public services and facilities necessitated by the development of geothermal resources within their jurisdictions.

(4) Maintenance of the productivity of renewable resources through the investment of proceeds from these resources. [1981 c 158 § 1.]

43.140.020 Definitions. As used in this chapter:

(1) "County of origin" means any county in which the United States bureau of land management has leased lands for geothermal development.

(2) "Geothermal energy" means the natural heat of the earth and the medium by which this heat is extracted from the earth, including liquids or gases, as well as any minerals contained in any natural or injected fluids, brines, and associated gas but excluding oil, hydrocarbon gas, and other hydrocarbon substances. [1981 c 158 § 2.]

43.140.030 Geothermal account—Deposit of revenues. There is created the geothermal account in the state treasury. All expenditures from this account are subject to appropriation and chapter 43.88 RCW.

All revenues received by the state treasurer under section 35 of the Mineral Lands Leasing Act of 1920, as amended (30 U.S.C. Sec. 191), with respect to activities of the United States bureau of land management undertaken pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. Sec. 1001 et. seq.) shall be deposited in the geothermal account in the state treasury immediately upon receipt. [1991 sp.s. c 13 § 7; 1985 c 57 § 58; 1981 c 158 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—1985 c 57: See note following RCW 18.04.105.

43.140.040 Geothermal account—Limitations on distributions. Distribution of funds from the geothermal account of the general fund shall be subject to the following limitations:

(1) Thirty percent to the department of natural resources for geothermal exploration and assessment;

(2) Thirty percent to the Washington state energy office or its statutory successor for the purpose of encouraging the development of geothermal energy; and

(3) Forty percent to the county of origin for mitigating impacts caused by geothermal energy exploration, assessment, and development. [1981 c 158 § 4.]

43.140.050 Distribution of funds to county of origin.

The state treasurer shall be responsible for distribution of funds to the county of origin. Each county's share of rentals and royalties from a lease including lands in more than one county shall be computed on the basis of the ratio that the acreage within each county has to the total acreage in the

lease. The Washington state energy office or its statutory successor shall obtain the necessary information to make the distribution of funds on such a basis. [1981 c 158 § 5.]

43.140.060 Appropriation for exploration and assessment of geothermal energy—Reimbursement. The legislature hereby appropriates one hundred forty-eight thousand dollars from the general fund of the state treasury to the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. The department of natural resources shall reimburse the general fund from its share of the revenues credited to the geothermal account up to one hundred forty-eight thousand dollars. Geothermal Steam Act revenues credited to the department's share of the geothermal account in excess of one hundred forty-eight thousand dollars shall be expended by the department of natural resources for the purpose of exploration and assessment of geothermal energy within the state of Washington. [1981 c 158 § 7.]

43.140.900 Termination of chapter. This chapter shall terminate on June 30, 2001. [1991 c 76 1; 1981 c 158 § 8.]

Chapter 43.143

OCEAN RESOURCES MANAGEMENT ACT

Sections

43.143.005 Legislative findings.

43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—
Appeals from regulation of recreational uses—
Participation in federal ocean and marine resource decisions.

43.143.020 Definitions.

43.143.030 Planning and project review criteria.

43.143.040 Oil and gas leasing analysis.

43.143.900 Captions not law.

43.143.901 Short title.

43.143.902 Severability—1989 1st ex.s. c 2.

Oil or gas exploration in marine waters: RCW 90.58.550.

Transport of petroleum products or hazardous substances: Chapter 88.40 RCW.

43.143.005 Legislative findings. (1) Washington's coastal waters, seabed, and shorelines are among the most valuable and fragile of its natural resources.

(2) Ocean and marine-based industries and activities, such as fishing, aquaculture, tourism, and marine transportation have played a major role in the history of the state and will continue to be important in the future. Other industries and activities, such as those based on the development and extraction of minerals and other nonrenewable resources, can provide social and economic benefits as well.

(3) Washington's coastal waters, seabed, and shorelines are faced with conflicting use demands. Some uses may pose unacceptable environmental or social risks at certain times.

(4) At present, there is not enough information available to adequately assess the potential adverse effects of oil and gas exploration and production off Washington's coast.

(5) The state of Washington has primary jurisdiction over the management of coastal and ocean natural resources within three miles of its coastline. From three miles seaward to the boundary of the two hundred mile exclusive economic zone, the United States federal government has primary jurisdiction. Since protection, conservation, and development of the natural resources in the exclusive economic zone directly affect Washington's economy and environment, the state has an inherent interest in how these resources are managed. [1989 1st ex.s. c 2 § 8.]

43.143.010 Legislative policy and intent—Moratorium on leases for oil and gas exploration, development, or production—Appeals from regulation of recreational uses—Participation in federal ocean and marine resource decisions. (1) The purpose of this chapter is to articulate policies and establish guidelines for the exercise of state and local management authority over Washington's coastal waters, seabed, and shorelines.

(2) There shall be no leasing of Washington's tidal or submerged lands extending from mean high tide seaward three miles along the Washington coast from Cape Flattery south to Cape Disappointment, nor in Grays Harbor, Willapa Bay, and the Columbia river downstream from the Longview bridge, for purposes of oil or gas exploration, development, or production until at least July 1, 1995. During the 1995 legislative session, the legislature shall determine whether the moratorium on leasing should be extended past July 1, 1995. This determination shall be based on the information available at that time, including the analysis described in RCW 43.143.040. If the legislature does not extend the moratorium on leasing, the moratorium will end on July 1, 1995. At any time that oil or gas leasing, exploration, and development are allowed to occur, these activities shall be required to meet or exceed the standards and criteria contained in RCW 43.143.030.

(3) When conflicts arise among uses and activities, priority shall be given to resource uses and activities that will not adversely impact renewable resources over uses which are likely to have an adverse impact on renewable resources.

(4) It is the policy of the state of Washington to actively encourage the conservation of liquid fossil fuels, and to explore available methods of encouraging such conservation.

(5) It is not currently the intent of the legislature to include recreational uses or currently existing commercial uses involving fishing or other renewable marine or ocean resources within the uses and activities which must meet the planning and review criteria set forth in RCW 43.143.030. It is not the intent of the legislature, however, to permanently exclude these uses from the requirements of RCW 43.143.030. If information becomes available which indicates that such uses should reasonably be covered by the requirements of RCW 43.143.030, the permitting government or agency may require compliance with those requirements, and appeals of that decision shall be handled through the established appeals procedure for that permit or approval.

(6) The state shall participate in federal ocean and marine resource decisions to the fullest extent possible to ensure that the decisions are consistent with the state's

policy concerning the use of those resources. [1989 1st ex.s. c 2 § 9.]

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

(1) "Coastal counties" means Clallam, Jefferson, Grays Harbor, and Pacific counties.

(2) "Coastal waters" means the waters of the Pacific Ocean seaward from Cape Flattery south to Cape Disappointment, from mean high tide seaward two hundred miles. [1989 1st ex.s. c 2 § 10.]

43.143.030 Planning and project review criteria.

(1) When the state of Washington and local governments develop plans for the management, conservation, use, or development of natural resources in Washington's coastal waters, the policies in RCW 43.143.010 shall guide the decision-making process.

(2) Uses or activities that require federal, state, or local government permits or other approvals and that will adversely impact renewable resources, marine life, fishing, aquaculture, recreation, navigation, air or water quality, or other existing ocean or coastal uses, may be permitted only if the criteria below are met or exceeded:

(a) There is a demonstrated significant local, state, or national need for the proposed use or activity;

(b) There is no reasonable alternative to meet the public need for the proposed use or activity;

(c) There will be no likely long-term significant adverse impacts to coastal or marine resources or uses;

(d) All reasonable steps are taken to avoid and minimize adverse environmental impacts, with special protection provided for the marine life and resources of the Columbia river, Willapa Bay and Grays Harbor estuaries, and Olympic national park;

(e) All reasonable steps are taken to avoid and minimize adverse social and economic impacts, including impacts on aquaculture, recreation, tourism, navigation, air quality, and recreational, commercial, and tribal fishing;

(f) Compensation is provided to mitigate adverse impacts to coastal resources or uses;

(g) Plans and sufficient performance bonding are provided to ensure that the site will be rehabilitated after the use or activity is completed; and

(h) The use or activity complies with all applicable local, state, and federal laws and regulations. [1989 1st ex.s. c 2 § 11.]

43.143.040 Oil and gas leasing analysis. Prior to September 1, 1994, the department of natural resources and the department of ecology, working together and at the direction of the joint select committee on marine and ocean resources, shall complete an analysis of the potential positive and negative impacts of the leasing of state-owned lands which is described in RCW 43.143.010(2). The department shall consult with the *departments of fisheries, wildlife, community development, and trade and economic development, and with the public, when preparing this analysis. The analysis shall be presented to the legislature no later than September 1, 1994. This analysis shall be used by the leg-

islature in determining whether the oil and gas leasing moratorium contained in RCW 43.143.010 should be extended. [1989 1st ex.s. c 2 § 12.]

***Reviser's note:** (1) Powers, duties, and functions of the department of fisheries and the department of wildlife were transferred to the department of fish and wildlife by 1993 sp.s. c 2, effective July 1, 1994.

(2) Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.143.900 Captions not law. Section captions as used in this chapter do not constitute any part of the law. [1989 1st ex.s. c 2 § 18.]

43.143.901 Short title. Sections 8 through 12 of this act shall constitute a new chapter in Title 43 RCW and may be known and cited as the ocean resources management act. [1989 1st ex.s. c 2 § 19.]

43.143.902 Severability—1989 1st ex.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 1st ex.s. c 2 § 20.]

Chapter 43.145

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

Sections

- 43.145.010 Compact.
43.145.020 Requirements of Washington representative to Northwest low-level waste compact committee.
43.145.030 Rule-making authority.

Radioactive Waste Storage and Transportation Act of 1980: Chapter 70.99 RCW.

43.145.010 Compact. The Northwest Interstate Compact on Low-Level Radioactive Waste Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the compact in accordance with the terms of the compact.

NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

ARTICLE I—Policy and Purpose

The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to

provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

ARTICLE II—Definitions

As used in this compact:

(1) "Facility" means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

(2) "Low-level waste" means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulations;

(3) "Generator" means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

(4) "Host state" means a state in which a facility is located.

ARTICLE III—Regulatory Practices

Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this Article. Nothing in this Article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this Article.

ARTICLE IV—Regional Facilities

Section 1. Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

Section 2. No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in Article V.

Section 3. Until such time as Section 2 takes effect as provided in Article VI, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

(1) The generator's name and address;

(2) A description of the contents of the low-level waste container;

(3) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable federal regulations and such additional requirements as may be imposed by the host state;

(4) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

Section 4. Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

Section 5. The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the state of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact may be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure or [of] such facilities, so long as such action by a host state is applied equally to all generators within the region composed of the party states.

Section 6. Any host state may establish a schedule of fees and requirements related to its facility, to assure that

closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

ARTICLE V—Northwest Low-level Waste Compact Committee

The governor of each party state shall designate one official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the Northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of Article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

Section 1. Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

Section 2. After the compact has initially taken effect pursuant to Section 1, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

Section 3. Section 2 of Article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in Public Law 96-573, Congress may withdraw its consent to the compact after every five-year period.

ARTICLE VII—Severability

If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable. [1981 c 124 § 1.]

43.145.020 Requirements of Washington representative to Northwest low-level waste compact committee. The person designated as the Washington representative to the committee as specified in Article V shall adhere to all provisions of the low-level radioactive waste compact. In considering special conditions or arrangements for access to

the state's facilities from wastes generated outside of the region, the committee member shall ensure at a minimum, that the provisions of Article IV, Section 3 are complied with. After 1992 the Washington representative may approve access to the state's facility only for the states currently members of the Rocky Mountain compact or states which generate less than one thousand cubic feet of waste annually and are contiguous with a state which is a member of the Northwest compact. [1990 c 21 § 5; 1981 c 124 § 2.]

43.145.030 Rule-making authority. See RCW 43.200.070.

Chapter 43.146

PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIAL TRANSPORTATION MANAGEMENT

Sections

- 43.146.010 Pacific States Agreement on Radioactive Materials Transportation Management.
43.146.900 Legislative directive—State designee.

43.146.010 Pacific States Agreement on Radioactive Materials Transportation Management. The Pacific States Agreement on Radioactive Materials Transportation Management is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect between the state and other states joining the agreement in accordance with its terms.

PACIFIC STATES AGREEMENT ON RADIOACTIVE MATERIALS TRANSPORTATION MANAGEMENT

ARTICLE I—Policy and Purpose

The party states recognize that protection of the health and safety of citizens and the environment, and the most economical transportation of radioactive materials, can be accomplished through cooperation and coordination among neighboring states. It is the purpose of this agreement to establish a committee comprised of representatives from each party state to further cooperation between the states on emergency response and to coordinate activities by the states to eliminate unnecessary duplication of rules and regulations regarding the transportation and handling of radioactive material.

The party states intend that this agreement facilitate both interstate commerce and protection of public health and the environment. To accomplish this goal, the party states direct the committee to develop model regulatory standards for party states to act upon and direct the committee to coordinate decisions by party states relating to the routing and inspection of shipments of radioactive material.

ARTICLE II—Definitions

As used in this agreement:

- (1) "Carrier" includes common, private, and contract carriers.
- (2) "Hazardous material" means a substance or material which has been determined by the United States department of transportation to be capable of posing an unreasonable

risk to health, safety, and property when transported in commerce, and which has been so designated.

(3) "Radioactive material" has the meaning given that term in federal department of transportation regulations found in 49 C.F.R. Sec. 173, and includes, but is not limited to, high-level radioactive waste, low-level radioactive waste, and spent nuclear fuel, as defined in section 2 of the nuclear waste policy act of 1982 (96 Stat. 2202; 42 U.S.C.A. Sec. 10101).

(4) "Transportation" means the transport by any means of radioactive material destined for or derived from any location, and any loading, unloading, or storage incident to such transport. "Transportation" does not include permanent storage or disposal of the material.

ARTICLE III—Regulatory Practices

Section 1. The party states agree to develop model standards, not in conflict with federal law or regulations, for carriers of radioactive material to provide information regarding:

- (1) The amount and kind of material transported;
- (2) The mode of transportation and, to the extent feasible, the route or routes and the time schedule;
- (3) The carrier's compliance with local, state, and federal rules and regulations related to radioactive material transportation;
- (4) The carrier's compliance with federal and state liability insurance requirements.

Section 2. Consistent with federal law or regulations pertaining to transportation of radioactive material, the party states also agree to:

- (1) Develop model uniform procedures for issuing permits to carriers;
- (2) Develop model uniform record-keeping processes that allow access on demand by each state;
- (3) Develop model uniform safety standards for carriers;
- (4) Coordinate routing of shipments of radioactive materials;
- (5) Develop a method for coordinating the party states' emergency response plans to provide for regional emergency response including (a) systems for sharing information essential to radiation control efforts, (b) systems for sharing emergency response personnel, and (c) a method to allocate costs and clarify liability when a party state or its officers request or render emergency response;
- (6) Recommend parking requirements for motor vehicles transporting radioactive materials;
- (7) Coordinate state inspections of carriers; and
- (8) Develop other cooperative arrangements and agreements to enhance safety.

Section 3. The party states also agree to coordinate emergency response training and preparedness drills among the party states, Indian tribes, and affected political subdivisions of the party states, and, if possible, with federal agencies.

Section 4. The party states recognize that the transportation management of hazardous waste and hazardous materials is similar in many respects to that of radioactive materials. The party states, therefore, agree to confer as to transportation management and emergency response for those items where similarities in management exist.

ARTICLE IV—Pacific States Radioactive Materials
Transportation Committee

Section 1. Each party state shall designate one official of that state to confer with appropriate legislative committees and with other officials of that state responsible for managing transportation of radioactive material and with affected Indian tribes and be responsible for administration of this agreement. The officials so designated shall together comprise the Pacific states radioactive materials transportation committee. The committee shall meet as required to consider and, where necessary, coordinate matters addressed in this agreement. The parties shall inform the committee of existing regulations concerning radioactive materials transportation management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations.

Section 2. The committee may also engage in long-term planning to assure safe and economical management of radioactive material transportation on a continuing basis.

Section 3. To the extent practicable, the committee shall coordinate its activities with those of other organizations.

ARTICLE V—Eligible Parties and Effective Date

Section 1. The states of Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming are eligible to become a party to this agreement. As to any eligible party, this agreement shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two states. Any party state may withdraw from this agreement by enacting a statute repealing its approval.

Section 2. After the agreement has initially taken effect under section 1 of this article, any eligible party state may become a party to this agreement by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1988, whichever occurs first, unless the agreement has by then been enacted as a statute by that state.

ARTICLE VI—Severability

If any provision of this agreement, or its application to any person or circumstance, is held to be invalid, all other provisions of this agreement, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this agreement are severable. [1987 c 90 § 1.]

43.146.900 Legislative directive—State designee. (1) Section 1 of this act shall constitute a new chapter in Title 43 RCW.

(2) The Washington state designee to the committee shall be appointed by the governor. [1987 c 90 § 2.]

Chapter 43.147

PACIFIC NORTHWEST ECONOMIC REGION
AGREEMENT

Sections

43.147.010	Terms of agreement.
43.147.020	Finding.
43.147.030	Cooperative activities encouraged.
43.147.040	Interlibrary sharing—Finding.
43.147.050	Interlibrary sharing—Definition—Member libraries.
43.147.060	PNWER-Net working subgroup—Generally.
43.147.070	PNWER-Net working subgroup—Duties.
43.147.080	PNWER-Net working subgroup—Gifts, grants, donations.

43.147.010 Terms of agreement. The Pacific Northwest Economic Region is hereby enacted into law and entered into by the state of Washington as a party, and is in full force and effect in accordance with the terms of this agreement.

THE PACIFIC NORTHWEST ECONOMIC REGION

ARTICLE I—Policy and Purpose

States and provinces participating in the Pacific Northwest Economic Region shall seek to develop and establish policies that: Promote greater regional collaboration among the seven entities; enhance the overall competitiveness of the region in international and domestic markets; increase the economic well-being of all citizens in the region; and improve the quality of life of the citizens of the Pacific Northwest.

States and provinces recognize that there are many public policy areas in which cooperation and joint efforts would be mutually beneficial. These areas include, but are not limited to: International trade; economic development; human resources; the environment and natural resources; energy; and education. Parties to this agreement shall work diligently to establish collaborative activity in these and other appropriate policy areas where such cooperation is deemed worthwhile and of benefit to the participating entities. Participating states and provinces also agree that there are areas in which cooperation may not be feasible.

The substantive actions of the Pacific Northwest Economic Region may take the form of uniform legislation enacted by two or more states and/or provinces or policy initiatives endorsed as appropriate by participating entities. It shall not be necessary for all states and provinces to participate in each initiative.

ARTICLE II—Eligible Parties and Effective Date

Each of the following states and provinces is eligible to become a party to this agreement: Alaska, Alberta, British Columbia, Idaho, Montana, Oregon, and Washington. This agreement establishing the Pacific Northwest Economic Region shall become effective when it is executed by one state, one province, and one additional state and/or province in a form deemed appropriate by each entity. This agreement shall continue in force and remain binding upon each state and province until renounced by it. Renunciation of this agreement must be preceded by sending one year's notice in writing of intention to withdraw from the agreement to the other parties to the agreement.

ARTICLE III—Organizational Structure

Each state and province participating in this agreement shall appoint representatives to the Pacific Northwest Economic Region. The organizational structure of the Pacific Northwest Economic Region shall consist of the following: A delegate council consisting of four legislators and the governor or governor's designee from each participating state and four representatives and the premier or the premier's designee from each participating province and an executive committee consisting of one legislator from each participating state and/or province who is a member of the delegate council and four of the seven governors/premiers or their designees who are members of the delegate council. The legislator members of the executive committee from each state or province shall be chosen by the legislator members of that state or province. The four governor or premier members of the executive committee shall be chosen by the governors and premiers from among the governors and premiers on the delegate council. At least one of four members representing the governors and premiers on the executive committee must be the premier of a Canadian province. Policy committees may be established to carry out further duties and responsibilities of the Pacific Northwest Economic Region.

ARTICLE IV—Duties and Responsibilities

The delegate council shall have the following duties and responsibilities: Facilitate the involvement of other government officials in the development and implementation of specific collaborative initiatives; work with policy-making committees in the development and implementation of specific initiatives; approve general organizational policies developed by the executive committee; provide final approval of the annual budget and staffing structure for the Pacific Northwest Economic Region developed by the executive committee; and other duties and responsibilities as may be established in the rules and regulations of the Pacific Northwest Economic Region. The executive committee shall perform the following duties and responsibilities: Elect the president and vice-president of the Pacific Northwest Economic Region; approve and implement general organizational policies; develop the annual budget; devise the annual action plan; act as liaison with other public and private sector entities; review the availability of, and if appropriate apply for, (1) tax exempt status under the laws and regulations of the United States or any state or subdivision thereof and (2) similar status under the laws and regulations of Canada or any province or subdivision thereof, and approve such rules, regulations, organizational policies, and staffing structure for the Pacific Northwest Economic Region and take such further actions on behalf of the Pacific Northwest Economic Region as may be deemed by the executive committee to be necessary or appropriate to qualify for and maintain such tax exempt or similar status under the applicable laws or regulations; and other duties and responsibilities established in the rules and regulations of the Pacific Northwest Economic Region. The rules and regulations of the Pacific Northwest Economic Region shall establish the procedure for voting.

ARTICLE V—Membership of Policy Committees

Policy committees dealing with specific subject matter may be established by the executive committee.

Each participating state and province shall appoint legislators and governors or premiers to sit on these committees in accordance with its own rules and regulations concerning such appointments.

ARTICLE VI—General Provisions

This agreement shall not be construed to limit the powers of any state or province or to amend or repeal or prevent the enactment of any legislation. [1993 c 108 § 1; 1991 c 251 § 2.]

43.147.020 Finding. The legislature finds that there is a new emerging global economy in which countries and regions located in specific areas of the world are forging new cooperative arrangements.

The legislature finds that these new cooperative arrangements are increasing the competitiveness of the participating countries and regions, thus increasing the economic benefits and the overall quality of life for the citizens of the individual countries and regions.

The legislature also finds that the Pacific Northwest states of Alaska, Idaho, Montana, Oregon, and Washington and the Canadian provinces of Alberta and British Columbia are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the individual states and provinces that will provide substantial economic benefits for all of their citizens. [1991 c 251 § 1.]

43.147.030 Cooperative activities encouraged. It is the intent of chapter 251, Laws of 1991 to direct and encourage the establishment of cooperative activities between the seven legislative bodies of the region. The state representatives to the Pacific Northwest Economic Region shall work through appropriate channels to advance consideration of proposals developed by this body. [1991 c 251 § 3.]

43.147.040 Interlibrary sharing—Finding. In chapter 251, Laws of 1991, the legislature enacted into law the Pacific Northwest economic region agreement and made the state of Washington a party along with member states Alaska, Idaho, Montana, and Oregon, and member Canadian provinces Alberta and British Columbia. The legislature recognized that the member states and provinces of the Pacific Northwest economic region are in a strategic position to act together, as a region, thus increasing the overall competitiveness of the members and providing substantial economic benefits for all of their citizens.

For those reasons, in chapter 251, Laws of 1991, the legislature also encouraged the establishment of cooperative activities between the seven legislative bodies of the Pacific Northwest economic region. The member states and provinces now desire to engage in such cooperation by electronically sharing twenty-two million volumes from certain of their respective universities. The member states and provinces have determined that such interlibrary sharing will provide substantial economic benefit for their citizens. The legislature agrees, specifically also finding that such interlibrary sharing furthers a major component of education

strategy in the 1990's and twenty-first century, namely providing increased access to knowledge via technology. [1993 c 485 § 1.]

43.147.050 Interlibrary sharing—Definition—Member libraries. Unless the context clearly requires otherwise, as used in RCW 43.147.040 through 43.147.080 "PNWER-Net" means the technology network to be created by the member states and provinces of the Pacific Northwest economic region that will be capable of electronically linking the following undergraduate university libraries of the member states and provinces:

- (1) Alaska:
 - (a) University of Alaska, Anchorage;
 - (b) University of Alaska, Juneau;
- (2) Alberta:
 - (a) University of Alberta, Calgary;
 - (b) University of Alberta, Edmonton;
- (3) British Columbia:
 - (a) University of British Columbia, Vancouver;
 - (b) University of Victoria, Victoria;
- (4) Idaho:
 - (a) Boise State University, Boise;
 - (b) University of Idaho, Moscow;
- (5) Montana:
 - (a) Montana State University, Bozeman;
 - (b) University of Montana, Missoula;
- (6) Oregon:
 - (a) Oregon State University, Corvallis;
 - (b) University of Oregon, Eugene;
- (7) Washington:
 - (a) University of Washington, Seattle; and
 - (b) Washington State University, Pullman. [1993 c 485 § 2.]

43.147.060 PNWER-Net working subgroup—Generally. (1) The PNWER-Net working subgroup is hereby created for the member state of Washington. The working subgroup shall be composed of seven members as follows: Two members of the senate, one from each of the major caucuses, appointed by the president of the senate; two members of the house of representatives, appointed by the speaker of the house of representatives; the state librarian; and the primary undergraduate academic librarian from each of the state's two research institutions of higher education.

(2) The staff support shall be provided by the senate committee services and, to the extent authorized by the chief clerk of the house of representatives, by the house of representatives office of program research as mutually agreed by the legislators on the working group.

(3) Legislative members shall be reimbursed for expenses in accordance with RCW 44.04.120. Nonlegislative members shall be reimbursed for expenses in accordance with RCW 43.03.050 and 43.03.060. [1993 c 485 § 3.]

43.147.070 PNWER-Net working subgroup—Duties. The PNWER-Net working subgroup shall have the following duties:

(1) To work with working subgroups from other member states and provinces in an entity known as the PNWER-Net working group to develop PNWER-Net;

(2) To assist the PNWER-Net working group in developing criteria to ensure that designated member libraries use existing telecommunications infrastructure including the internet; and

(3) To report to the legislature by December 1, 1994, concerning the status of PNWER-Net. [1993 c 485 § 4.]

43.147.080 PNWER-Net working subgroup—Gifts, grants, donations. The PNWER-Net working group may accept gifts, grants, and donations from private individuals and entities made for the purposes of RCW 43.147.040 through 43.147.070. [1993 c 485 § 5.]

Chapter 43.150

CENTER FOR VOLUNTEERISM AND CITIZEN SERVICE

Sections

- 43.150.010 Legislative findings.
- 43.150.020 Short title.
- 43.150.030 Definitions.
- 43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff.
- 43.150.050 Programs and activities authorized.
- 43.150.060 Council on volunteerism and citizen service created—Membership—Travel expenses—Duties.
- 43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created.
- 43.150.080 At-risk children—Collaborative program.

43.150.010 Legislative findings. (1) The legislature finds that:

(a) Large numbers of Washington's citizens are actively engaged in carrying forward the ethic of service and voluntary activities that benefit their citizens, their communities, and the entire state;

(b) This contribution continues to provide the equivalent of hundreds of millions of dollars in services that might otherwise create a need for additional tax collections;

(c) Many Washington citizens have yet to become fully involved in the life of their communities; many societal needs exist that could and should be met by new citizen service initiatives;

(d) The state of Washington needs to continue to encourage and expand the ethic of civic responsibility among its citizenry, through individuals working on their own, and through local and state-wide organizations, both governmental and private and nonprofit agencies;

(e) This ethic of citizen service benefits those who serve and those who receive services; in both cases there is the betterment of all Washington communities;

(f) Public and private agencies depend in large measure on the efforts of volunteers for the accomplishment of their missions and actively seek to increase these efforts;

(g) State agencies can and should extend their service delivery programs through the increased use of and support for volunteers;

(h) The national and community service act of 1990 provides an opportunity for Washington to support citizen service and volunteer activities in Washington;

(i) Business, industry, communities, schools, and labor in Washington state are increasingly interested in opportunities for community service and in developing the volunteer and service ethic;

(j) While providing both tangible and intangible benefits, volunteers in turn need respect and support for their efforts;

(k) The state itself, through the programs and services of its agencies as well as through the provisions of law and rule making, can and should provide a primary role and focus for encouraging the ethic of citizen service and support for volunteer efforts and programs;

(l) Planned and coordinated recognition, information, training, and technical assistance for volunteer and citizen service efforts through a state-wide center for voluntary action have been proven to be effective means of multiplying the resources volunteers bring to the needs of their communities; and

(m) It is important that Washington state position itself to raise volunteerism to the highest attainable levels, and along with the private sector, become a voice in the role citizen service will take in providing solutions to societal needs.

(2) Therefore, the legislature, in recognition of these findings, enacts the center for volunteerism and citizen service act to ensure that the state of Washington actively promotes the ethic of service and makes every appropriate effort to encourage effective involvement of individuals in their communities and of volunteers who supplement the services of private, nonprofit community agencies and organizations, agencies of local government throughout the state, and the state government. [1992 c 66 § 1; 1982 1st ex.s. c 11 § 1.]

43.150.020 Short title. This chapter may be known and cited as the center for volunteerism and citizen service act. [1992 c 66 § 2; 1982 1st ex.s. c 11 § 2.]

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

(1) "Volunteer" means a person who is willing to work without expectation of salary or financial reward and who chooses where he or she provides services and the type of services he or she provides.

(2) "Center" means the state center for volunteerism and citizen service.

(3) "Council" means the Washington state council on volunteerism and citizen service. [1992 c 66 § 3; 1982 1st ex.s. c 11 § 3.]

43.150.040 Center for volunteerism and citizen service authorized—Coordinator—Staff. The governor may establish a state-wide center for volunteerism and citizen service within the *department of community development and appoint an executive administrator, who may employ such staff as necessary to carry out the purposes of this chapter. The provisions of chapter 41.06 RCW do

not apply to the executive administrator and the staff. [1992 c 66 § 4; 1985 c 6 § 11; 1982 1st ex.s. c 11 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.150.050 Programs and activities authorized. The center, working in cooperation with individuals, local groups, and organizations throughout the state, may undertake any program or activity for which funds are available which furthers the goals of this chapter. These programs and activities may include, but are not limited to:

(1) Providing information about programs, activities, and resources of value to volunteers and to organizations operating or planning volunteer or citizen service programs;

(2) Sponsoring recognition events for outstanding individuals and organizations;

(3) Facilitating the involvement of business, industry, government, and labor in community service and betterment;

(4) Organizing, or assisting in the organization of, training workshops and conferences;

(5) Publishing schedules of significant events, lists of published materials, accounts of successful programs and programming techniques, and other information concerning the field of volunteerism and citizen service, and distributing this information broadly;

(6) Reviewing the laws and rules of the state of Washington, and proposed changes therein, to determine their impact on the success of volunteer activities and programs, and recommending such changes as seem appropriate to ensure the achievement of the goals of this chapter;

(7) Seeking funding sources for enhancing, promoting, and supporting the ethic of service and facilitating or providing information to those organizations and agencies which may benefit;

(8) Providing information about agencies and individuals who are working to prevent the spread of the human immunodeficiency virus, as defined in chapter 70.24 RCW, and to agencies and individuals who are working to provide health and social services to persons with acquired immunodeficiency syndrome, as defined in chapter 70.24 RCW. [1992 c 66 § 5; 1988 c 206 § 301; 1982 1st ex.s. c 11 § 5.]

Severability—1988 c 206: See RCW 70.24.900.

43.150.060 Council on volunteerism and citizen service created—Membership—Travel expenses—Duties.

(1) There is created the Washington state council on volunteerism and citizen service to assist the governor and the center in the accomplishment of its mission.

(2) The governor shall appoint the members of the council as provided in this section. In making appointments to the council, the governor shall give due consideration to geographic, age, and ethnic representation. The governor shall also consider individuals involved in citizen service from private and public nonprofit organizations, state and local government, labor organizations and the business community, and educational institutions, as well as youth and low-income individuals who are involved in citizen service.

(3) The governor shall appoint a chair for the council.

(4) The advisory council shall have an odd number of members, including its chair, appointed or reappointed for three-year terms, with a total membership of no less than fifteen and no more than twenty-five.

(5) Members of the council shall upon request be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(6) The council and its members shall:

(a) Advise the governor as the governor may request and direct;

(b) Propose, review, and evaluate activities and programs of the center and, to the degree practical, advocate decentralization of the center's activities, facilitate but not require or hinder existing local volunteer services, and not advocate the replacement of needed paid staff with volunteers;

(c) Seek additional funding sources, particularly federal grants if appropriate, that will support, promote, and enhance the ethic of citizen service throughout the state; and

(d) Represent the governor and the center on such occasions and in such manner as the governor may from time to time provide. [1992 c 66 § 6; 1987 c 505 § 39; 1985 c 110 § 1; 1982 1st ex.s. c 11 § 6.]

43.150.070 Receipt and expenditure of donations—Fees—Voluntary action center fund created. (1) The center may receive such gifts, grants, and endowments from private or public sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purpose of the center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. The center may charge reasonable fees, or other appropriate charges, for attendance at workshops and conferences, for various publications and other materials which it is authorized to prepare and distribute for the purpose of defraying all or part of the costs of those activities and materials.

(2) A fund known as the voluntary action center fund is created, which consists of all gifts, grants, and endowments, fees, and other revenues received pursuant to this chapter. The state treasurer is the custodian of the fund. Disbursements from the fund shall be on authorization of the executive administrator of the center or the administrator's designee, and may be made for the following purposes to enhance the capabilities of the center's activities, such as: (a) Reimbursement of center volunteers for travel expenses as provided in RCW 43.03.050 and 43.03.060; (b) publication and distribution of materials involving volunteerism and citizen service; (c) for other purposes designated in gifts, grants, or endowments consistent with the purposes of this chapter. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. [1992 c 66 § 7; 1982 1st ex.s. c 11 § 7.]

43.150.080 At-risk children—Collaborative program. A volunteer organization or individual volunteer may assist a public agency, with the agency's approval, in a collaborative program designed to serve the needs of at-risk children. The center, with the advice and counsel of the attorney general, shall develop guidelines defining at-risk children and establish reasonable safety standards to protect

the safety of program participants and volunteers, including but not limited to background checks as appropriate as provided in RCW 43.43.830 through 43.43.834. In carrying out the volunteer activity, the individual volunteer or member of the volunteer organization shall not be considered to be an employee or agent of any public agency involved in the collaborative program. The public agency shall have no liability for any acts of the individual volunteer or volunteer organization. Prior to participation, a volunteer and the public agency administering the collaborative program shall sign a written master agreement, approved in form by the attorney general, that includes provisions defining the scope of the volunteer activities and waiving any claims against each other. A volunteer organization or individual volunteer shall not be liable for civil damages resulting from any act or omission arising from volunteer activities which comply with safety standards issued by the center for volunteerism and citizen service, other than acts or omissions constituting gross negligence or willful or wanton misconduct. [1993 c 365 § 1.]

Chapter 43.155

PUBLIC WORKS PROJECTS

Sections

43.155.010	Legislative findings and policy.
43.155.020	Definitions.
43.155.030	Public works board created.
43.155.040	General powers of the board.
43.155.050	Public works assistance account.
43.155.060	Public works financing powers—Competitive bids on projects.
43.155.065	Emergency public works projects.
43.155.070	Eligibility, priority, limitations, and exceptions.
43.155.080	Records and audits.
43.155.090	Loan agreements.

43.155.010 Legislative findings and policy. The legislature finds that there exists in the state of Washington over four billion dollars worth of critical projects for the planning, acquisition, construction, repair, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, and storm and sanitary sewage systems. The December, 1983 Washington state public works report prepared by the planning and community affairs agency documented that local governments expect to be capable of financing over two billion dollars worth of the costs of those critical projects but will not be able to fund nearly half of the documented needs. It is the policy of the state of Washington to encourage self-reliance by local governments in meeting their public works needs and to assist in the financing of critical public works projects by making loans, financing guarantees, and technical assistance available to local governments for these projects. [1985 c 446 § 7.]

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

(1) "Board" means the public works board created in RCW 43.155.030.

(2) "Department" means the *department of community development.

(3) "Financing guarantees" means the pledge of money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects.

(4) "Local governments" means cities, towns, counties, special purpose districts, and any other municipal corporations or quasi-municipal corporations in the state excluding school districts and port districts.

(5) "Public works project" means a project of a local government for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems.

(6) "Technical assistance" means training and other services provided to local governments to: (a) Help such local governments plan, apply, and qualify for loans and financing guarantees from the board, and (b) help local governments improve their ability to plan for, finance, acquire, construct, repair, replace, rehabilitate, and maintain public facilities. [1985 c 446 § 8.]

*Reviser's note: Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.155.030 Public works board created. (1) The public works board is hereby created.

(2) The board shall be composed of thirteen members appointed by the governor for terms of four years, except that five members initially shall be appointed for terms of two years. The board shall include: (a) Three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the association of Washington cities or its successor; (b) three members, two of whom shall be elected officials and one shall be a public works manager, appointed from a list of at least six persons nominated by the Washington state association of counties or its successor; (c) three members appointed from a list of at least six persons nominated jointly by the Washington state association of water districts, the Washington public utility districts association, and the Washington state association of sewer districts or their successors; and (d) four members appointed from the general public. In appointing the four general public members, the governor shall endeavor to balance the geographical composition of the board and to include members with special expertise in relevant fields such as public finance, architecture and civil engineering, and public works construction. The governor shall appoint one of the general public members of the board as chair. The term of the chair shall coincide with the term of the governor.

(3) Staff support to the board shall be provided by the department.

(4) Members of the board shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(5) If a vacancy on the board occurs by death, resignation, or otherwise, the governor shall fill the vacant position for the unexpired term. Each vacancy in a position appointed from lists provided by the associations under subsection

(2) of this section shall be filled from a list of at least three persons nominated by the relevant association or associations. Any members of the board, appointive or otherwise, may be removed by the governor for cause in accordance with RCW 43.06.070 and 43.06.080. [1985 c 446 § 9.]

43.155.040 General powers of the board. The board may:

(1) Accept from any state or federal agency, loans or grants for the planning or financing of any public works project and enter into agreements with any such agency concerning the loans or grants;

(2) Provide technical assistance to local governments;

(3) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter;

(4) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter;

(5) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [1985 c 446 § 10.]

43.155.050 Public works assistance account. The public works assistance account is hereby established in the state treasury. Money may be placed in the public works assistance account from the proceeds of bonds when authorized by the legislature or from any other lawful source. Money in the public works assistance account shall be used to make loans and to give financial guarantees to local governments for public works projects. During the 1993-95 fiscal biennium, moneys in the public works assistance account may be appropriated for flood control assistance including grants under chapter 86.26 RCW. To the extent that moneys in the public works assistance account are not appropriated during the 1993-95 fiscal biennium for public works or flood control assistance, the legislature may direct their transfer to the state general fund. In awarding grants under chapter 86.26 RCW, the department of ecology shall give strong preference to local governments that have: (1) Implemented, or are in the process of implementing, an ordinance that establishes a flood plain policy that is substantially more stringent than minimum federal requirements; (2) completed a comprehensive flood control plan meeting the requirements of RCW 86.12.200; or (3) constructed, or are in the process of constructing, a system of overtopping dikes or levees that allow public access. [1993 sp.s. c 24 § 921; 1985 c 471 § 8.]

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Severability—Effective date—1985 c 471: See notes following RCW 82.04.260.

43.155.060 Public works financing powers—Competitive bids on projects. In order to aid the financing of public works projects, the board may:

(1) Make low-interest or interest-free loans to local governments from the public works assistance account or other funds and accounts for the purpose of assisting local governments in financing public works projects. The board may require such terms and conditions and may charge such

rates of interest on its loans as it deems necessary or convenient to carry out the purposes of this chapter. Money received from local governments in repayment of loans made under this section shall be paid into the public works assistance account for uses consistent with this chapter.

(2) Pledge money in the public works assistance account, or money to be received by the public works assistance account, to the repayment of all or a portion of the principal of or interest on obligations issued by local governments to finance public works projects. The board shall not pledge any amount greater than the sum of money in the public works assistance account plus money to be received from the payment of the debt service on loans made from that account, nor shall the board pledge the faith and credit or the taxing power of the state or any agency or subdivision thereof to the repayment of obligations issued by any local government.

(3) Create such subaccounts in the public works assistance account as the board deems necessary to carry out the purposes of this chapter.

(4) Provide a method for the allocation of loans and financing guarantees and the provision of technical assistance under this chapter.

All local public works projects aided in whole or in part under the provisions of this chapter shall be put out for competitive bids, except for emergency public works under RCW 43.155.065 for which the recipient jurisdiction shall comply with this requirement to the extent feasible and practicable. The competitive bids called for shall be administered in the same manner as all other public works projects put out for competitive bidding by the local governmental entity aided under this chapter. [1988 c 93 § 2; 1985 c 446 § 11.]

43.155.065 Emergency public works projects. The board may make low-interest or interest-free loans to local governments for emergency public works projects. Emergency public works projects shall include the construction, repair, reconstruction, replacement, rehabilitation, or improvement of a public water system that is in violation of health and safety standards and is being operated by a local government on a temporary basis. The loans may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation. Emergency loans may be made only from those funds specifically appropriated from the public works assistance account for such purpose by the legislature. The amount appropriated from the public works assistance account for emergency loan purposes shall not exceed five percent of the total amount appropriated from this account in any biennium. [1990 c 133 § 7; 1988 c 93 § 1.]

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.155.070 Eligibility, priority, limitations, and exceptions. (1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs;

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors; and

(d) A county, city, or town that is required or chooses to plan under RCW 36.70A.040 must have adopted a comprehensive plan in conformance with the requirements of chapter 36.70A RCW, after it is required that the comprehensive plan be adopted, and must have adopted development regulations in conformance with the requirements of chapter 36.70A RCW, after it is required that development regulations be adopted.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) The cost of the project compared to the size of the local government and amount of loan money available;

(d) The number of communities served by or funding the project;

(e) Whether the project is located in an area of high unemployment, compared to the average state unemployment;

(f) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system;

(g) The relative benefit of the project to the community, considering the present level of economic activity in the community and the existing local capacity to increase local economic activity in communities that have low economic growth; and

(h) Other criteria that the board considers advisable.

(3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(4) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under RCW 43.155.065 during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the

terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsections (4) and (5) of this section do not apply to loans made for emergency public works projects under RCW 43.155.065.

(7)(a) Loans made for the purpose of capital facilities plans shall be exempted from subsections (4) and (5) of this section. In no case shall the total amount of funds utilized for capital facilities plans and emergency loans exceed the limitation in RCW 43.155.065.

(b) For the purposes of this section "capital facilities plans" means those plans required by the growth management act, chapter 36.70A RCW, and plans required by the public works board for local governments not subject to the growth management act. [1993 c 39 § 1; 1991 sp.s. c 32 § 23; 1990 1st ex.s. c 17 § 82; 1990 c 133 § 6; 1988 c 93 § 3; 1987 c 505 § 40; 1985 c 446 § 12.]

Effective date—1993 c 39: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993." [1993 c 39 § 2.]

Section headings not law—1991 sp.s. c 32: See RCW 36.70A.902.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Findings—Severability—1990 c 133: See notes following RCW 36.94.140.

43.155.080 Records and audits. The board shall keep proper records of accounts and shall be subject to audit by the state auditor. [1987 c 505 § 41; 1985 c 446 § 13.]

43.155.090 Loan agreements. Loans from the public works assistance account under this chapter shall be made by loan agreement under chapter 39.69 RCW. [1987 c 19 § 6.]

Chapter 43.160

ECONOMIC DEVELOPMENT—PUBLIC FACILITIES LOANS AND GRANTS

Sections

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- 43.160.901 Severability—1982 1st ex.s. c 40.
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Public disclosure: RCW 42.17.310.

43.160.010 Legislative declaration. (1) The legislature finds that it is the public policy of the state of Washington to direct financial resources toward the fostering of economic development through the stimulation of investment and job opportunities and the retention of sustainable existing employment for the general welfare of the inhabitants of the state. Reducing unemployment and reducing the time citizens remain jobless is important for the economic welfare of the state. A valuable means of fostering economic development is the construction of public facilities which contribute to the stability and growth of the state's economic base. Strengthening the economic base through issuance of industrial development bonds, whether single or umbrella, further serves to reduce unemployment. Consolidating issues of industrial development bonds when feasible to reduce costs additionally advances the state's purpose to improve economic vitality. Expenditures made for these purposes as authorized in this chapter are declared to be in the public interest, and constitute a proper use of public funds. A community economic revitalization board is needed which shall aid the development of economic opportunities. The general objectives of the board should include:

(a) Strengthening the economies of areas of the state which have experienced or are expected to experience chronically high unemployment rates or below average growth in their economies;

(b) Encouraging the diversification of the economies of the state and regions within the state in order to provide greater seasonal and cyclical stability of income and employment;

(c) Encouraging wider access to financial resources for both large and small industrial development projects;

(d) Encouraging new economic development or expansions to maximize employment;

(e) Encouraging the retention of viable existing firms and employment; and

(f) Providing incentives for expansion of employment opportunities for groups of state residents that have been less successful relative to other groups in efforts to gain permanent employment.

(2) The legislature also finds that the state's economic development efforts can be enhanced by, in certain instances, providing funds to improve state highways in the vicinity of new industries considering locating in this state or existing industries that are considering significant expansion.

(a) The legislature finds it desirable to provide a process whereby the need for diverse public works improvements necessitated by planned economic development can be addressed in a timely fashion and with coordination among all responsible governmental entities.

(b) It is the intent of the legislature to create an economic development account within the motor vehicle fund from which expenditures can be made by the department of transportation for state highway improvements necessitated by planned economic development. All such improvements must first be approved by the state transportation commission and the community economic revitalization board in accordance with the procedures established by RCW 43.160.074 and 47.01.280. It is further the intent of the legislature that such improvements not jeopardize any other planned highway construction projects. The improvements are intended to be of limited size and cost, and to include such items as additional turn lanes, signalization, illumination, and safety improvements.

(3) The legislature also finds that the state's economic development efforts can be enhanced by providing funds to improve markets for those recyclable materials representing a large fraction of the waste stream. The legislature finds that public facilities which result in private construction of processing or remanufacturing facilities for recyclable materials are eligible for consideration from the board.

(4) The legislature finds that sharing economic growth state-wide is important to the welfare of the state. Timber impact areas do not share in the economic vitality of the Puget Sound region. Infrastructure is one of several ingredients that are critical for economic development. Timber impact areas generally lack the infrastructure necessary to diversify and revitalize their economies. It is, therefore, the intent of the legislature to increase the availability of funds to help provide infrastructure to timber impact areas. [1991 c 314 § 21; 1989 c 431 § 61; 1987 c 422 § 1; 1984 c 257 § 1; 1982 1st ex.s. c 40 § 1.]

Findings—1991 c 314: See note following RCW 43.31.601.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

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

(1) "Board" means the community economic revitalization board.

(2) "Bond" means any bond, note, debenture, interim certificate, or other evidence of financial indebtedness issued by the board pursuant to this chapter.

(3) "Department" means the department of community, trade, and economic development.

(4) "Financial institution" means any bank, savings and loan association, credit union, development credit corporation, insurance company, investment company, trust company, savings institution, or other financial institution approved by the board and maintaining an office in the state.

(5) "Industrial development facilities" means "industrial development facilities" as defined in RCW 39.84.020.

(6) "Industrial development revenue bonds" means tax-exempt revenue bonds used to fund industrial development facilities.

(7) "Local government" or "political subdivision" means any port district, county, city, town, or special utility district.

(8) "Sponsor" means any of the following entities which customarily provide service or otherwise aid in industrial or other financing and are approved as a sponsor by the board: A bank, trust company, savings bank, investment bank, national banking association, savings and loan association, building and loan association, credit union, insurance company, or any other financial institution, governmental agency, or holding company of any entity specified in this subsection.

(9) "Umbrella bonds" means industrial development revenue bonds from which the proceeds are loaned, transferred, or otherwise made available to two or more users under this chapter.

(10) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and receiving or applying to receive revenues from bonds issued under this chapter.

(11) "Timber impact area" means:

(a) A county having a population of less than five hundred thousand, or a city or town located within a county having a population of less than five hundred thousand, and meeting two of the following three criteria, as determined by the employment security department, for the most recent year such data is available: (i) A lumber and wood products employment location quotient at or above the state average; (ii) projected or actual direct lumber and wood products job losses of one hundred positions or more, except counties having a population greater than two hundred thousand but less than five hundred thousand must have direct lumber and wood products job losses of one thousand positions or more; or (iii) an annual unemployment rate twenty percent or more above the state average; or

(b) Additional communities as the economic recovery coordinating board, established in RCW 43.31.631, designates based on a finding by the board that each designated community is socially and economically integrated with areas that meet the definition of a timber impact area under (a) of this subsection. [1993 c 320 § 1; 1993 c 280 § 55; 1992 c 21 § 3; 1991 c 314 § 22; 1985 c 466 § 58; 1985 c 6 § 12; 1984 c 257 § 2; 1983 1st ex.s. c 60 § 1; 1982 1st ex.s. c 40 § 2.]

Reviser's note: This section was amended by 1993 c 280 § 55 and by 1993 c 320 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.160.030 Community economic revitalization board—Members—Terms—Chair, vice-chair—Staff support—Compensation and travel expenses—Vacancies—Removal. (1) The community economic revitalization board is hereby created to exercise the powers granted under this chapter.

(2) The board shall consist of the chairman of and one minority member appointed by the speaker of the house of representatives from the committee on trade, economic development, and housing of the house of representatives, the chairman of and one minority member appointed by the president of the senate from the committee on trade, technology, and economic development of the senate, and the following members appointed by the governor: A recognized private or public sector economist; one port district official; one county official; one city official; one representative of the public; one representative of small businesses each from: (a) The area west of Puget Sound, (b) the area east of Puget Sound and west of the Cascade range, (c) the area east of the Cascade range and west of the Columbia river, and (d) the area east of the Columbia river; one executive from large businesses each from the area west of the Cascades and the area east of the Cascades. The appointive members shall initially be appointed to terms as follows: Three members for one-year terms, three members for two-year terms, and three members for three-year terms which shall include the chair. Thereafter each succeeding term shall be for three years. The chair of the board shall be selected by the governor. The members of the board shall elect one of their members to serve as vice-chair. The *director of trade and economic development, the *director of community development, the director of revenue, the commissioner of employment security, and the secretary of transportation shall serve as nonvoting advisory members of the board.

(3) Staff support shall be provided by the *department of trade and economic development to assist the board in implementing this chapter and the allocation of private activity bonds.

(4) All appointive members of the board shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(5) If a vacancy occurs by death, resignation, or otherwise of appointive members of the board, the governor shall fill the same for the unexpired term. Any members of the board, appointive or otherwise, may be removed for malfeasance or misfeasance in office, upon specific written charges by the governor, under chapter 34.05 RCW. [1993 c 320 § 2. Prior: 1987 c 422 § 2; 1987 c 195 § 11; prior: 1985 c 446 § 2; 1985 c 6 § 13; prior: 1985 c 446 § 1; 1984 c 287 § 89; 1983 1st ex.s. c 60 § 2; 1982 1st ex.s. c 40 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.160.035 Designees for board members. Each member of the house of representatives who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member of the trade, economic development, and housing committee of the house of representatives to take his or her place on the board for meetings at which the member will be absent. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each member of the senate who is appointed to the community economic revitalization board under RCW 43.160.030 may designate another member of the trade, technology, and economic development committee of the senate to take his or her place on the board for meetings at which the member will be absent. The designee shall have all powers to vote and participate in board deliberations as have the other board members. Each agency head of an executive agency who is appointed to serve as a nonvoting advisory member of the community economic revitalization board under RCW 43.160.030 may designate an agency employee to take his or her place on the board for meetings at which the agency head will be absent. The designee will have all powers to participate in board deliberations as have the other board members but shall not have voting powers. [1993 c 320 § 3; 1987 c 422 § 3; 1985 c 446 § 4.]

43.160.040 Conflicts of interest—Code of ethics. In addition to other applicable provisions of law pertaining to conflicts of interest of public officials, no board member, appointive or otherwise, may participate in any decision on any board contract in which the board member has any interests, direct or indirect, with any firm, partnership, corporation, or association which would be the recipient of any aid under this chapter. In any instance where the participation occurs, the board shall void the transaction, and the involved member shall be subject to whatever further sanctions may be provided by law. The board shall frame and adopt a code of ethics for its members, which shall be designed to protect the state and its citizens from any unethical conduct by the board. [1982 1st ex.s. c 40 § 4.]

43.160.050 Powers of board. The board may:

(1) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(2) Adopt an official seal and alter the seal at its pleasure.

(3) Contract with any consultants as may be necessary or desirable for its purposes and to fix the compensation of the consultants.

(4) Utilize the services of other governmental agencies.

(5) Accept from any federal agency loans or grants for the planning or financing of any project and enter into an agreement with the agency respecting the loans or grants.

(6) Conduct examinations and investigations and take testimony at public or private hearings of any matter material for its information that will assist in determinations related to the exercise of the board's lawful powers.

(7) Accept any gifts, grants, or loans of funds, property, or financial or other aid in any form from any other source on any terms and conditions which are not in conflict with this chapter.

(8) Exercise all the powers of a public corporation under chapter 39.84 RCW.

(9) Invest any funds received in connection with industrial development revenue bond financing not required for immediate use, as the board considers appropriate, subject to any agreements with owners of bonds.

(10) Arrange for lines of credit for industrial development revenue bonds from and enter into participation agreements with any financial institution.

(11) Issue industrial development revenue bonds in one or more series for the purpose of defraying the cost of acquiring or improving any industrial development facility or facilities and securing the payment of the bonds as provided in this chapter.

(12) Enter into agreements or other transactions with and accept grants and the cooperation of any governmental agency in furtherance of this chapter.

(13) Sell, purchase, or insure loans to finance the costs of industrial development facilities.

(14) Service, contract, and pay for the servicing of loans for industrial development facilities.

(15) Provide financial analysis and technical assistance for industrial development facilities when the board reasonably considers it appropriate.

(16) Collect, with respect to industrial development revenue bonds, reasonable interest, fees, and charges for making and servicing its lease agreements, loan agreements, mortgage loans, notes, bonds, commitments, and other evidences of indebtedness. Interest, fees, and charges are limited to the amounts required to pay the costs of the board, including operating and administrative expenses and reasonable allowances for losses that may be incurred.

(17) Procure insurance or guarantees from any party as allowable under law, including a governmental agency, against any loss in connection with its lease agreements, loan agreements, mortgage loans, and other assets or property.

(18) Adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter.

(19) Do all acts and things necessary or convenient to carry out the powers expressly granted or implied under this chapter. [1987 c 422 § 4; 1982 1st ex.s. c 40 § 5.]

43.160.060 Loans and grants to political subdivisions for public facilities authorized—Application—Requirements for grants and loans. The board is authorized to make direct loans to political subdivisions of the state for the purposes of assisting the political subdivisions in financing the cost of public facilities, including development of land and improvements for public facilities, as well as the construction, rehabilitation, alteration, expansion, or improvement of the facilities. A grant may also be authorized for purposes designated in this chapter, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

Application for funds shall be made in the form and manner as the board may prescribe. In making grants or loans the board shall conform to the following requirements:

(1) The board shall not make a grant or loan:

(a) For a project the primary purpose of which is to facilitate or promote a retail shopping development or expansion.

(b) For any project that evidence exists would result in a development or expansion that would displace existing jobs in any other community in the state.

(c) For the acquisition of real property, including buildings and other fixtures which are a part of real property.

(2) The board shall only make grants or loans:

(a) For those projects which would result in specific private developments or expansions (i) in manufacturing, production, food processing, assembly, warehousing, and industrial distribution; (ii) for processing recyclable materials or for facilities that support recycling, including processes not currently provided in the state, including but not limited to, de-inking facilities, mixed waste paper, plastics, yard waste, and problem-waste processing; (iii) for manufacturing facilities that rely significantly on recyclable materials, including but not limited to waste tires and mixed waste paper; (iv) which support the relocation of businesses from nondistressed urban areas to distressed rural areas; or (v) which substantially support the trading of goods or services outside of the state's borders.

(b) For projects which it finds will improve the opportunities for the successful maintenance, establishment, or expansion of industrial or commercial plants or will otherwise assist in the creation or retention of long-term economic opportunities.

(c) When the application includes convincing evidence that a specific private development or expansion is ready to occur and will occur only if the grant or loan is made.

(3) The board shall prioritize each proposed project according to the relative benefits provided to the community by the jobs the project would create, not just the total number of jobs it would create after the project is completed and according to the unemployment rate in the area in which the jobs would be located. As long as there is more demand for loans or grants than there are funds available for loans or grants, the board is instructed to fund projects in order of their priority.

(4) A responsible official of the political subdivision shall be present during board deliberations and provide information that the board requests.

Before any loan or grant application is approved, the political subdivision seeking the loan or grant must demonstrate to the community economic revitalization board that no other timely source of funding is available to it at costs reasonably similar to financing available from the community economic revitalization board. [1993 c 320 § 4; 1990 1st ex.s. c 17 § 73; 1989 c 431 § 62; 1987 c 422 § 5; 1985 c 446 § 3; 1983 1st ex.s. c 60 § 3; 1982 1st ex.s. c 40 § 6.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.160.070 Conditions. (1) Public facilities loans and grants, when authorized by the board, are subject to the following conditions:

(a) The moneys in the public facilities construction loan revolving fund shall be used solely to fulfill commitments arising from loans or grants authorized in this chapter or, during the 1989-91 fiscal biennium, for economic development purposes as appropriated by the legislature. The total

outstanding amount which the board shall dispense at any time pursuant to this section shall not exceed the moneys available from the fund. The total amount of outstanding loans and grants in Pierce, King, and Snohomish counties shall never exceed sixty percent of the total amount of outstanding loans and grants disbursed by the board.

(b) Financial assistance through the loans or grants may be used directly or indirectly for any facility for public purposes, including, but not limited to, sewer or other waste disposal facilities, arterials, bridges, access roads, port facilities, or water distribution and purification facilities.

(c) On contracts made for public facilities loans the board shall determine the interest rate which loans shall bear. The interest rate shall not exceed ten percent per annum. The board may provide reasonable terms and conditions for repayment for loans as the board determines. The loans shall not exceed twenty years in duration.

(d) Repayments of loans made under the contracts for public facilities construction loans shall be paid into the public facilities construction loan revolving fund.

(2) When every feasible effort has been made to provide loans and loans are not possible, the board may provide grants upon finding that unique circumstances exist. [1990 1st ex.s. c 16 § 802; 1983 1st ex.s. c 60 § 4; 1982 1st ex.s. c 40 § 7.]

Severability—1990 1st ex.s. c 16: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1990 1st ex.s. c 16 § 803.]

43.160.074 Application—Request for improvements to existing highways—Procedures. (1) An application to the board from a political subdivision may also include a request for improvements to an existing state highway or highways. The application is subject to all of the applicable criteria relative to qualifying types of development set forth in this chapter, as well as procedures and criteria established by the board.

(2) Before board consideration of an application from a political subdivision that includes a request for improvements to an existing state highway or highways, the application shall be forwarded by the board to the transportation commission.

(3) The board may not make its final determination on any application made under subsection (1) of this section before receiving approval, as submitted or amended or disapproval from the transportation commission as specified in RCW 47.01.280. Notwithstanding its disposition of the remainder of any such application, the board may not approve a request for improvements to an existing state highway or highways without the approval as submitted or amended of the transportation commission as specified in RCW 47.01.280.

(4) The board shall notify the transportation commission of its decision regarding any application made under this section. [1985 c 433 § 5.]

Nonseverability—1985 c 433: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the entire act and the application of the provision to other persons or circumstances is invalid and of no further force and effect." [1985 c 433 § 10.]

43.160.076 Grants and loans in distressed counties. (Effective until June 30, 1995.) (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for loans and grants in a biennium, the board shall spend at least fifty percent for grants and loans for projects in distressed counties or timber impact areas. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for a loan or grant is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties or timber impact areas are clearly insufficient to use up the fifty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that amount of the allocation for loans and grants for projects not located in distressed counties or timber impact areas. [1993 c 320 § 5; 1991 c 314 § 24; 1985 c 446 § 6.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.077 Applications—Processing of recyclable materials—Department of ecology notice. (1) When the board receives an application from a political subdivision that includes a request for assistance in financing the cost of public facilities to encourage the development of a private facility to process recyclable materials, a copy of the application shall be sent by the board to the department of ecology.

(2) The board shall notify the department of ecology of its decision regarding any application made under this section. [1993 c 320 § 6; 1989 c 431 § 63.]

Severability—Section captions not law—1989 c 431: See RCW 70.95.901 and 70.95.902.

43.160.078 Board to familiarize government officials and public with chapter provisions. In order to enhance competition for grants and loans and the quality of projects for which loans and grants are sought, the board shall take such reasonable measures as are necessary to familiarize government officials and members of the public with the provisions of this chapter, particularly the board's authority to make grants and loans. [1985 c 446 § 5.]

43.160.080 Public facilities construction loan revolving account. There shall be a fund in the state treasury known as the public facilities construction loan revolving account, which shall consist of all moneys collected under this chapter, except moneys of the board collected in connection with the issuance of industrial development revenue bonds, and any moneys appropriated to it by law: PROVIDED, That seventy-five percent of all principal and interest payments on loans made with the proceeds deposited in the account under section 901, chapter 57, Laws of 1983 1st ex. sess. shall be deposited in the general fund as reimbursement for debt service payments on the bonds authorized in RCW 43.83.184. Disbursements from the revolving account shall be on authorization of the board. In order to maintain an effective expenditure and revenue

control, the public facilities construction loan revolving account shall be subject in all respects to chapter 43.88 RCW. [1992 c 235 § 10; 1991 sp.s. c 13 § 115; 1987 c 422 § 6; 1984 c 257 § 12; 1983 1st ex.s. c 60 § 6; 1982 1st ex.s. c 40 § 8.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.160.090 Records—Audits. The board shall keep proper records of accounts and shall be subject to audit by the state auditor. [1987 c 505 § 42; 1982 1st ex.s. c 40 § 9.]

43.160.100 Status of board. The board is an authority and an instrumentality of the state within the meaning of those terms in the regulations of the Internal Revenue Service prescribed pursuant to Section 103 of the federal Internal Revenue Code of 1954, as amended. [1984 c 257 § 3.]

43.160.115 Cooperation with Washington state development loan fund committee required—Transfer of funds. In addition to its powers and duties under this chapter, the community economic revitalization board shall cooperate with the Washington state development loan fund committee in order to provide for coordination of their very similar programs. Under this chapter, it is the duty of the *department of trade and economic development and the board to financially assist the committee to the extent required by law. Funds appropriated to the board or the *department of trade and economic development for the use of the board shall be transferred to the *department of community development to the extent required by law. [1987 c 422 § 7; 1987 c 195 § 12; 1985 c 164 § 14.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability—1985 c 164: See RCW 43.168.900.

43.160.120 Commingling of funds prohibited. No part of the proceeds received from the sale of any industrial development revenue bonds under this chapter, of any revenues derived from an industrial development facility acquired or held under this chapter, or of any interest realized on moneys received under this chapter, may be commingled by the board with funds of the state. [1984 c 257 § 5.]

43.160.130 Personal liability. The members and employees of the board and the department shall not be personally liable or accountable by reason of the issuance of or on any bond issued by the board. [1984 c 257 § 6.]

43.160.140 Accounts. The board may create and administer funds and accounts and establish such funds and accounts with financial institutions as are necessary to implement its duties under RCW 43.160.050 (8) through (17) and 43.160.100 through 43.160.170. [1987 c 422 § 8; 1984 c 257 § 7.]

43.160.150 Faith and credit not pledged. Bonds issued under this chapter do not constitute a debt, liability, obligation, or pledge of the faith and credit of the state but are payable solely from the revenues or assets of the board. A bond issued under this chapter must disclose on its face (1) the state of Washington is not obligated to pay the principal or the interest thereon; (2) no tax funds or governmental revenue may be used to pay the principal or interest thereon; and (3) neither the faith and credit nor the taxing power of the state or any subdivision or agency thereof is pledged to the payment of the principal or interest on the bond. [1984 c 257 § 8.]

43.160.160 Security. In order to assure payment of the bonds, the board shall consider and may require users to provide appropriate security. Such security may include but is not limited to letters of credit, deeds of trust, guarantees, mortgage insurance or cash reserves. If federal funds are used to provide additional security for the protection of bond purchasers the board shall require a credit analysis by a financial institution of each user of an umbrella board [bond] in order to ensure the marketability of the bonds. [1984 c 257 § 9.]

43.160.170 Special reserve account. (1) The board may establish a special reserve account and pay into it any:

(a) Proceeds of the sale of bonds to the extent provided in the resolutions or indentures of the board authorizing their issuance; and

(b) Other funds which may be available to the board from any other source for the purpose of the account.

(2) All funds held in the special reserve account must be used solely for the payment of the principal of, premium, if any, and interest on the bonds secured in whole or in part by the account, the sinking fund payments with respect to the bonds, the purchase or redemption of the bonds, the payment of interest on the bonds, or the payment of any redemption premium required to be paid when the bonds are redeemed prior to maturity. Funds in the account may not be withdrawn at any time in an amount that reduces the account to an amount less than the sum of minimum reserve requirements established in the resolutions or indentures of the board for the account except, with respect to bonds secured in whole or in part by the account, for the purpose of making payment, when due, of principal, premium, if any, interest, and sinking fund payments for the payment of which other money pledged is not available. Any income or interest earned by or incremental to the special reserve account due to its investment may be transferred to other accounts of the board to an extent that does not reduce the amount of the special reserve account below the sum of minimum reserve requirements for the account. [1984 c 257 § 10.]

43.160.180 Private activity bond subcommittee. (1) There is hereby created the private activity bond subcommittee of the board.

(2) The subcommittee shall be primarily responsible for reviewing and making recommendations to the board on requests for certification and allocation pursuant to the

provisions of chapter 39.86 RCW and as authorized by rules adopted by the board.

(3) The subcommittee shall consist of the following members: Six members of the board including: (a) The chair; (b) the county official; (c) the city official; (d) the port district official; (e) a legislator, appointed by the chair; and (f) the representative of the public. The members' terms shall coincide with their terms of appointment to the board.

(4) Staff support to the subcommittee shall be provided by the *department of trade and economic development.

(5) Members of the subcommittee shall receive no compensation but shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060.

(6) If a vacancy on the subcommittee occurs by death, resignation, failure to hold the office from which the member was appointed, or otherwise, the vacancy shall be filled through the procedures specified for filling the corresponding vacancy on the board. [1987 c 422 § 9; 1985 c 446 § 15.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.160.200 Economic development account—Timber impact areas. (Expires June 30, 1995.) (1) The economic development account is created within the public facilities construction loan revolving fund under RCW 43.160.080. Moneys in the account may be spent only after appropriation. Expenditures from the account may be used only for the purposes of RCW 43.160.010(4) and this section. The account is subject to allotment procedures under chapter 43.88 RCW.

(2) Applications under this section for assistance from the economic development account are subject to all of the applicable criteria set forth under this chapter, as well as procedures and criteria established by the board, except as otherwise provided.

(3) Eligible applicants under this section are limited to political subdivisions of the state in timber impact areas that demonstrate, to the satisfaction of the board, the local economy's dependence on the forest products industry.

(4) Applicants must demonstrate that their request is part of an economic development plan consistent with applicable state planning requirements. Applicants must demonstrate that tourism projects have been approved by the local government. Industrial projects must be approved by the local government and the associate development organization.

(5) Publicly owned projects may be financed under this section upon proof by the applicant that the public project is a necessary component of, or constitutes in whole, a tourism project.

(6) Applications must demonstrate local match and participation. Such match may include: Land donation, other public or private funds or both, or other means of local commitment to the project.

(7) Board financing for feasibility studies shall not exceed twenty-five thousand dollars per study. Board funds for feasibility studies may be provided as a grant and require a dollar for dollar match with up to one-half in-kind match allowed.

(8) Board financing for tourism projects shall not exceed two hundred fifty thousand dollars. Other public facility projects under this section shall not exceed five hundred thousand dollars. Loans with flexible terms and conditions to meet the needs of the applicants shall be provided. Grants may also be authorized, but only when, and to the extent that, a loan is not reasonably possible, given the limited resources of the political subdivision.

(9) The board shall develop guidelines for allowable local match and feasibility studies.

(10) Applications under this section need not demonstrate evidence that specific private development or expansion is ready to occur or will occur if funds are provided.

(11) The board shall establish guidelines for making grants and loans under this section to ensure that the requirements of this chapter are complied with. The guidelines shall include:

(a) A process to equitably compare and evaluate applications from competing communities.

(b) Criteria to ensure that approved projects will have a high probability of success and are likely to provide long-term economic benefits to the community. The criteria shall include: (i) A minimum amount of local participation, determined by the board per application, to verify community support for the project; (ii) an analysis that establishes the project is feasible using standard economic principles; and (iii) an explanation from the applicant regarding how the project is consistent with the communities' economic strategy and goals.

(c) A method of evaluating the impact of the loans or grants on the economy of the community and whether the loans or grants achieved their purpose.

(12) Cities and counties otherwise eligible under and in compliance with this section are authorized to use the loans or grants for buildings and structures. [1993 c 320 § 7; 1993 c 316 § 4; 1991 c 314 § 23.]

Reviser's note: This section was amended by 1993 c 316 § 4 and by 1993 c 320 § 7, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Expiration date—1993 c 316; 1991 c 314: "RCW 43.160.200 expires June 30, 1995." [1993 c 316 § 7; 1991 c 314 § 33.]

Effective date—1993 c 316: See note following RCW 43.31.611.

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.210 Distressed counties—Twenty percent of loans and grants. (Effective July 1, 1995.) (1) Except as authorized to the contrary under subsection (2) of this section, from all funds available to the board for loans and grants, the board shall spend at least twenty percent for grants and loans for projects in distressed counties. For purposes of this section, the term "distressed counties" includes any county, in which the average level of unemployment for the three years before the year in which an application for a loan or grant is filed, exceeds the average state employment for those years by twenty percent.

(2) If at any time during the last six months of a biennium the board finds that the actual and anticipated applications for qualified projects in distressed counties are clearly insufficient to use up the twenty percent allocation, then the board shall estimate the amount of the insufficiency and during the remainder of the biennium may use that

amount of the allocation for loans and grants for projects not located in distressed counties. [1991 c 314 § 25.]

Effective date—1993 c 320; 1993 c 316; 1991 c 314: "RCW 43.160.210 shall take effect July 1, 1995." [1993 c 320 § 11; 1993 c 316 § 8; 1991 c 314 § 34.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.160.900 Community economic revitalization board—Implementation of chapter—Report to legislature. The community economic revitalization board shall report to the appropriate standing committees of the legislature biennially on the implementation of this chapter. The report shall include information on the number of applications for community economic revitalization board assistance, the number and types of projects approved, the grant or loan amount awarded each project, the projected number of jobs created or retained by each project, the actual number of jobs created or retained by each project, the number of delinquent loans, and the number of project terminations. The report may also include additional performance measures and recommendations for programmatic changes. The first report shall be submitted by December 1, 1994. [1993 c 320 § 8; 1987 c 422 § 10; 1985 c 446 § 25; 1982 1st ex.s. c 40 § 10.]

Effective date—1993 c 320 § 8: "Section 8 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [May 12, 1993]." [1993 c 320 § 12.]

43.160.901 Severability—1982 1st ex.s. c 40. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1982 1st ex.s. c 40 § 11.]

43.160.902 Captions not part of law—1984 c 257. As used in this act, captions constitute no part of the law. [1984 c 257 § 14.]

Chapter 43.163

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

Sections

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- 43.163.210 Nonrecourse revenue bond financing—Economic development activities—New products.
- 43.163.900 Report—1989 c 279.
- 43.163.901 Severability—1989 c 279.

Public disclosure: RCW 42.17.310.

43.163.005 Purpose—Construction. Economic development is essential to the health, safety, and welfare of all Washington citizens by broadening and strengthening state and local tax bases, providing meaningful employment opportunities and thereby enhancing the quality of life. Economic development increasingly is dependent upon the ability of small-sized and medium-sized businesses and farms to finance growth and trade activities. Many of these businesses face an unmet need for capital that limits their growth. These unmet capital needs are a problem in both urban and rural areas which cannot be solved by the private sector alone. There presently exist some federal programs, private credit enhancements and other financial tools to complement the private banking industry in providing this needed capital. More research is needed to develop effective strategies to enhance access to capital and thereby stimulate economic development.

It is the purpose of this chapter to establish a state economic development finance authority to act as a financial conduit that, without using state funds or lending the credit of the state or local governments, can issue nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local governments obtain capital more efficiently. It is also a primary purpose of this chapter to encourage the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs. This chapter is enacted to accomplish these and related purposes and shall be construed liberally to carry out its purposes and objectives. [1990 c 53 § 1; 1989 c 279 § 1.]

Findings—Purpose—1994 c 302: "The legislature finds that when public funds are used to support private enterprise, the public may gain through the creation of new jobs, the diversification of the economy, or higher quality jobs for existing workers. The legislature further finds that such returns on public investments are not automatic and that tax-based incentives, in particular, may result in a greater tax burden on businesses and individuals that are not eligible for the public support. It is the purpose of this chapter to collect information sufficient to allow the legislature and the executive branch to make informed decisions about the merits of existing tax-based incentives and loan programs intended to encourage economic development in the state." [1994 c 302 § 1.]

***Reviser's note:** 1994 c 302 § 2 was vetoed by the governor. 1994 c 302 § 3 is a codification direction and 1994 c 302 § 4 is an emergency clause. The code reviser's office chose not to create a new chapter for the only remaining section, section 1.

43.163.010 Definitions. As used in this chapter, the following words and terms have the following meanings, unless the context requires otherwise:

(1) "Authority" means the Washington economic development finance authority created under RCW 43.163.020 or any board, body, commission, department or officer succeeding to the principal functions of the authority or to whom the powers conferred upon the authority shall be given by law;

(2) "Bonds" means any bonds, notes, debentures, interim certificates, conditional sales or lease financing agreements, lines of credit, forward purchase agreements, investment agreements, and other banking or financial arrangements, guaranties, or other obligations issued by or entered into by the authority. Such bonds may be issued on either a tax-exempt or taxable basis;

(3) "Borrower" means one or more public or private persons or entities acting as lessee, purchaser, mortgagor, or borrower who has obtained or is seeking to obtain financing either from the authority or from an eligible banking organization that has obtained or is seeking to obtain funds from the authority to finance a project. A borrower may include a party who transfers the right of use and occupancy to another party by lease, sublease or otherwise, or a party who is seeking or has obtained a financial guaranty from the authority;

(4) "Eligible banking organization" means any organization subject to regulation by the director of the department of financial institutions, any national bank, federal savings and loan association, and federal credit union located within this state;

(5) "Eligible export transaction" means any preexport or export activity by a person or entity located in the state of Washington involving a sale for export and product sale which, in the judgment of the authority: (a) Will create or maintain employment in the state of Washington, (b) will obtain a material percent of its value from manufactured goods or services made, processed or occurring in Washington, and (c) could not otherwise obtain financing on reasonable terms from an eligible banking organization;

(6) "Eligible farmer" means any person who is a resident of the state of Washington and whose specific acreage qualifying for receipts from the federal department of agriculture under its conservation reserve program is within the state of Washington;

(7) "Eligible person" means an individual, partnership, corporation, or joint venture carrying on business, or proposing to carry on business within the state and is seeking financial assistance under RCW 43.163.210;

(8) "Financial assistance" means the infusion of capital to persons for use in the development and exploitation of specific inventions and products;

(9) "Financing document" means an instrument executed by the authority and one or more persons or entities pertaining to the issuance of or security for bonds, or the application of the proceeds of bonds or other funds of, or payable to, the authority. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement or indenture, security agreement, letter or line of credit, reimbursement agreement, insurance policy, guaranty agreement, or currency or interest rate swap agreement. A

financing document also may be an agreement between the authority and an eligible banking organization which has agreed to make a loan to a borrower;

(10) "Plan" means the general plan of economic development finance objectives developed and adopted by the authority, and updated from time to time, as required under RCW 43.163.090;

(11) "Economic development activities" means activities related to: Manufacturing, processing, research, production, assembly, tooling, warehousing, pollution control, energy generating, conservation, transmission, and sports facilities and industrial parks;

(12) "Project costs" means costs of:

(a) Acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of land, rights to land, buildings, structures, docks, wharves, fixtures, machinery, equipment, excavations, paving, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities, and any other real or personal property included in an economic development activity;

(b) Architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, acquisition, lease, construction, reconstruction, remodeling, refurbishing, rehabilitation, extension, and enlargement of an activity included under subsection (11) of this section, including costs of studies assessing the feasibility of an economic development activity;

(c) Finance costs, including the costs of credit enhancement and discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any financing document;

(d) Start-up costs, working capital, capitalized research and development costs, capitalized interest during construction and during the eighteen months after estimated completion of construction, and capitalized debt service or repair and replacement or other appropriate reserves;

(e) The refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and

(f) Other costs incidental to any of the costs listed in this section;

(13) "Product" means a product, device, technique, or process that is or may be exploitable commercially. "Product" does not refer to pure research, but shall be construed to apply to products, devices, techniques, or processes that have advanced beyond the theoretic stage and are readily capable of being, or have been, reduced to practice;

(14) "Financing agreements" means, and includes without limitation, a contractual arrangement with an eligible person whereby the authority obtains rights from or in an invention or product or proceeds from an invention or product in exchange for the granting of financial and other assistance to the person. [1994 c 238 § 1; 1994 c 92 § 498; 1989 c 279 § 2.]

Reviser's note: This section was amended by 1994 c 92 § 498 and by 1994 c 238 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability—1994 c 238: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 238 § 6.]

Effective date—1994 c 238: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1994]." [1994 c 238 § 7.]

43.163.020 Economic development finance authority created—Membership. The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of eighteen members as follows: The *director of the department of trade and economic development, the *director of the department of community development, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appointment and the term of four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the

discharge of their duties under this chapter. The authority may borrow funds from the department for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum. [1990 c 53 § 2; 1989 c 279 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.163.030 Small businesses—Funding of export transactions. (1) The authority, in cooperation with the small business export finance assistance center and other export assistance entities, is authorized to develop and conduct a program or programs to provide for the funding of export transactions for small businesses which are unable to obtain funding from private commercial lenders.

(2) The authority is authorized to secure or provide guaranties or insurance for loans and otherwise to provide for loans for any eligible export transaction. Loans may be made either directly by the authority or through an eligible banking organization. For such purpose, the authority may use funds legally available to it to provide for insurance or to guarantee eligible export transactions for which guaranteed funding has been provided.

(3) The authority shall make every effort to cause guaranties or insurance to be provided from the export-import bank of the United States, the foreign credit insurance association, the small business administration or such other similar or succeeding federal or private programs whose financial performance in the guarantee or insurance of export transactions is sound and recognized in the financial community. The maximum amount payable under any guaranty shall be specifically set forth in writing at the time any such guaranteed funding is entered into by the authority.

(4) Prior to providing or securing a guarantee of funding or otherwise providing for a loan for any eligible export transaction hereunder, the authority shall obtain assurance that there has been made an investigation of the credit of the exporter in order to determine its viability, the economic benefits to be derived from the eligible export transaction, the prospects for repayment, and such other facts as it deems necessary in order to determine that such guaranteed funding is consistent with the purposes of this chapter. [1989 c 279 § 4.]

Small business export finance assistance center: Chapter 43.210 RCW.

43.163.040 Farmers—Advance financing, agriculture conservation reserve program. To provide capital for economic development purposes, the authority is authorized to develop and conduct a program or programs to provide advance financing to eligible farmers in respect of the contract payments due to them under the federal department of agriculture conservation reserve program. Such advance financing may be provided in the form of lease, sale, loan or other similar financing transactions. [1989 c 279 § 5.]

43.163.050 Pooling of loans. The authority is authorized to develop and conduct a program or programs to promote small business and agricultural financing in the state

through the pooling of loans or portions of loans made or guaranteed through programs administered by federal agencies including the small business or farmers home administrations. For such purpose, the authority may acquire from eligible banking organizations and other financial intermediaries who make or hold loans made or guaranteed through programs administered by the federal small business or farmers home administrations all or portions of such loans, and the authority may contract or coordinate with parties authorized to acquire or pool loans made or guaranteed by a federal agency or with parties authorized to administer such loan or guarantee programs. [1990 c 53 § 3; 1989 c 279 § 6.]

43.163.060 Scope of authority's powers—Duties of other agencies. (1) The authority is authorized to participate fully in federal and other governmental economic development finance programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements.

(2) The authority shall coordinate its programs with those contributing to a common purpose found elsewhere in the departments of *trade and economic development, *community development, agriculture or employment security, or any other department or organization of, or affiliated with, the state or federal government, and shall avoid any duplication of such activities or programs provided elsewhere. The departments of *trade and economic development, *community development, agriculture, employment security and other relevant state agencies shall provide to the authority all reports prepared in the course of their ongoing activities which may assist in the identification of unmet capital financing needs by small-sized and medium-sized businesses in the state. [1989 c 279 § 7.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.163.070 Use of funds. The authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving economic development in this state by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons: **PROVIDED,** That no funds of the state shall be used for such purposes. [1990 c 53 § 4; 1989 c 279 § 8.]

43.163.080 General operating procedures. (1) The authority shall adopt general operating procedures for the authority. The authority shall also adopt operating procedures for individual programs as they are developed for obtaining funds and for providing funds to borrowers. These operating procedures shall be adopted by resolution prior to the authority operating the applicable programs.

(2) The operating procedures shall include, but are not limited to: (a) Appropriate minimum reserve requirements to secure the authority's bonds and other obligations; (b)

appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and (c) strict standards for providing financing to borrowers, such as (i) the borrower is a responsible party with a high probability of being able to repay the financing provided by the authority, (ii) the financing is reasonably expected to provide economic growth or stability in the state by enabling a borrower to increase or maintain jobs or capital in the state, (iii) the borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority, and (iv) the financing is consistent with any plan adopted by the authority under RCW 43.163.090. [1994 c 238 § 2; 1990 c 53 § 5; 1989 c 279 § 9.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.090 Economic development finance objectives plan—Legislative review. The authority shall adopt a general plan of economic development finance objectives to be implemented by the authority during the period of the plan. The authority may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the authority shall consider and set objectives for:

- (1) Employment generation associated with the authority's programs;
- (2) The application of funds to sectors and regions of the state economy evidencing need for improved access to capital markets and funding resources;
- (3) Geographic distribution of funds and programs available through the authority;
- (4) Eligibility criteria for participants in authority programs;
- (5) The use of funds and resources available from or through federal, state, local, and private sources and programs;
- (6) Standards for economic viability and growth opportunities of participants in authority programs;
- (7) New programs which serve a targeted need for financing assistance within the purposes of this chapter; and
- (8) Opportunities to improve capital access as evidenced by programs existent in other states or as they are made possible by results of private capital market circumstances.

At least one public hearing shall be conducted by the authority on the plan prior to its adoption. The plan shall be adopted by resolution of the authority no later than November 15, 1990. The plan shall be submitted to the chief clerk of the house of representatives and secretary of the senate for transmittal to and review by the appropriate standing committees no later than December 15, 1990. The authority shall periodically update the plan as determined necessary by the authority, but not less than once every two years. The plan or updated plan shall include a report on authority activities conducted since the commencement of authority operation or since the last plan was reported, whichever is more recent, including a statement of results achieved under the purposes of this chapter and the plan. Upon adoption, the authority shall conduct its programs in observance of the objectives established in the plan. [1989 c 279 § 10.]

43.163.100 Powers of the authority. In addition to accomplishing the economic development finance programs specifically authorized in this chapter, the authority may:

- (1) Maintain an office or offices;
- (2) Sue and be sued in its own name, and plead and be impleaded;
- (3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (4) Make and execute all manner of contracts, agreements and instruments and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (5) Acquire and hold real or personal property, or any interest therein, in the name of the authority, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (6) Open and maintain accounts in qualified public depositories and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;
- (7) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;
- (8) Procure such insurance in such amounts and from such insurers as the authority deems desirable, including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;
- (9) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of value, to be held, used and applied as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (10) Establish guidelines for the participation by eligible banking organizations in programs conducted by the authority under this chapter;
- (11) Act as an agent, by agreement, for federal, state, or local governmental entities to carry out the programs authorized in this chapter;
- (12) Establish, revise, and collect such fees and charges as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter: **PROVIDED**, That expenditures with respect to the economic development financing programs of the authority shall not be made from funds of the state;
- (14) Establish such reserves and special funds, and controls on deposits to and disbursements from them, as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (15) Give assistance to public bodies by providing information, guidelines, forms, and procedures for implementing their financing programs;
- (16) Prepare, publish and distribute, with or without charge, such studies, reports, bulletins, and other material as

the authority deems necessary, useful, or convenient to accomplish its purposes;

- (17) Delegate any of its powers and duties if consistent with the purposes of this chapter;
- (18) Adopt rules concerning its exercise of the powers authorized by this chapter; and
- (19) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter. [1990 c 53 § 6; 1989 c 279 § 11.]

43.163.110 Restrictions on authority's activity. Notwithstanding any other provision of this chapter, the authority shall not:

- (1) Give any state money or property or loan any state money or credit to or in aid of any individual, association, company, or corporation, or become directly or indirectly the owner of any stock in or bonds of any association, company, or corporation;
- (2) Issue bills of credit or accept deposits of money for time or demand deposit, administer trusts, engage in any form or manner in, or in the conduct of, any private or commercial banking business, or act as a savings bank or savings and loan association other than as provided in this chapter;
- (3) Be or constitute a bank or trust company within the jurisdiction or under the control of the director of financial institutions, the comptroller of the currency of the United States of America or the treasury department thereof;
- (4) Be or constitute a bank, broker or dealer in securities within the meaning of, or subject to the provisions of, any securities, securities exchange or securities dealers' law of the United States of America or the state;
- (5) Engage in the financing of housing as provided for in chapter 43.180 RCW;
- (6) Engage in the financing of health care facilities as provided for in chapter 70.37 RCW; or
- (7) Engage in financing higher education facilities as provided for in chapter 28B.07 RCW. [1994 c 92 § 499; 1989 c 279 § 12.]

43.163.120 Staffing, restrictions—Authority not to receive appropriated state funds—Report to legislature. The authority shall receive no appropriation of state funds. The department of community, trade, and economic development shall provide staff to the authority, to the extent permitted by law, to enable the authority to accomplish its purposes; the staff from the department of community, trade, and economic development may assist the authority in organizing itself and in designing programs, but shall not be involved in the issuance of bonds or in making credit decisions regarding financing provided to borrowers by the authority. The authority shall report each December on its activities to the appropriate standing committees of the house of representatives and senate. [1994 c 238 § 3; 1989 c 279 § 13.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.130 Nonrecourse revenue bonds—Issuance. (1) The authority may issue its nonrecourse revenue bonds

in order to obtain the funds to carry out the programs authorized in this chapter. The bonds shall be special obligations of the authority, payable solely out of the special fund or funds established by the authority for their repayment.

(2) Any bonds issued under this chapter may be secured by a financing document between the authority and the purchasers or owners of such bonds or between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state.

(a) The financing document may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof.

(b) The financing document may contain such provisions for protecting and enforcing the rights, security, and remedies of bondowners as may be reasonable and proper, including, without limiting the generality of the foregoing, provisions defining defaults and providing for remedies in the event of default which may include the acceleration of maturities, restrictions on the individual rights of action by bondowners, and covenants setting forth duties of and limitations on the authority in conduct of its programs and the management of its property.

(c) In addition to other security provided in this chapter or otherwise by law, bonds issued by the authority may be secured, in whole or in part, by financial guaranties, by insurance or by letters of credit issued to the authority or a trustee or any other person, by any bank, trust company, insurance or surety company or other financial institution, within or without the state. The authority may pledge or assign, in whole or in part, the revenues and funds held or to be received by the authority, any present or future contract or other rights to receive the same, and the proceeds thereof, as security for such guaranties or insurance or for the reimbursement by the authority to any issuer of such letter of credit of any payments made under such letter of credit.

(3) Without limiting the powers of the authority contained in this chapter, in connection with each issue of its obligation bonds, the authority shall create and establish one or more special funds, including, but not limited to debt service and sinking funds, reserve funds, project funds, and such other special funds as the authority deems necessary, useful, or convenient.

(4) Any security interest created against the unexpended bond proceeds and against the special funds created by the authority shall be immediately valid and binding against the money and any securities in which the money may be invested without authority or trustee possession. The security interest shall be prior to any party having any competing claim against the moneys or securities, without filing or recording under Article 9 of the Uniform Commercial Code, Title 62A RCW, and regardless of whether the party has notice of the security interest.

(5) The bonds may be issued as serial bonds, term bonds or any other type of bond instrument consistent with the provisions of this chapter. The bonds shall bear such date or dates; mature at such time or times; bear interest at such rate or rates, either fixed or variable; be payable at such time or times; be in such denominations; be in such form;

bear such privileges of transferability, exchangeability, and interchangeability; be subject to such terms of redemption; and be sold at public or private sale, in such manner, at such time or times, and at such price or prices as the authority shall determine. The bonds shall be executed by the manual or facsimile signatures of the authority's chair and either its secretary or executive director, and may be authenticated by the trustee (if the authority determines to use a trustee) or any registrar which may be designated for the bonds by the authority.

(6) Bonds may be issued by the authority to refund other outstanding authority bonds, at or prior to maturity of, and to pay any redemption premium on, the outstanding bonds. Bonds issued for refunding purposes may be combined with bonds issued for the financing or refinancing of new projects. Pending the application of the proceeds of the refunding bonds to the redemption of the bonds to be redeemed, the authority may enter into an agreement or agreements with a corporate trustee regarding the interim investment of the proceeds and the application of the proceeds and the earnings on the proceeds to the payment of the principal of and interest on, and the redemption of, the bonds to be redeemed.

(7) The bonds of the authority may be negotiable instruments under Title 62A RCW.

(8) Neither the members of the authority, nor its employees or agents, nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance of the bonds.

(9) The authority may purchase its bonds with any of its funds available for the purchase. The authority may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with bondowners.

(10) The authority shall not exceed two hundred fifty million dollars in total outstanding debt at any time.

(11) The state finance committee shall be notified in advance of the issuance of bonds by the authority in order to promote the orderly offering of obligations in the financial markets.

(12) The authority may not issue any bonds after June 30, 2000. [1994 c 238 § 5; 1989 c 279 § 14.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.140 Nonrecourse revenue bonds—Contracts—Restrictions. (1) Bonds issued by the authority under this chapter shall not be deemed to constitute obligations, either general, special or moral, of the state or of any political subdivision of the state, or pledge of the faith and credit of the state or of any political subdivision, or general obligations of the authority. The bonds shall be special obligations of the authority and shall be payable solely from the special fund or funds created by the authority for their repayment. The issuance of bonds under this chapter shall not obligate, directly, indirectly, or contingently, the state or any political subdivision of the state to levy any taxes or appropriate or expend any funds for the payment of the principal or the interest on the bonds. The substance of the limitations included in this paragraph shall be plainly printed, written, engraved, or reproduced on each bond and in any

disclosure document prepared in conjunction with the offer and sale of bonds.

(2) Neither the proceeds of bonds issued under this chapter nor any money used or to be used to pay the principal of, premium, if any, or interest on the bonds shall constitute public money or property. All of such money shall be kept segregated and set apart from funds of the state and any political subdivision of the state and shall not be subject to appropriation or allotment by the state or subject to the provisions of chapter 43.88 RCW.

(3) Contracts entered into by the authority shall be entered into in the name of the authority and not in the name of the state. The obligations of the authority under such contracts shall be obligations only of the authority and shall not, in any way, constitute obligations of the state. [1989 c 279 § 15.]

43.163.150 Nonrecourse revenue bonds—Financing documents, scope. The authority may enter into financing documents with borrowers regarding bonds issued by the authority that may provide for the payment by each borrower of amounts sufficient, together with other revenues available to the authority, if any, to: (1) Pay the borrower's share of the fees established by the authority; (2) pay the principal of, premium, if any, and interest on outstanding bonds of the authority issued in respect of such borrower as the same shall become due and payable; and (3) create and maintain reserves required or provided for by the authority in connection with the issuance of such bonds. The payments shall not be subject to supervision or regulation by any department, committee, board, body, bureau, or agency of the state other than the authority. [1989 c 279 § 16.]

43.163.160 Nonrecourse revenue bonds—Money received shall be trust funds. All money received by or on behalf of the authority with respect to this issuance of its bonds shall be trust funds to be held and applied solely as provided in this chapter. The authority, in lieu of receiving and applying the moneys itself, may enter into trust agreement or indenture with one or more banks or trust companies having the power and authority to conduct trust business in the state to:

(1) Perform all of any part of the obligations of the authority with respect to: (a) Bonds issued by it; (b) the receipt, investment and application of the proceeds of the bonds and money paid by a participant or available from other sources for the payment of the bonds; (c) the enforcement of the obligations of a borrower in connection with the financing or refinancing of any project; and (d) other matters relating to the exercise of the authority's powers under this chapter;

(2) Receive, hold, preserve, and enforce any security interest or evidence of security interest granted by a participant for purposes of securing the payment of the bonds; and

(3) Act on behalf of the authority or the owners of bonds of the authority for purposes of assuring or enforcing the payment of the bonds, when due. [1989 c 279 § 17.]

43.163.170 Nonrecourse revenue bonds—Owner and trustee, enforcement of rights. Any owner of bonds of the authority issued under this chapter, and the trustee

under any trust agreement or indenture, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any of their respective rights, and may become the purchaser at any foreclosure sale if the person is the highest bidder, except to the extent the rights given are restricted by the authority in any bond resolution or trust agreement or indenture authorizing the issuance of the bonds. [1989 c 279 § 18.]

43.163.180 Nonrecourse revenue bonds as legal investment. The bonds or [of] the authority are securities in which all public officers and bodies of this state and all counties, cities, municipal corporations and political subdivisions, all banks, eligible banking organizations, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, insurance companies and associations, and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control. [1989 c 279 § 19.]

43.163.190 Chapter as an alternative bond issuance method. This chapter provides a complete, additional and alternative method for accomplishing the purposes of this chapter and shall be regarded as supplemental and additional to powers conferred by other laws. The issuance of bonds and refunding bonds under this chapter need not comply with the requirements of any other law applicable to the issuance of bonds. [1989 c 279 § 20.]

43.163.200 Construction. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special law, or parts thereof, the provisions of this chapter are controlling. [1989 c 279 § 21.]

43.163.210 Nonrecourse revenue bond financing—Economic development activities—New products. For the purpose of facilitating economic development in the state of Washington and encouraging the employment of Washington workers at meaningful wages:

(1) The authority may develop and conduct a program or programs to provide nonrecourse revenue bond financing for the project costs for no more than five economic development activities, per year, included under the authority's general plan of economic development finance objectives;

(2) The authority may also develop and conduct a program that will stimulate and encourage the development of new products within Washington state by the infusion of financial aid for invention and innovation in situations in which the financial aid would not otherwise be reasonably available from commercial sources. The authority is authorized to provide nonrecourse revenue bond financing for this program.

(a) For the purposes of this program, the authority shall have the following powers and duties:

(i) To enter into financing agreements with eligible persons doing business in Washington state, upon terms and on conditions consistent with the purposes of this chapter, for the advancement of financial and other assistance to the persons for the development of specific products, procedures,

and techniques, to be developed and produced in this state, and to condition the agreements upon contractual assurances that the benefits of increasing or maintaining employment and tax revenues shall remain in this state and accrue to it;

(ii) Own, possess, and take license in patents, copyrights, and proprietary processes and negotiate and enter into contracts and establish charges for the use of the patents, copyrights, and proprietary processes when the patents and licenses for products result from assistance provided by the authority;

(iii) Negotiate royalty payments to the authority on patents and licenses for products arising as a result of assistance provided by the authority;

(iv) Negotiate and enter into other types of contracts with eligible persons that assure that public benefits will result from the provision of services by the authority; provided that the contracts are consistent with the state Constitution;

(v) Encourage and provide technical assistance to eligible persons in the process of developing new products;

(vi) Refer eligible persons to researchers or laboratories for the purpose of testing and evaluating new products, processes, or innovations; and

(vii) To the extent permitted under its contract with eligible persons, to consent to a termination, modification, forgiveness, or other change of a term of a contractual right, payment, royalty, contract, or agreement of any kind to which the authority is a party.

(b) Eligible persons seeking financial and other assistance under this program shall forward an application, together with an application fee prescribed by rule, to the authority. An investigation and report concerning the advisability of approving an application for assistance shall be completed by the staff of the authority. The investigation and report may include, but is not limited to, facts about the company under consideration as its history, wage standards, job opportunities, stability of employment, past and present financial condition and structure, pro forma income statements, present and future markets and prospects, integrity of management as well as the feasibility of the proposed product and invention to be granted financial aid, including the state of development of the product as well as the likelihood of its commercial feasibility. After receipt and consideration of the report set out in this subsection and after other action as is deemed appropriate, the application shall be approved or denied by the authority. The applicant shall be promptly notified of action by the authority. In making the decision as to approval or denial of an application, priority shall be given to those persons operating or planning to operate businesses of special importance to Washington's economy, including, but not limited to: (i) Existing resource-based industries of agriculture, forestry, and fisheries; (ii) existing advanced technology industries of electronics, computer and instrument manufacturing, computer software, and information and design; and (iii) emerging industries such as environmental technology, biotechnology, biomedical sciences, materials sciences, and optics.

(3) The authority may also develop and implement, if authorized by the legislature, such other economic development financing programs adopted in future general plans of economic development finance objectives developed under RCW 43.163.090.

(4) The authority may not issue any bonds for the programs authorized under this section after June 30, 2000. [1994 c 238 § 4.]

Severability—Effective date—1994 c 238: See notes following RCW 43.163.010.

43.163.900 Report—1989 c 279. The legislative budget committee shall conduct a program and fiscal review of the Washington economic development financial authority. The final report shall be completed by December 1, 1992. [1989 c 279 § 24.]

43.163.901 Severability—1989 c 279. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1989 c 279 § 26.]

Chapter 43.165

COMMUNITY REVITALIZATION TEAM— ASSISTANCE TO DISTRESSED AREAS

Sections

43.165.010 Definitions.

43.165.010 Definitions. Unless the context clearly requires to the contrary, the definitions in this section apply throughout this chapter.

(1) "Department" means the *department of community development.

(2) "Director" means the director of the department.

(3) "Distressed area" means: (a) A county that has an unemployment rate that is twenty percent above the statewide average for the previous three years; or (b) a community or area that has experienced sudden and severe or long-term and severe loss of employment, or erosion of its economic base due to decline of its dominant industries; or (c) an area within a county which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

(4) "Economic development revolving loan funds" means a local, not-for-profit or governmentally sponsored business loan program.

(5) "Team" means the community revitalization team.

(6) "Technical assistance" includes, but is not limited to, assistance with strategic planning, market research, business plan development review, organization and management development, accounting and legal services, grant and loan packaging, and other assistance which may be expected to

contribute to the redevelopment and economic well-being of a distressed area. [1987 c 461 § 1; 1985 c 229 § 1.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Chapter 43.168

WASHINGTON STATE DEVELOPMENT LOAN FUND COMMITTEE

Sections

- 43.168.010 Legislative findings and declaration.
- 43.168.020 Definitions.
- 43.168.031 State development loan fund committee—Terminated June 30, 1994—Powers and duties transferred.
- 43.168.040 Approval of applications for federal community development block grant funds for projects.
- 43.168.050 Application approval—Conditions and limitations.
- 43.168.060 Staff support and other duties of department—Rules.
- 43.168.070 Processing of applications—Contents of applications.
- 43.168.090 Availability of funds for committee use.
- 43.168.100 Entitlement community grants—Conditions.
- 43.168.110 Washington state development loan fund.
- 43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds.
- 43.168.130 Development of performance standards—Report.
- 43.168.140 Timber impact areas.
- 43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program.
- 43.168.900 Severability—1985 c 164.

Community economic revitalization board to cooperate with committee:
RCW 43.160.115.

Public disclosure: RCW 42.17.310.

43.168.010 Legislative findings and declaration.

The legislature finds that:

- (1) The economic health and well-being of the state, particularly in areas of high unemployment, economic stagnation, and poverty, is of substantial public concern.
- (2) The consequences of minimal economic activity and persistent unemployment and underemployment are serious threats to the safety, health, and welfare of residents of these areas, decreasing the value of private investments and jeopardizing the sources of public revenue.
- (3) The economic and social interdependence of communities and the vitality of industrial and economic activity necessitates, and is in part dependent on preventing substantial dislocation of residents and rebuilding the diversification of the areas' economy.
- (4) The ability to remedy problems in stagnant areas of the state is beyond the power and control of the regulatory process and influence of the state, and the ordinary operations of private enterprise without additional governmental assistance are insufficient to adequately remedy the problems of poverty and unemployment.
- (5) The revitalization of depressed communities requires the stimulation of private investment, the development of new business ventures, the provision of capital to ventures sponsored by local organizations and capable of growth in the business markets, and assistance to viable, but under-financed, small businesses in order to create and preserve jobs that are sustainable in the local economy.

Therefore, the legislature declares there to be a substantial public purpose in providing capital to promote economic development and job creation in areas of economic stagnation, unemployment, and poverty. To accomplish this purpose, the legislature hereby creates the Washington state development loan fund committee and vests in the committee the authority to spend federal funds to stimulate the economy of distressed areas. [1985 c 164 § 1.]

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

- (1) "Committee" means the Washington state development loan fund committee.
- (2) "Department" means the department of community, trade, and economic development.
- (3) "Director" means the director of community, trade, and economic development.
- (4) "Distressed area" means: (a) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (b) a metropolitan statistical area, as defined by the office of federal statistical policy and standards, United States department of commerce, in which the average level of unemployment for the calendar year immediately preceding the year in which an application is filed under this chapter exceeds the average state unemployment for such calendar year by twenty percent. Applications under this subsection (4)(b) shall be filed by April 30, 1989; (c) an area within a county, which area: (i) Is composed of contiguous census tracts; (ii) has a minimum population of five thousand persons; (iii) has at least seventy percent of its families and unrelated individuals with incomes below eighty percent of the county's median income for families and unrelated individuals; and (iv) has an unemployment rate which is at least forty percent higher than the county's unemployment rate; or (d) a county designated as a timber impact area under RCW 43.31.601 if an application is filed by July 1, 1993. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.
- (5) "Fund" means the Washington state development loan fund.

(6) "Local development organization" means a nonprofit organization which is organized to operate within an area, demonstrates a commitment to a long-standing effort for an economic development program, and makes a demonstrable effort to assist in the employment of unemployed or underemployed residents in an area.

(7) "Project" means the establishment of a new or expanded business in an area which when completed will provide employment opportunities. "Project" also means the retention of an existing business in an area which when completed will provide employment opportunities. [1993 c 280 § 56; 1991 c 314 § 19; 1988 c 42 § 18; 1987 c 461 § 2; 1985 c 164 § 2.]

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

Severability—1988 c 42: See note following RCW 4.24.480.

43.168.031 State development loan fund committee—Terminated June 30, 1994—Powers and duties transferred. The Washington state development loan fund committee shall be terminated on June 30, 1994, and its powers and duties transferred to the *director of the department of community development. [1988 c 186 § 7.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.168.040 Approval of applications for federal community development block grant funds for projects. Subject to the restrictions contained in this chapter, the committee is authorized to approve applications of local governments for federal community development block grant funds which the local governments would use to make loans to finance business projects within their jurisdictions. Applications approved by the committee under this chapter shall conform to applicable federal requirements. [1987 c 461 § 3; 1985 c 164 § 4.]

43.168.050 Application approval—Conditions and limitations. (1) The committee may only approve an application providing a loan for a project which the committee finds:

(a) Will result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women;

(b) Has been approved by the director as conforming to federal rules and regulations governing the spending of federal community development block grant funds;

(c) Will be of public benefit and for a public purpose, and that the benefits, including increased or maintained employment, improved standard of living, the employment of disadvantaged workers, and development or expansion of business ownership by minorities and women, will primarily accrue to residents of the area;

(d) Will probably be successful;

(e) Would probably not be completed without the loan because other capital or financing at feasible terms is unavailable or the return on investment is inadequate.

(2) The committee shall, subject to federal block grant criteria, give higher priority to economic development projects that contain provisions for child care.

(3) The committee may not approve an application if it fails to provide for adequate reporting or disclosure of financial data to the committee. The committee may require an annual or other periodic audit of the project books.

(4) The committee may require that the project be managed in whole or in part by a local development organization and may prescribe a management fee to be paid to such organization by the recipient of the loan or grant.

(5)(a) Except as provided in (b) of this subsection, the committee shall not approve any application which would result in a loan or grant in excess of three hundred fifty thousand dollars.

(b) The committee may approve an application which results in a loan or grant of up to seven hundred thousand dollars if the application has been approved by the director.

(6) The committee shall fix the terms and rates pertaining to its loans.

(7) Should there be more demand for loans than funds available for lending, the committee shall provide loans for those projects which will lead to the greatest amount of employment or benefit to a community. In determining the "greatest amount of employment or benefit" the committee shall also consider the employment which would be saved by its loan and the benefit relative to the community, not just the total number of new jobs or jobs saved.

(8) To the extent permitted under federal law the committee shall require applicants to provide for the transfer of all payments of principal and interest on loans to the Washington state development loan fund created under this chapter. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer.

(9) The committee shall not approve any application to finance or help finance a shopping mall.

(10) For loans not made to minority and women-owned businesses, the committee shall make at least eighty percent of the appropriated funds available to projects located in distressed areas, and may make up to twenty percent available to projects located in areas not designated as distressed. For loans not made to minority and women-owned businesses, the committee shall not make funds available to projects located in areas not designated as distressed if the fund's net worth is less than seven million one hundred thousand dollars.

(11) If an objection is raised to a project on the basis of unfair business competition, the committee shall evaluate the potential impact of a project on similar businesses located in the local market area. A grant may be denied by the committee if a project is not likely to result in a net increase in employment within a local market area.

(12) For loans to minority and women-owned businesses who do not meet the credit criteria, the committee may consider nontraditional credit standards to offset past discrimination that has precluded full participation of minority or women-owned businesses in the economy. For applicants with high potential who do not meet the credit criteria, the committee shall consider developing alternative borrowing methods. For applicants denied loans due to credit problems, the committee shall provide financial counseling within available resources and provide referrals to credit rehabilitation services. In circumstances of competing applications, priority shall be given to members of eligible groups which previously have been least served by this fund. [1993 c 512 § 12; 1990 1st ex.s. c 17 § 74; 1989 c 430 § 9; 1987 c 461 § 4; 1986 c 204 § 2; 1985 c 164 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Legislative findings—Severability—1989 c 430: See notes following RCW 43.31.502.

43.168.060 Staff support and other duties of department—Rules. The department shall provide adequate and appropriate staff and other support to the committee. A record of committee proceedings shall be maintained by the department. The department is encouraged to work with local development organizations to promote applications for loans by the fund. The department shall also provide assistance to local development organizations and local governments to identify viable projects for consideration by the committee. The department shall adopt such rules and regulations as are appropriate for the committee to carry out its authority under this chapter. [1985 c 164 § 6.]

43.168.070 Processing of applications—Contents of applications. The committee may receive and approve applications on a monthly basis but shall receive and approve applications on at least a quarterly basis for each fiscal year. The committee shall make every effort to simplify the loan process for applicants. Department staff shall process and assist in the preparation of applications. Each application shall show in detail the nature of the project, the types and numbers of jobs to be created, wages to be paid to new employees, and methods to hire unemployed persons from the area. Each application shall contain a credit analysis of the business to receive the loan. The chairperson of the committee may convene the committee on short notice to respond to applications of a serious or immediate nature. [1993 c 512 § 14; 1987 c 461 § 5; 1985 c 164 § 7.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.090 Availability of funds for committee use. The department shall make available for use by the committee an amount of federal community development block grant funds equal to the amount of state funds transferred or appropriated to the department for purposes of supplementing the department's block grant funds. [1985 c 164 § 9.]

43.168.100 Entitlement community grants—Conditions. The committee may make grants of state funds to local governments which qualify as "entitlement communities" under the federal law authorizing community development block grants. These grants may only be made on the condition that the entitlement community provide the committee with assurances that it will: (1) Spend the grant moneys for purposes and in a manner which satisfies state constitutional requirements; (2) spend the grant moneys for purposes and in a manner which would satisfy federal requirements; and (3) spend at least the same amount of the grant for loans to businesses from the federal funds received by the entitlement community. [1993 c 512 § 15; 1986 c 204 § 1; 1985 c 164 § 10.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.110 Washington state development loan fund. There is established the Washington state development loan fund which shall be an account in the state treasury. All loan payments of principal and interest which are transferred under RCW 43.168.050 shall be deposited into

the account. Moneys in the account may be spent only after legislative appropriation for loans under this chapter. Any expenditures of these moneys shall conform to federal law. [1992 c 235 § 11; 1985 c 164 § 11.]

43.168.120 Guidelines for use of funds for existing economic development revolving loan funds—Grants to local governments to assist existing economic development revolving loan funds. (1) The committee shall develop guidelines for development loan funds to be used to fund existing economic development revolving loan funds. Consideration shall be given to the selection process for grantees, loan quality criteria, legal and regulatory issues, and ways to minimize duplication between development loan funds and local economic development revolving loan funds.

(2) If it appears that all of the funds appropriated to the development loan fund for a biennium will not be fully granted to local governments within that biennium, the committee may make available up to twenty percent of the eighty percent of the funds available to projects in distressed areas under *RCW 43.168.050(9) for grants to local governments to assist existing economic development revolving loan funds in distressed areas. The grants to local governments shall be utilized to make loans to businesses that meet the specifications for loans under this chapter. The local governments shall, to the extent permitted under federal law, agree to convey to the development loan fund the principal and interest payments from existing loans that the local governments have made through their revolving loan funds. Under circumstances where the federal law does not permit the committee to require such transfer, the committee shall give priority to applications where the applicants on their own volition make commitments to provide for the transfer. [1987 c 461 § 6.]

*Reviser's note: RCW 43.168.050 was amended by 1989 c 430 § 9, and the previous subsection (9) was renumbered as subsection (10).

43.168.130 Development of performance standards—Report. (1) The committee shall develop performance standards for judging the effectiveness of the program. Such standards shall include, to the extent possible, examining the effectiveness of grants in regard to:

- (a) Job creation for individuals of low and moderate income;
- (b) Retention of existing employment;
- (c) The creation of new employment opportunities;
- (d) The diversification of the economic base of local communities;
- (e) The establishment of employee cooperatives;
- (f) The provision of assistance in cases of employee buy-outs of firms to prevent the loss of existing employment;
- (g) The degree of risk assumed by the development loan fund, with emphasis on loans which did not receive financing from commercial lenders, but which are considered financially sound.

(2) The committee shall report to the appropriate standing committees of the legislature on the development of performance standards by January 1, 1988. [1987 c 461 § 7.]

43.168.140 Timber impact areas. Any funds appropriated by the legislature to the development loan fund for purposes of the timber recovery act shall be used for development loans in timber impact areas as defined in RCW 43.31.601. [1991 c 314 § 20.]

Findings—1991 c 314: See note following RCW 43.31.601.

43.168.150 Minority and women-owned businesses—Application process—Joint loan guarantee program. Subject to the restrictions contained in this chapter, the committee is authorized to approve applications of minority and women-owned businesses for loans or loan guarantees from the fund. Applications approved by the committee under this chapter shall conform to applicable federal requirements. The committee shall prioritize available funds for loan guarantees rather than loans when possible. The committee may enter into agreements with other public or private lending institutions to develop a joint loan guarantee program for minority and women-owned businesses. If such a program is developed, the committee may provide funds, in conjunction with the other organizations, to operate the program. This section does not preclude the committee from making individual loan guarantees.

To the maximum extent practicable, the funds available under this section shall be made available on an equal basis to minority and women-owned businesses. The committee shall submit to the appropriate committees of the senate and house of representatives quarterly reports that detail the number of loans approved and the characteristics of the recipients by ethnic and gender groups. [1993 c 512 § 13.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

43.168.900 Severability—1985 c 164. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 164 § 15.]

Chapter 43.170

SMALL BUSINESS INNOVATORS' OPPORTUNITY PROGRAM

Sections

- 43.170.010 Legislative findings.
- 43.170.020 Definitions.
- 43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee.
- 43.170.040 Chairman of program.
- 43.170.060 Eligibility.
- 43.170.070 Referral to investment opportunities office.

43.170.010 Legislative findings. The legislature recognizes the numerous benefits to the state's economic base from the establishment of small businesses by innovators and inventors and the numerous benefits provided by inventors and innovators through industrial diversification, broadening of the economic base, and providing financial benefits to our citizens and new products to the nation's consumers.

It is estimated that ninety-five percent of all inventions and innovations are never authoritatively considered primarily because inventors are unfamiliar with the business environment or financial structure necessary for implementing their proposals.

The legislature therefore recognizes a need to encourage and assist innovators and inventors. [1982 c 44 § 1.]

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

(1) "Department" means the *department of trade and economic development.

(2) "Director" means the *director of trade and economic development.

(3) "Program" means the small business innovators' opportunity program.

(4) "Inventor" or "innovator" means one who thinks of, imagines, or creates something new which may result in a device, contrivance, or process for the first time, through the use of the imagination or ingenious thinking and experimentation.

(5) "Proposal" means a plan provided by an inventor or innovator on an idea for an invention or an improvement.

(6) "Higher education" means any university, college, community college, or technical institute in this state. [1985 c 466 § 60; 1982 c 44 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.170.030 Small business innovators' opportunity program—Pilot project established—Composition and structure—User fee. The *department of trade and economic development, in cooperation with institutions of higher education, shall establish as a pilot project a small business innovators' opportunity program to provide a professional research and counseling service on a user fee basis to inventors, innovators, and the business community.

The composition and organizational structure of the program shall be determined by the department in a manner which will foster the continuation of the program without state funding at the end of the pilot project established by this chapter. The department shall provide staff support for the program for the duration of the pilot project. The program shall:

- (1) Receive proposals from inventors and innovators;
- (2) Review proposals for accuracy and evaluate their prospects for marketability;
- (3) Cooperate with institutions of higher education to evaluate proposals for marketability, suitability for patent rights, and for the provision of professional research and counseling;
- (4) Provide assistance to the innovators and inventors as appropriate; and
- (5) Have the power to receive funds, contract with institutions of higher education, and carry out such other duties as are deemed necessary to implement this chapter.

The user fee shall be set by the director in an amount which is designed to recover the cost of the services provided. [1985 c 466 § 61; 1982 c 44 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.170.040 Chairman of program. The director shall be the chairman of the program during the pilot project. [1982 c 44 § 4.]

43.170.060 Eligibility. Only businesses with fifty employees or less which are not subsidiaries of another business and individuals are eligible to participate in the program. [1982 c 44 § 6.]

43.170.070 Referral to investment opportunities office. Any innovation or inventor receiving assistance under this program shall be referred to the investment opportunities office operated by the *department of trade and economic development. [1989 c 312 § 9.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Severability—1989 c 312: See note following RCW 43.31.403.

Investment opportunities office: RCW 43.31.403.

Chapter 43.172

MINORITY AND WOMEN-OWNED BUSINESSES— SMALL BUSINESS BONDING ASSISTANCE PROGRAM

Sections

- 43.172.005 Intent.
- 43.172.010 Definitions.
- 43.172.011 Definitions—Bonding program.
- 43.172.020 Small business bonding assistance program—
Implementation—Rules.
- 43.172.030 Assistance from other agencies.
- 43.172.040 Entrepreneurial training course.
- 43.172.050 Entrepreneurial accreditation of small contracting businesses.
- 43.172.060 Professional services assistance—One-time grants.
- 43.172.070 Grant administration.
- 43.172.080 Bond guarantees—Generally.
- 43.172.090 Bond guarantees—Approval process.
- 43.172.100 Small business bonding assistance program fund—
Expenditures.
- 43.172.110 Small business bonding assistance program fund—Support.
- 43.172.120 Gifts, grants, endowments.
- 43.172.900 Short title—1993 c 512.
- 43.172.901 Part headings and section captions—1993 c 512.
- 43.172.902 Severability—1993 c 512.
- 43.172.903 Effective date—1993 c 512.

Minority and women business development office: RCW 43.31.0925.

43.172.005 Intent. It is the intent of the legislature to combat discrimination in the economy.

(1) The legislature finds that discrimination is in part responsible for:

(a) The disproportionately small percentage of the state's businesses that are owned by minorities and women;

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(b) The limited and unequal opportunity minority and women entrepreneurs and business owners have to procure small business financing; and

(c) The difficulty many minority and women-owned contracting businesses have in securing bonds and contract work.

(2) The legislature further finds that:

(a) Many minority and women entrepreneurs and business owners lack training in how to establish and operate a business. This lack of training inhibits their competitiveness when they apply for business loans, bonds, and contracts;

(b) Minorities and women are an increasingly expanding portion of the population and work force. In order for these individuals to fully contribute to the society and economy it is necessary to ensure that minority and women entrepreneurs and business owners are provided an equal opportunity to procure small business financing, bonds, and contracts; and

(c) The growth of small businesses will have a favorable impact on the Washington economy by creating jobs, increasing competition in the marketplace, and expanding tax revenues. Access to financial markets, bonds, and contracts by entrepreneurs and small business owners is vital to this process. Without reasonable access to financing, bonds, and contracts, talented and aggressive entrepreneurs and small business owners are cut out of the economic system and the state's economy suffers.

(3) Therefore, the legislature declares there to be a substantial public purpose in providing technical assistance in the areas of marketing, finance, and management, and access to capital resources, bonds, and contracts, to help start or expand a minority or women-owned business, and specifically to encourage and make possible greater participation by minorities and women in international trade, public works and construction, and public facility concessions. To accomplish these purposes, it is the intent of the legislature to:

(a) Develop or contract for training courses in financing, marketing, managing, accounting, and recordkeeping for a small business and to make these programs available to minority and women entrepreneurs and small business owners;

(b) Make public works and construction projects, public facility concessions, and purchase of goods and services accessible to a greater number of minority and women-owned businesses;

(c) Provide for the lending of nonstate funds to qualified minority and women entrepreneurs and business owners in order to provide the maximum practicable opportunity for innovative minority and women entrepreneurs and business owners to compete for small business financing; and

(d) Provide professional services assistance grants and bond guarantees on behalf of qualified contractors in order to provide the maximum practicable opportunity for minority and women-owned contracting businesses to participate in the Washington state economy by bidding and completing various public and private contracting jobs. [1993 c 512 § 1.]

Linked deposit program: RCW 43.86A.060.

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

(1) "Minority" means persons of color, including African-Americans, Hispanic/Latino Americans, Native Americans, and Asian/Pacific Islanders Americans;

(2) "Minority and women-owned business" means any resident minority business enterprise or women's business enterprise, certified as such by the office of minority and women's business enterprises under chapter 39.19 RCW and consistent with subsection (1) of this section. [1993 c 512 § 2.]

43.172.011 Definitions—Bonding program. Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.172.020 through 43.172.110.

(1) "Approved surety company" means a surety company approved by the department for participation in providing direct bonding assistance to qualified contractors.

(2) "Bond" means any bond or security required for bid, payment, or performance of contracts.

(3) "Department" means the *department of trade and economic development.

(4) "Program" means the Washington state small business bonding assistance program provided for in this chapter.

(5) "Qualified contractor" means any resident minority business enterprise or women's business enterprise, as determined by the department to be consistent with the requirements of chapter 39.19 RCW and engaged in the contracting business, which has obtained a certificate of accreditation from the Washington state small business bonding assistance program. [1993 c 512 § 16.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.172.020 Small business bonding assistance program—Implementation—Rules. There is established within the *department of trade and economic development the Washington state small business bonding assistance program to assist resident minority and women-owned small contracting businesses to acquire the managerial and financial skills, standards, and assistance necessary to enable them to obtain bid, payment, and performance bonds from surety companies for either advertised or designated contracts. The department shall implement the program by establishing a course of instruction as set forth in RCW 43.172.040. The department shall encourage surety companies and other private interests to help implement this course of instruction to assist minority and women-owned small contracting businesses. The department shall adopt rules to ensure the proper implementation of the program set forth in this chapter. [1993 c 512 § 17.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.172.030 Assistance from other agencies. The department shall seek information, advice, and assistance from regional minority contractor organizations, and the United States small business administration and any other appropriate organization or agency.

The following departments, offices, and agencies shall, at the request of the department, provide information, advice, and assistance to the department:

(1) The department of general administration;

(2) The Washington state business assistance center;

(3) The office of the insurance commissioner;

(4) The Washington state economic development finance authority; and

(5) The office of minority and women's business enterprises. [1993 c 512 § 18.]

43.172.040 Entrepreneurial training course. The business assistance center shall modify the entrepreneurial training course established in RCW 43.31.093 in order to provide instruction which is appropriate to the specific needs of contracting businesses. This course of instruction shall be available to resident minority and women-owned small business contractors. The instruction shall be intensive, practical training courses in financing, bidding for contracts, managing, accounting, and recordkeeping for a contracting business, with an emphasis on federal, state, local, or private programs available to assist small contractors. The business assistance center shall appoint professional instructors, with practical knowledge and experience in the field of small business contracting, to teach those courses developed to meet the specific needs of contracting businesses. Instruction shall be offered in major population centers throughout the state at times and locations which are convenient for people in the contracting business. [1993 c 512 § 19.]

43.172.050 Entrepreneurial accreditation of small contracting businesses. Any resident minority or women-owned small business contractor may select a key management employee or employees to attend any course of instruction established under RCW 43.31.093. When the records, maintained by the business assistance center, indicate that a key management employee of a small contracting business has attended all the courses offered, and has successfully completed any tests required, the department shall award the small contracting business a certificate of accreditation which acknowledges successful completion of the courses. The department may also award a certificate of accreditation if a review of the key management employee's education, experience, and business history indicates that the business already possesses the knowledge and skills offered through the course of instruction, or if the key management employee successfully completes all tests required of those who attend the entrepreneurial training course. [1993 c 512 § 20.]

43.172.060 Professional services assistance—One-time grants. Any qualified contractor seeking a grant for professional services assistance may apply to the department. If approved, the department may enter into an agreement to provide a grant of up to two thousand five hundred dollars on behalf of a qualified contractor for the acquisition of the

professional services of certified public accountants, construction management companies, or any other technical, surety, financial, or managerial professionals. This assistance is only available to a qualified contractor on a one-time basis. [1993 c 512 § 21.]

43.172.070 Grant administration. The department shall administer all grants issued to assist qualified contractors and shall monitor the performance of all grant recipients in order to provide such further assistance as is necessary to ensure that all program requirements are met and that the program's purpose is fulfilled. However, nothing in this chapter should be construed to restrict the rendering of program services to any qualified contractor over and above the services provided by the grant. [1993 c 512 § 22.]

43.172.080 Bond guarantees—Generally. If a qualified contractor makes a bond application to an approved surety company for a public or private contracting job, but fails to obtain the bond because the contractor is unable to meet the requirements of the surety company on such bonding contracts, for reasons other than nonperformance, and if the approved surety company applies to the department to have the bond guaranteed by the program, then the department may provide a bond guarantee of up to seventy-five thousand dollars on behalf of the qualified contractor. [1993 c 512 § 23.]

43.172.090 Bond guarantees—Approval process. Upon receipt of an approved surety company's application for a bond guarantee, the program supervisor shall review the application in order to verify that:

- (1) The bond being sought by the qualified contractor is needed;
- (2) The contracting job is within the qualified contractor's capability to perform; and
- (3) The qualified contractor has not been denied a bond due to nonperformance.

Based upon subsections (1) through (3) of this section, the department shall either approve or disapprove the application. If the application is approved, the department has the authority to enter into a contract with the approved surety company. Under the terms of this contract the approved surety company shall enter into a contract with, and issue the required bond to, the qualified contractor at the standard fees and charges usually made by the company for the type and amount of the bond issued. The bond issued by the approved surety company shall be guaranteed by money in the program fund. The approved surety company shall also agree to make a reasonable, good faith effort to pursue and collect any claims it may have against a qualified contractor who defaults on a bond guaranteed by the program, including, but not limited to, the institution of legal proceedings against the defaulting contractor, prior to collecting on the guarantee. [1993 c 512 § 24.]

43.172.100 Small business bonding assistance program fund—Expenditures. The Washington state small business bonding assistance program fund is created in the state treasury. Any amounts appropriated, donated, or granted to the program shall be deposited and credited to the

program fund. Moneys in the program fund may be spent only after appropriation. Expenditures from the program fund shall only be used as follows:

- (1) To pay the implementation costs of the program provided for in this chapter;
- (2) To be disbursed by the department to enable qualified contractors to obtain services provided for in this chapter; and
- (3) To guarantee bonds issued pursuant to RCW 43.172.080 and 43.172.090 and to pay such bonds in the event of default by a qualified contractor.

However, the full faith and credit of the state of Washington shall not be used to secure the bonds and the state's liability shall be limited to the money appropriated by the legislature. [1993 c 512 § 25.]

43.172.110 Small business bonding assistance program fund—Support. The department shall solicit funds and support from surety companies and other public and private entities with an interest in assisting Washington's small business contractors and may enter into agreements with such companies and interests by which they provide funds to the program fund to be matched with funds from nonstate sources. [1993 c 512 § 26.]

43.172.120 Gifts, grants, endowments. The department may receive gifts, grants, and endowments from public or private sources that may be made from time to time, in trust or otherwise, for the use and benefit of the Washington state small business bonding assistance program and spend gifts, grants, endowments or any income from the public or private sources according to their terms. [1993 c 512 § 27.]

43.172.900 Short title—1993 c 512. This act may be known and cited as the omnibus minority and women-owned businesses assistance act. [1993 c 512 § 38.]

43.172.901 Part headings and section captions—1993 c 512. Part headings and section captions as used in this act do not constitute part of the law. [1993 c 512 § 40.]

43.172.902 Severability—1993 c 512. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 c 512 § 41.]

43.172.903 Effective date—1993 c 512. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 512 § 42.]

Chapter 43.175

GOVERNOR'S SMALL BUSINESS IMPROVEMENT COUNCIL

Sections

- 43.175.010 Governor's small business improvement council—
Established—Membership—Travel expenses—Staff
support and administrative assistance.
- 43.175.020 Duties.
- 43.175.901 Severability—1984 c 282.

43.175.010 Governor's small business improvement council—Established—Membership—Travel expenses—Staff support and administrative assistance. (1) There is established the governor's small business improvement council to consist of at least fifteen but not more than thirty members, including one member of each caucus in the house of representatives and the senate, to be appointed by the governor. In making the appointments, the governor shall consider the recommendations of business organizations and persons operating small businesses, and provide for the representation of women or members of minority groups, and agribusiness concerns. The governor shall appoint ex officio nonvoting members to the council from the various state agencies with business assistance services or responsibilities. Members of the governor's small business improvement council shall be appointed for terms of four years, but the governor may modify the terms of the initial members as necessary to achieve staggered terms.

(2) Members of the governor's small business improvement council shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060 subject to legislative appropriation.

(3) The office of the governor shall provide staff support and administrative assistance to the council. [1987 c 348 § 6; 1985 c 466 § 62; 1984 c 282 § 7.]

Legislative findings—1987 c 348: See note following RCW 43.31.085.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.175.020 Duties. The governor's small business improvement council shall seek to: Identify regulatory, administrative, and legislative proposals that will improve the entrepreneurial environment for small businesses; and advise and comment on state business programs and the business assistance center on program policies, and services to assist small businesses. In consultation with the business assistance center and the appropriate standing committees of the senate and house of representatives, the governor's small business improvement council shall submit its proposals and recommendations to the governor and the legislature prior to the convening of each regular session of the legislature. [1987 c 348 § 7; 1985 c 466 § 63; 1984 c 282 § 8.]

Legislative findings—1987 c 348: See note following RCW 43.31.085.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.175.901 Severability—1984 c 282. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 282 § 17.]

Chapter 43.180

HOUSING FINANCE COMMISSION

Sections

- 43.180.010 Declaration of public policies—Purpose.
- 43.180.020 Definitions.
- 43.180.030 Bonds not debt of state.
- 43.180.040 Commission created.
- 43.180.050 Housing financing powers—Annual audit.
- 43.180.060 No power of eminent domain or taxation.
- 43.180.070 Housing finance plan.
- 43.180.080 General powers.
- 43.180.090 Selection of bond counsel—Written policies to be adopted.
- 43.180.100 Selection of underwriters—Written policies to be adopted.
- 43.180.110 Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change.
- 43.180.120 Rules for fair allocation of bond proceeds for nonrental single family housing.
- 43.180.130 Protection of bondholders—Mortgage insurance.
- 43.180.140 Rules for energy efficiency.
- 43.180.150 Bond issues—Terms—Issuance—Purchase, etc.
- 43.180.160 Debt limitation.
- 43.180.170 Bond issues—Disposition of proceeds—Special fund.
- 43.180.180 Bond issues—Disposition of revenues—Special trust fund.
- 43.180.190 Legal investments.
- 43.180.200 Internal revenue code.
- 43.180.220 Housing finance program—Mortgage financing—
Investments—Flexible loan underwriting guidelines.
- 43.180.230 Housing finance program—Program elements.
- 43.180.240 Housing finance program—Report to legislature annually—
Implementation.

NONPROFIT CORPORATION FACILITIES

- 43.180.300 Definitions.
- 43.180.310 Commission powers.
- 43.180.320 Revenue bonds.
- 43.180.330 Revenue refunding bonds.
- 43.180.340 Trust agreements.
- 43.180.350 Lessees or assignees.
- 43.180.360 Default.
- 43.180.900 Conflict with federal requirements.
- 43.180.901 Liberal construction.
- 43.180.902 Captions not part of law.
- 43.180.903 Severability—1983 c 161.
- 43.180.904 Effective dates—1983 c 161.

43.180.010 Declaration of public policies—Purpose. It is declared to be the public policy of the state and a recognized governmental function to assist in making affordable and decent housing available throughout the state and by so doing to contribute to the general welfare. Decent housing for the people of our state is a most important public concern. Interest rates and construction costs have made it impossible for many Washington citizens to purchase their own homes. Older people, disabled persons, and low and moderate income families often cannot afford to rent decent housing. There exists throughout the state a serious shortage of safe, sanitary and energy efficient housing available at prices within the financial means of our citizens. General economic development within the state is also impeded by a lack of affordable housing. The state's economy, which is dependent on the timber, wood products, and construction industries, has been damaged by inadequate investment in housing construction and rehabilitation. The result has been high unemployment and economic hardship affecting the prosperity of all the people of the state, particularly those in the wood products industry.

It is the purpose of this chapter to establish a state housing finance commission to act as a financial conduit which,

without using public funds or lending the credit of the state or local government, can issue nonrecourse revenue bonds and participate in federal, state, and local housing programs and thereby make additional funds available at affordable rates to help provide housing throughout the state. It is also a primary purpose of this chapter to encourage the use of Washington state forest products in residential construction. This chapter is enacted to accomplish these and related purposes and shall be liberally construed to carry out its purposes and objectives. [1983 c 161 § 1.]

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

(1) "Bonds" means the bonds, notes, or other evidences of indebtedness of the commission, the interest paid on which may or may not qualify for tax exemption.

(2) "Code" means the federal internal revenue code of 1954, as now or hereafter amended, and the regulations and rulings promulgated thereunder.

(3) "Commission" means the Washington state housing finance commission or any board, body, commission, department, or officer succeeding to the principal functions thereof or to whom the powers conferred upon the commission shall be given by law.

(4) "Costs of housing" means all costs related to the development, design, acquisition, construction, reconstruction, leasing, rehabilitation, and other improvements of housing, as determined by the commission.

(5) "Eligible person" means a person or family eligible in accordance with standards promulgated by the commission. Such persons shall include those persons whose income is insufficient to obtain at a reasonable cost, without financial assistance, decent, safe, and sanitary housing in the area in which the person or family resides, and may include such other persons whom the commission determines to be eligible.

(6) "Housing" means specific new, existing, or improved residential dwellings within this state or dwellings to be constructed within this state. The term includes land, buildings, and manufactured dwellings, and improvements, furnishings, and equipment, and such other nonhousing facilities, furnishings, equipment, and costs as may be incidental or appurtenant thereto if in the judgment of the commission the facilities, furnishings, equipment and costs are an integral part of the project. Housing may consist of single-family or multifamily dwellings in one or more structures located on contiguous or noncontiguous parcels or any combination thereof. Improvements may include such equipment and materials as are appropriate to accomplish energy efficiency within a dwelling. The term also includes a dwelling constructed by a person who occupies and owns the dwelling, and nursing homes licensed under chapter 18.51 RCW.

(7) "Mortgage" means a mortgage, mortgage deed, deed of trust, security agreement, or other instrument securing a mortgage loan and constituting a lien on or security interest in housing. The property may be held in fee simple or on a leasehold under a lease having a remaining term, at the time the mortgage is acquired, of not less than the term of repayment of the mortgage loan secured by the mortgage.

The property may also be housing which is evidenced by an interest in a cooperative association or corporation if ownership of the interest entitles the owner of the interest to occupancy of a dwelling owned by the association or corporation.

(8) "Mortgage lender" means any of the following entities which customarily provide service or otherwise aid in the financing of housing and which are approved as a mortgage lender by the commission: A bank, trust company, savings bank, national banking association, savings and loan association, building and loan association, mortgage banker, mortgage company, credit union, life insurance company, or any other financial institution, governmental agency, municipal corporation, or any holding company for any of the entities specified in this subsection.

(9) "Mortgage loan" means an interest-bearing loan or a participation therein, made to a borrower, for the purpose of financing the costs of housing, evidenced by a promissory note, and which may or may not be secured (a) under a mortgage agreement, (b) under any other security agreement, regardless of whether the collateral is personal or real property, or (c) by insurance or a loan guarantee of a third party. However, an unsecured loan shall not be considered a mortgage loan under this definition unless the amount of the loan is under two thousand five hundred dollars. [1990 c 167 § 1; 1983 c 161 § 2.]

43.180.030 Bonds not debt of state. Bonds issued under this chapter shall be issued in the name of the commission. The bonds shall not be obligations of the state of Washington and shall be obligations only of the commission payable from the special fund or funds created by the commission for their payment. Such funds shall not be or constitute public moneys or funds of the state of Washington but at all times shall be kept segregated and set apart from other funds.

Bonds issued under this chapter shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds, shall be a valid claim only as against the special fund or funds relating thereto, that neither the faith and credit nor the taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than the commission as set forth in this chapter, is pledged to the payment of the principal of, interest on, and prepayment premium, if any, on the bonds.

Contracts entered into by the commission shall be entered into in the name of the commission and not in the name of the state of Washington. The obligations of the commission under the contracts shall be obligations only of the commission and are not in any way obligations of the state of Washington. [1983 c 161 § 3.]

43.180.040 Commission created. (1) There is hereby established a public body corporate and politic, with perpetual corporate succession, to be known as the Washington state housing finance commission. The commission is an instrumentality of the state exercising essential government functions and, for purposes of the code, acts as a constituted authority on behalf of the state when it issues bonds pursuant

to this chapter. The commission is a "public body" within the meaning of RCW 39.53.010.

(2) The commission shall consist of the following voting members:

- (a) The state treasurer, ex officio;
- (b) The *director of community development, ex officio;
- (c) An elected local government official, ex officio, with experience in local housing programs, who shall be appointed by the governor with the consent of the senate;
- (d) A representative of housing consumer interests, appointed by the governor with the consent of the senate;
- (e) A representative of labor interests, appointed by the governor, with the consent of the senate, after consultation with representatives of organized labor;
- (f) A representative of low-income persons, appointed by the governor with the consent of the senate;
- (g) Five members of the public appointed by the governor, with the consent of the senate, on the basis of geographic distribution and their expertise in housing, real estate, finance, energy efficiency, or construction, one of whom shall be appointed by the governor as chair of the commission and who shall serve on the commission and as chair of the commission at the pleasure of the governor.

The term of the persons appointed by the governor, other than the chair, shall be four years from the date of their appointment, except that the terms of three of the initial appointees shall be for two years from the date of their appointment. The governor shall designate the appointees who will serve the two-year terms. An appointee may be removed by the governor for cause pursuant to RCW 43.06.070 and 43.06.080. The governor shall fill any vacancy in an appointed position by appointment for the remainder of the unexpired term. If the *department of community development is abolished, the resulting vacancy shall be filled by a state official who shall be appointed to the commission by the governor. If this official occupies an office or position for which senate confirmation is not required, then his appointment to the commission shall be subject to the consent of the senate. The members of the commission shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the commission, for expenses incurred in the discharge of their duties under this chapter, subject to the provisions of RCW 43.03.050 and 43.03.060. A majority of the commission constitutes a quorum. Designees shall be appointed in such manner and shall exercise such powers as are specified by the rules of the commission.

(3) The commission may adopt an official seal and may select from its membership a vice chair, a secretary, and a treasurer. The commission shall establish rules concerning its exercise of the powers authorized by this chapter. The rules shall be adopted in conformance with chapter 34.05 RCW. [1985 c 6 § 14; 1984 c 287 § 90; 1983 c 161 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

43.180.050 Housing financing powers—Annual audit. (1) In addition to other powers and duties prescribed

in this chapter, and in furtherance of the purposes of this chapter to provide decent, safe, sanitary, and affordable housing for eligible persons, the commission is empowered to:

- (a) Issue bonds in accordance with this chapter;
- (b) Invest in, purchase, or make commitments to purchase or take assignments from mortgage lenders of mortgages or mortgage loans;
- (c) Make loans to or deposits with mortgage lenders for the purpose of making mortgage loans; and
- (d) Participate fully in federal and other governmental programs and to take such actions as are necessary and consistent with this chapter to secure to itself and the people of the state the benefits of those programs and to meet their requirements, including such actions as the commission considers appropriate in order to have the interest payments on its bonds and other obligations treated as tax exempt under the code.

(2) The commission shall establish eligibility standards for eligible persons, considering at least the following factors:

- (a) Income;
- (b) Family size;
- (c) Cost, condition and energy efficiency of available residential housing;
- (d) Availability of decent, safe, and sanitary housing;
- (e) Age or infirmity; and
- (f) Applicable federal, state, and local requirements.

The state auditor shall audit the books, records, and affairs of the commission annually to determine, among other things, if the use of bond proceeds complies with the general plan of housing finance objectives including compliance with the objective for the use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings. [1986 c 264 § 1; 1983 c 161 § 5.]

43.180.060 No power of eminent domain or taxation. The commission does not have the power of eminent domain and the commission does not have the power to levy any taxes of any kind. [1983 c 161 § 6.]

43.180.070 Housing finance plan. The commission shall adopt a general plan of housing finance objectives to be implemented by the commission during the period of the plan. The commission shall adopt a plan no later than December 15, 1983. The commission may exercise the powers authorized under this chapter prior to the adoption of the initial plan. In developing the plan, the commission shall consider and set objectives for:

- (1) The use of funds for single-family and multifamily housing;
- (2) The use of funds for new construction, rehabilitation, including refinancing of existing debt, and home purchases;
- (3) The housing needs of low-income and moderate-income persons and families, and of elderly or mentally or physically handicapped persons;
- (4) The use of funds in coordination with federal, state, and local housing programs for low-income persons;
- (5) The use of funds in urban, rural, suburban, and special areas of the state;

(6) The use of financing assistance to stabilize and upgrade declining urban neighborhoods;

(7) The use of financing assistance for economically depressed areas, areas of minority concentration, reservations, and in mortgage-deficient areas;

(8) The geographical distribution of bond proceeds so that the benefits of the housing programs provided under this chapter will be available to address demand on a fair basis throughout the state;

(9) The use of financing assistance for implementation of cost-effective energy efficiency measures in dwellings.

The plan shall include an estimate of the amount of bonds the commission will issue during the term of the plan and how bond proceeds will be expended.

The plan shall be adopted by resolution of the commission following at least one public hearing thereon, notice of which shall be made by mailing to the clerk of the governing body of each county and by publication in the Washington State Register no more than forty and no less than twenty days prior to the hearing. A draft of the plan shall be made available not less than thirty days prior to any such public hearing. At least every two years, the commission shall report to the legislature regarding implementation of the plan.

Prior to December 31, 1983, the commission shall submit the plan to the chief clerk of the house and secretary of the senate for transmittal to and review by the appropriate standing committees. The commission may periodically update the plan. Proposed changes of the plan shall be submitted to the chief clerk of the house and secretary of the senate for transmittal to and review by the appropriate standing committees. This submittal of proposed changes shall occur at least fourteen days before final adoption of the changes by the commission.

The commission shall adopt rules designed to result in the use of bond proceeds in a manner consistent with the plan. These rules shall be adopted and in full force and effect by February 1, 1984. The commission may periodically update its rules.

The commission is not required to adopt a plan or rules for the use of the proceeds of bonds issued prior to February, 1984. This section is designed to deal only with the use of bond proceeds and nothing in this section shall be construed as a limitation on the commission's authority to issue bonds. [1983 c 161 § 7.]

43.180.080 General powers. In addition to other powers and duties specified in this chapter, the commission may:

(1) Establish in resolutions relating to any issuance of bonds, or in any financing documents relating to such issuance, such standards and requirements applicable to the purchase of mortgages and mortgage loans or the making of loans to mortgage lenders as the commission deems necessary or desirable, including but not limited to: (a) The time within which mortgage lenders must make commitments and disbursements for mortgages or mortgage loans; (b) the location and other characteristics of single-family housing or multifamily housing to be financed by mortgages and mortgage loans; (c) the terms and conditions of mortgages and mortgage loans to be acquired; (d) the amounts and

types of insurance coverage required on mortgages, mortgage loans, and bonds; (e) the representations and warranties of mortgage lenders confirming compliance with such standards and requirements; (f) restrictions as to interest rate and other terms of mortgages or mortgage loans or the return realized therefrom by mortgage lenders; (g) the type and amount of collateral security to be provided to assure repayment of any loans from the commission and to assure repayment of bonds; and (h) any other matters related to the purchase of mortgages or mortgage loans or the making of loans to lending institutions as shall be deemed relevant by the commission;

(2) Sue and be sued in its own name;

(3) Make and execute contracts and all other instruments necessary or convenient for the exercise of its purposes or powers, including but not limited to contracts or agreements for the origination, servicing, and administration of mortgages or mortgage loans, and the borrowing of money;

(4) Procure such insurance, including but not limited to insurance: (a) Against any loss in connection with its property and other assets, including but not limited to mortgages or mortgage loans, in such amounts and from such insurers as the commission deems desirable, and (b) to indemnify members of the commission for acts done in the course of their duties;

(5) Provide for the investment of any funds, including funds held in reserve, not required for immediate disbursement, and provide for the selection of investments;

(6) Fix, revise, and collect fees and charges in connection with the investigation and financing of housing or in connection with assignments, contracts, purchases of mortgages or mortgage loans, or any other actions permitted under this chapter or by the commission; and receive grants and contributions;

(7) Make such expenditures as are appropriate for paying the administrative costs of the commission and for carrying out the provisions of this chapter. These expenditures may be made only from funds consisting of the commission's receipts from fees and charges, grants and contributions, the proceeds of bonds issued by the commission, and other revenues; these expenditures shall not be made from funds of the state of Washington;

(8) Establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter;

(9) Conduct such investigations and feasibility studies as it deems appropriate;

(10) Proceed with foreclosure actions or accept deeds in lieu of foreclosure together with the assignments of leases and rentals incidental thereto. Any properties acquired by the commission through such actions shall be sold as soon as practicable through persons licensed under chapter 18.85 RCW or at public auction, or by transfer to a public agency. In preparation for the disposition of the properties, the commission may own, lease, clear, construct, reconstruct, rehabilitate, repair, maintain, manage, operate, assign, or encumber the properties;

(11) Take assignments of leases and rentals;

(12) Subject to any provisions of the commission's contracts with the holders of obligations of the commission, consent to any modification with respect to rate of interest, time, and payment of any installment of principal or interest

or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract, or agreement of any kind;

(13) Subject to provisions of the commission's contracts with the holders of bonds, permit the reduction of rental or carrying charges to persons unable to pay the regular rent or schedule of charges if, by reason of other income of the commission or by reason of payment by any department, agency, or instrumentality of the United States or of this state, the reduction can be made without jeopardizing the economic stability of the housing being financed;

(14) Sell, at public or private sale, with or without public bidding, any mortgage, mortgage loan, or other instrument or asset held by the commission;

(15) Employ, contract with, or engage engineers, architects, attorneys, financial advisors, bond underwriters, mortgage lenders, mortgage administrators, housing construction or financing experts, other technical or professional assistants, and such other personnel as are necessary. The commission may delegate to the appropriate persons the power to execute legal instruments on its behalf;

(16) Receive contributions or grants from any source unless otherwise prohibited;

(17) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(18) Exercise any other power reasonably required to implement the purposes of this chapter. [1983 c 161 § 8.]

43.180.090 Selection of bond counsel—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of bond counsel. The policies shall provide for the creation and maintenance of a roster of attorneys whom the commission believes possess the requisite special expertise and professional standing to provide bond counsel opinions which would be accepted by the underwriters, bondholders, and other members of the financial community, and which would be in furtherance of the public interest in obtaining the lowest possible interest rates on the bonds issued by the commission. Any attorney may apply to have his or her name placed on the roster, but may not be placed on the roster unless the attorney demonstrates to the commission's satisfaction that the attorney would issue the kind of opinions required by this section.

(2) Prior to selecting an attorney or attorneys to provide bond counsel services, the commission shall provide all attorneys on the roster with a notice of its intentions to select bond counsel and shall invite each of them to submit to the commission his or her fee schedule for providing bond counsel services. The commission shall have wide discretion in selecting the attorney or attorneys it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider all submitted fee schedules and the public interest in achieving both savings in bond counsel fees and issuance of bonds on terms most favorable to the commission. At least once every two calendar years, the commission shall select anew an attorney or attorneys to serve as bond counsel. However, the commission may retain an attorney for longer than two years when necessary to complete work on a particular bond issue. An attorney previously retained may be selected again but

only after the commission has provided other attorneys on the roster with an opportunity to be selected and has made the fee schedule review required under this subsection. In addition to or as an alternative to retaining counsel for a period of time, the commission may appoint an attorney to serve as counsel in respect to only a particular bond issue. [1983 c 161 § 9.]

43.180.100 Selection of underwriters—Written policies to be adopted. (1) The commission shall adopt written policies to provide for the selection of underwriters. The policies shall provide for the creation of a roster of underwriters whom the commission believes possess the requisite special expertise and professional standing to provide bond marketing services which would be accepted by bondholders and other members of the financial community, and which would be in furtherance of the public interest in marketing the commission's bonds at the lowest possible costs. Any underwriter may apply to have its name placed on the roster, but may not be placed on the roster unless it demonstrates to the commission's satisfaction that it meets the requirements of this section.

(2) Whenever the commission decides that it needs the services of an underwriter, it shall provide all underwriters on the roster with a notice of its intentions and shall invite each of them to submit to the commission an itemization of its fees and other charges for providing underwriting services on the issue. The itemization shall be by categories designed by the commission. The commission shall have wide discretion in selecting the underwriter it considers to be most appropriate to provide the services, but in the exercise of this discretion the commission shall consider the underwriter's fees and other charges and the public interest in achieving both savings in the total costs of underwriting services and issuance of bonds on terms most favorable to the commission. [1983 c 161 § 10.]

43.180.110 Review of initial policies adopted under RCW 43.180.090 and 43.180.100—Adoption—Change. The commission shall submit the initial policies adopted under RCW 43.180.090 and 43.180.100 to the chief clerk of the house and the secretary of the senate for transmittal to and review by the appropriate standing committees and the joint administrative rules review committee. By January 1, 1984 the commission shall have adopted policies in the form of rules and regulations under chapter 34.05 RCW. Such rules and regulations may only be changed or revised in accordance with chapter 34.05 RCW. [1983 c 161 § 11.]

43.180.120 Rules for fair allocation of bond proceeds for nonrental single family housing. The legislature recognizes that the demand for mortgage loans for nonrental single family housing will probably greatly exceed the supply of bond proceeds available to satisfy the demand. Therefore, the commission shall adopt rules providing procedures to assure that the bond proceeds available for that kind of housing shall be made available to qualified mortgagors in a fair and equitable manner. [1983 c 161 § 12.]

43.180.130 Protection of bondholders—Mortgage insurance. The commission is encouraged to adopt policies

which will assure that bondholders will be protected against the failure to make mortgage payments financed under this chapter. Such policies may require, among other things, mortgage insurance. [1983 c 161 § 13.]

43.180.140 Rules for energy efficiency. The commission shall adopt rules providing for financing assistance to implement cost-effective energy efficiency improvements. [1983 c 161 § 14.]

43.180.150 Bond issues—Terms—Issuance—Purchase, etc. (1) The commission's bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be payable at such time or times, and be sold in such manner and at such price or prices, as the commission determines. The bonds shall be executed by the chair, by either its duly elected secretary or its treasurer, and by the trustee or paying agent if the commission determines to use a trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature.

(2) The bonds of the commission shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the commission, including, but not limited to, pledges of the commission's assets, setting aside of reserves, limitations on additional forms of indebtedness, and the mortgaging of all or any part of the commission's real or personal property, then owned or thereafter acquired, and other provisions the commission finds are necessary or desirable for the security of bond holders.

(3) Any security interest created in the unexpended bond proceeds and in the special funds created by the commission shall be immediately valid and binding against such moneys and any securities in which such moneys may be invested without commission or trustee possession thereof, and the security interest shall be prior to any party having any competing claim in such moneys or securities, without filing or recording pursuant to chapter 62A.9 RCW and regardless of whether the party has notice of the security interest.

(4) When issuing bonds, the commission may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The commission may refund or advance refund any bond of the commission in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund or funds securing outstanding bonds.

(5) The chair of the state finance committee or the chair's designee shall be notified in advance of the issuance of bonds by the commission in order to promote the orderly offering of obligations in the financial markets.

(6) The members of the commission and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(7) The commission may, out of any fund available therefor, purchase its bonds in the open market. [1983 c 161 § 15.]

43.180.160 Debt limitation. The total amount of outstanding indebtedness of the commission may not exceed one and one-half billion dollars at any time. The calculation of outstanding indebtedness shall include the initial principal amount of an issue and shall not include interest that is either currently payable or that accrues as a part of the face amount of an issue payable at maturity or earlier redemption. Outstanding indebtedness shall not include notes or bonds as to which the obligation of the commission has been satisfied and discharged by refunding or for which payment has been provided by reserves or otherwise. [1986 c 264 § 2; 1983 c 161 § 16.]

43.180.170 Bond issues—Disposition of proceeds—Special fund. Proceeds from the sale of all bonds issued under this chapter received by the commission shall be deposited forthwith by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, in a special fund or funds established for the particular purposes for which the bonds were issued and sold, which money shall not be funds of the state of Washington. Such fund or funds shall at all times be segregated and set apart from all other funds and held in trust for the purposes for which such bonds were issued as determined by the commission. Money other than bond sale proceeds received by the commission for these same purposes, such as private contributions or grants from the federal government, may be deposited in such fund or funds. Proceeds received from the sale of the bonds may also be used to defray the expenses of the commission in connection with and incidental to the issuance and sale of bonds, as well as expenses for studies, surveys, estimates, plans, inspections, and examinations of or incidental to the purposes for which the bonds were issued, and other costs advanced therefor by third parties or by the commission. In lieu of the commission receiving and handling these moneys in the manner outlined in this section, the commission may appoint trustees, depositaries, paying agents, and other financial institutions within or without the state to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. [1983 c 161 § 17.]

43.180.180 Bond issues—Disposition of revenues—Special trust fund. All revenues received by the commission including funds received from contributions or grants or in any other form to pay principal of and interest on bonds or for other bond requirements such as reserves shall be deposited by the commission in any trust company, savings bank, savings and loan association, or bank having the powers of a trust company within or without the state, to the credit of a special trust fund or funds. The commission may establish a bond fund or funds, and a reserve, sinking fund and other accounts therein, for payment of principal and interest and for other special requirements of the bonds as determined by the commission. In lieu of the commission receiving and handling these moneys as outlined in this

section, the commission may appoint trustees, depositaries, paying agents, and other financial institutions to perform the functions outlined and to receive, hold, disburse, invest, and reinvest such funds on its behalf and for the protection of the bondholders. Such revenues and funds, whether received and held by the commission or by others on its behalf, shall not be or constitute public funds of the state of Washington but at all times shall be kept segregated and apart from all other funds. [1983 c 161 § 18.]

43.180.190 Legal investments. Bonds issued under this chapter are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivisions of the state for any purpose for which the deposit of bonds and other obligations of the state are now or may hereafter be authorized by law. [1983 c 161 § 19.]

43.180.200 Internal revenue code. For purposes of the code:

(1) The legislature reserves the right at any time to alter or change the structure, organization, programs, or activities of the commission and to terminate the commission, so long as the action does not impair any outstanding contracts entered into by the commission;

(2) Any net earnings of the commission beyond that necessary to retire its bonds and to carry out the purposes of this chapter shall not inure to the benefit of any person other than the state;

(3) Upon dissolution of the commission, title to all of its remaining property shall vest in the state;

(4) The commission constitutes the only housing finance agency of the state of Washington; and

(5) In order to take advantage of the maximum amount of tax exempt bonds for housing financing available pursuant to the code, any state ceiling with respect to housing shall be allocated in accordance with the following formula:

(a) Eighty percent of the state ceiling shall be allocated to the commission and twenty percent shall be allocated to the other issuing authorities in the state.

(b) The allocation to the issuing authorities other than the commission shall be distributed to such issuing authorities in amounts as determined following public notice by the *department of community development pursuant to rules promulgated by it. The distribution shall be in response to applications received from such issuing authorities and shall be based on the following factors: (i) The amount of housing to be made available by such applicant; (ii) the population within the jurisdiction of the applicant; (iii) coordination with other applicable federal and state housing programs; (iv) the likelihood of implementing the proposed financing during that year; and (v) consistency with the plan

of the commission. On or before February 1 of each year, the *department of community development shall distribute the state ceiling allocation among such issuing authorities and any unused portion shall be added to the allocation of the commission. Each issuing authority other than the commission shall confirm its allocation distribution by providing to the *department of community development no later than June 1 a copy of an executed bond purchase contract or alternative documentation deemed sufficient by the commission to evidence the reasonable likelihood of the allocation distribution being fully used. Any portion of such allocation not so confirmed shall be added to the allocation of the commission on July 1. Prior to July 1, the commission shall provide written notice of the allocation decrease to the affected issuing authority. The reallocation shall not limit the authority of the commission to assign a portion of its allocation pursuant to subsection (5)(c) of this section.

(c) The commission may assign a portion of its allocation to another issuing agency. [1986 c 264 § 3; 1985 c 6 § 15; 1984 c 28 § 1; 1983 c 161 § 20.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.180.220 Housing finance program—Mortgage financing—Investments—Flexible loan underwriting guidelines. The commission, in cooperation with the department of community, trade, and economic development, and the state investment board, shall develop and implement a housing finance program that:

(1) Provides subsidized or unsubsidized mortgage financing for single-family home ownership, including a single condominium unit, located in the state of Washington;

(2) Requests the state investment board to make investments, within its policies and investment guidelines, in mortgage-backed securities that are collateralized by loans made within the state of Washington; and

(3) Provides flexible loan underwriting guidelines, including but not limited to provisions that will allow reduced downpayment requirements for the purchaser. [1994 c 235 § 1.]

Severability—1994 c 235: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1994 c 235 § 4.]

43.180.230 Housing finance program—Program elements. The housing finance program developed under RCW 43.180.220 shall:

(1) Be limited to borrowers with incomes that do not exceed one hundred fifteen percent of the state or county median family income, whichever is higher, adjusted for family size;

(2) Be limited to first-time home buyers as defined in RCW 43.185A.010;

(3) Be targeted so that priority is given to low-income households as defined in RCW 43.185A.010;

(4) To the extent funds are made available, provide either downpayment or closing costs assistance to households eligible for assistance under chapter 43.185A RCW and this chapter; and

(5) Provide notification to active participants of the state retirement systems managed by the department of retirement systems under chapter 41.50 RCW. [1994 c 235 § 2.]

Severability—1994 c 235: See note following RCW 43.180.220.

43.180.240 Housing finance program—Report to legislature annually—Implementation. (1) The commission shall submit to the legislature in its annual report a summary of the progress of the housing finance program developed under RCW 43.180.220. The report shall include, but not be limited to the number of loans made and location of property financed under RCW 43.180.220 and 43.180.230.

(2) The commission shall take such steps as are necessary to ensure that RCW 43.180.220 and 43.180.230 are implemented on June 9, 1994. [1994 c 235 § 3.]

Severability—1994 c 235: See note following RCW 43.180.220.

NONPROFIT CORPORATION FACILITIES

43.180.300 Definitions. As used in RCW 43.180.310 through 43.180.360, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Construction" or "construct" means construction and acquisition, whether by device, purchase, gift, lease, or otherwise.

(2) "Facilities" means land, rights in land, buildings, structures, equipment, landscaping, utilities, approaches, roadways and parking, handling and storage areas, and similar ancillary facilities.

(3) "Financing document" means a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on revenue bonds.

(4) "Improvement" means reconstruction, remodeling, rehabilitation, extension, and enlargement. "To improve" means to reconstruct, to remodel, to rehabilitate, to extend, and to enlarge.

(5) "Nonprofit corporation" means a nonprofit corporation described under section 501(c)(3) of the Internal Revenue Code, or similar successor provisions.

(6) "Nonprofit facilities" means facilities owned or used by a nonprofit corporation for any nonprofit activity described under section 501(c)(3) of the Internal Revenue Code that qualifies such a corporation for an exemption from federal income taxes under section 501(a) of the Internal Revenue Code, or similar successor provisions provided that facilities which may be funded pursuant to chapter 28B.07, 35.82, 43.180, or 70.37 RCW shall not be included in this definition.

(7) "Project costs" means costs of (a) acquisition, construction, and improvement of any facilities included in a nonprofit facility; (b) architectural, engineering, consulting, accounting, and legal costs related directly to the development, financing, and construction of a nonprofit facility, including costs of studies assessing the feasibility of a nonprofit facility; (c) finance costs, including discounts, if any, the costs of issuing revenue bonds, and costs incurred in carrying out any trust agreement; (d) interest during construction and during the six months after estimated completion of construction, and capitalized debt service or

repair and replacement or other appropriate reserves; (e) the refunding of any outstanding obligations incurred for any of the costs outlined in this subsection; and (f) other costs incidental to any of the costs listed in this section.

(8) "Revenue bond" means a taxable or tax-exempt nonrecourse revenue bond, nonrecourse revenue note, or other nonrecourse revenue obligation issued for the purpose of providing financing to a nonprofit corporation on an interim or permanent basis.

(9) "User" means one or more persons acting as lessee, purchaser, mortgagor, or borrower under a financing document and may include a party who transfers the right of use and occupancy to another party by lease, sublease, or otherwise. [1990 c 167 § 2.]

43.180.310 Commission powers. The commission has the following powers with respect to nonprofit facilities together with all powers incidental thereto or necessary for the performance thereof:

(1) To make secured loans to nonprofit corporations for the purpose of providing temporary or permanent financing or refinancing of all or part of the project cost of any nonprofit facility, including the refunding of any outstanding obligations, mortgages, or advances issued, made, or given by any person for the project costs of a nonprofit corporation; and to charge and collect interest on the loans for the loan payments upon such terms and conditions as its commissioners consider advisable which are not in conflict with this subchapter;

(2) To issue revenue bonds for the purpose of financing all or part of the project cost of any nonprofit facility and to secure the payment of the revenue bonds as provided in this subchapter;

(3) To collect fees or charges from users or prospective users of nonprofit facilities to recover actual or anticipated administrative costs;

(4) To execute financing documents incidental to the powers enumerated in this section;

(5) To accept grants and gifts;

(6) To establish such special funds with any financial institution providing fiduciary services within or without the state as it deems necessary and appropriate and invest money therein. [1990 c 167 § 3.]

43.180.320 Revenue bonds. (1) The proceeds of the revenue bonds of each issue shall be used solely for the purposes set forth in this subchapter and shall be disbursed in such manner and under such restrictions, if any, provided in the resolution authorizing the issuance of the revenue bonds or in the trust agreement securing the bonds. If the proceeds of the revenue bonds of any series issued with respect to the cost of any nonprofit facility exceeds the cost of the nonprofit facility for which issued, the surplus shall be deposited to the credit of the debt service fund for the revenue bonds or used to purchase the revenue bonds in the open market.

(2) The commission may issue interim notes in the manner provided for the issuance of revenue bonds to fund nonprofit facilities prior to issuing other revenue bonds to fund such facilities. The commission may issue revenue bonds to fund nonprofit facilities that are exchangeable for

other revenue bonds, when these other revenue bonds are executed and available for delivery.

(3) The principal of and interest on any revenue bonds issued by the commission shall be secured by a pledge of unexpended bond proceeds and the revenues and receipts derived from the nonprofit facilities funded by the revenue bonds pursuant to financing documents. The resolution under which the revenue bonds are authorized to be issued and any financing document may contain agreements and provisions respecting the maintenance or use of the nonprofit facility covered thereby, the fixing and collection of rents, purchase price payments or loan payments, the creation and maintenance of special funds from such revenues or from revenue bond proceeds, the rights and remedies available in the event of default, and other provisions relating to the security for the bonds, all as the commission considers advisable which are not in conflict with this subchapter.

(4) All revenue bonds issued under this subchapter and any interest coupons applicable thereto are negotiable instruments within the meaning of Article 8 of the uniform commercial code, Title 62A RCW, regardless of form or character.

(5) Notwithstanding subsection (1) of this section, such bonds and interim notes may be issued and sold in accordance with chapter 39.46 RCW. [1990 c 167 § 4.]

43.180.330 Revenue refunding bonds. The commission may provide by resolution for the issuance of revenue refunding bonds for the purpose of refunding any obligations issued for a nonprofit facility, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption or maturity of the revenue bonds and, if considered advisable by the commission, for the additional purpose of financing improvements, extensions, or enlargements to the nonprofit facility for another nonprofit facility. The issuance of the revenue refunding bonds, the maturities and other details thereof, the rights of the owners thereof, and the rights, duties, and obligations of the commission in respect to the same shall be governed by this chapter insofar as applicable. [1990 c 167 § 5.]

43.180.340 Trust agreements. Any bonds issued under this subchapter may be secured by a trust agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the state. The trust agreement may evidence a pledge or assignment of the financing documents and lease, sale, or loan revenues to be received from a lessee or purchaser of or borrower with respect to a nonprofit facility for the payment of principal of and interest and any premium on the bonds as the same shall become due and payable and may provide for creation and maintenance of reserves for these purposes. A trust agreement or resolution providing for the issuance of the revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondowners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties in relation to the acquisition of property and the construction, improvement, maintenance, use, repair, operation, and insurance of the nonprofit facility for which the bonds are authorized, and the custody, safe-

guarding, and application of all money. Any bank or trust company incorporated under the laws of the state which may act as depository of the proceeds of revenue bonds or of revenues may furnish such indemnifying bonds or pledge such securities as may be required by the commission. A trust agreement may set forth the rights and remedies of the bondowners and of the trustee and may restrict the individual right of action by bondowners as is customary in trust agreements or trust indentures securing bonds and debentures of private corporations. In addition, a trust agreement may contain such provisions as the commission considers reasonable and proper for the security of the bondowners which are not in conflict with this subchapter. [1990 c 167 § 6.]

43.180.350 Lessees or assignees. A lessee or contracting party under a sale contract or loan agreement shall not be required to be the eventual user of a nonprofit facility if any sublessee or assignee assumes all of the obligations of the lessee or contracting party under the lease, sale contract, or loan agreement, but the lessee or contracting party or their successors shall remain primarily liable for all of its obligations under the lease, sale contract, or loan agreement and the use of the nonprofit facility shall be consistent with the purposes of this subchapter. [1990 c 167 § 7.]

43.180.360 Default. The proceedings authorizing any revenue bonds under this subchapter or any financing document securing the revenue bonds may provide that if there is a default in the payment of the principal of or the interest on the bonds or in the performance of any agreement contained in the proceedings or financing document, the payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents, purchase price payments, and loan repayments, and to apply the revenues from the nonprofit facility in accordance with the proceedings or provisions of the financing document. Any financing document entered into under this subchapter may also provide that if there is a default in the payment thereof or a violation of any agreement contained in the financing document, the nonprofit facility may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Any financing document may also provide that any trustee under the financing document or the holder of any revenue bonds secured thereby may become the purchaser at any foreclosure sale if it is the highest bidder. [1990 c 167 § 8.]

43.180.900 Conflict with federal requirements. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this chapter is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this chapter in its application to the agencies concerned. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 c 161 § 21.]

43.180.901 Liberal construction. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect the purposes thereof. [1983 c 161 § 23.]

43.180.902 Captions not part of law. As used in this chapter and RCW 82.04.408, section captions constitute no part of the law. [1983 c 161 § 24.]

43.180.903 Severability—1983 c 161. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 161 § 31.]

43.180.904 Effective dates—1983 c 161. (1) Except as provided in subsection (2) of this section, this act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

(2) Section 10 of this act shall take effect on January 1, 1984. [1983 c 161 § 32.]

Reviser's note: "Section 10 of this act" consists of the enactment of RCW 43.180.100. With the exception of section 10, the effective date of this act is May 11, 1983.

Chapter 43.185

HOUSING ASSISTANCE PROGRAM

Sections

- 43.185.010 Findings.
- 43.185.015 Housing assistance program.
- 43.185.020 Definitions.
- 43.185.030 Washington housing trust fund.
- 43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities.
- 43.185.060 Eligible organizations.
- 43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation.
- 43.185.074 Low-income housing grants and loans—Applications.
- 43.185.076 Low-income housing grants and loans—Approval—License education programs.
- 43.185.080 Preconstruction technical assistance.
- 43.185.090 Compliance monitoring.
- 43.185.100 Rule-making authority.
- 43.185.110 Affordable housing advisory board—State housing needs.
- 43.185.120 Protection of state's interest.
- 43.185.900 Severability—1986 c 298.
- 43.185.910 Conflict with federal requirements—1991 c 356.
- 43.185.911 Severability—1991 c 356.

Donations of surplus state property: RCW 43.19.1920.

Funding: RCW 43.79.201 and 79.01.007.

43.185.010 Findings. The legislature finds that current economic conditions, federal housing policies and declining resources at the federal, state, and local level adversely affect the ability of low and very low-income persons to obtain safe, decent, and affordable housing.

The legislature further finds that members of over one hundred twenty thousand households live in housing units which are overcrowded, lack plumbing, are otherwise threatening to health and safety, and have rents and utility payments which exceed thirty percent of their income.

The legislature further finds that minorities, rural households, and migrant farm workers require housing assistance at a rate which significantly exceeds their proportion of the general population.

The legislature further finds that one of the most dramatic housing needs is that of persons needing special housing-related services, such as the mentally ill, recovering alcoholics, frail elderly persons, families with members who have disabilities, and single parents. These services include medical assistance, counseling, chore services, and child care.

The legislature further finds that housing assistance programs in the past have often failed to help those in greatest need.

The legislature declares that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs, and that the needs of very low-income citizens should be given priority and that whenever feasible, assistance should be in the form of loans. [1991 c 356 § 1; 1986 c 298 § 1.]

43.185.015 Housing assistance program. There is created within the *department of community development the housing assistance program to carry out the purposes of this chapter. [1991 c 356 § 2.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.185.020 Definitions. "Department" means the *department of community development. "Director" means the *director of the department of community development. [1986 c 298 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.185.030 Washington housing trust fund. There is hereby created in the state treasury an account to be known as the Washington housing trust fund. The housing trust fund shall include revenue from the sources established by this chapter, appropriations by the legislature, private contributions, repayment of loans, and all other sources. [1991 sp.s. c 13 § 87; 1991 c 356 § 3; 1987 c 513 § 6; 1986 c 298 § 2.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

Distribution of interest from real estate brokers' trust accounts: RCW 18.85.310.

43.185.050 Use of moneys for loans and grant projects to provide housing—Eligible activities. (1) The department shall use moneys from the housing trust fund and other legislative appropriations to finance in whole or in part any loans or grant projects that will provide housing for persons and families with special housing needs and with

incomes at or below fifty percent of the median family income for the county or standard metropolitan statistical area where the project is located. At least thirty percent of these moneys used in any given funding cycle shall be for the benefit of projects located in rural areas of the state as defined by the department. If the department determines that it has not received an adequate number of suitable applications for rural projects during any given funding cycle, the department may allocate unused moneys for projects in nonrural areas of the state.

(2) Activities eligible for assistance from the housing trust fund and other legislative appropriations include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of low and very low-income housing units;

(b) Rent subsidies;

(c) Matching funds for social services directly related to providing housing for special-need tenants in assisted projects;

(d) Technical assistance, design and finance services and consultation, and administrative costs for eligible nonprofit community or neighborhood-based organizations;

(e) Administrative costs for housing assistance groups or organizations when such grant or loan will substantially increase the recipient's access to housing funds other than those available under this chapter;

(f) Shelters and related services for the homeless;

(g) Mortgage subsidies, including temporary rental and mortgage payment subsidies to prevent homelessness;

(h) Mortgage insurance guarantee or payments for eligible projects;

(i) Down payment or closing cost assistance for eligible first-time home buyers;

(j) Acquisition of housing units for the purpose of preservation as low-income or very low-income housing; and

(k) Projects making housing more accessible to families with members who have disabilities.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (i), and (j) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the housing assistance program except for activities authorized under subsection (2) (b) and (c) of this section.

(5) Administrative costs of the department shall not exceed four percent of the annual funds available for the housing assistance program. [1994 c 160 § 1; 1991 c 356 § 4; 1986 c 298 § 6.]

43.185.060 Eligible organizations. Organizations that may receive assistance from the department under this chapter are local governments, local housing authorities, regional support networks established under chapter 71.24 RCW, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or state-wide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and

taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 2; 1991 c 295 § 1; 1986 c 298 § 7.]

43.185.070 Notice of grant and loan application period—Priorities—Criteria for evaluation. (1) During each calendar year in which funds from the housing trust fund or other legislative appropriations are available for use by the department for the housing assistance program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department. Administrative costs paid out of the housing trust fund may not exceed four percent of annual revenues available for distribution to housing trust fund projects. In awarding funds under this chapter, the department shall provide for a geographic distribution on a state-wide basis.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities and public housing authorities as created in chapter 35.82 RCW. As used in this subsection, privately owned housing stock includes housing that is acquired by a federal agency through a default on the mortgage by the private owner. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. All projects and activities shall be evaluated by some or all of the criteria under subsection (3) of this section, and similar projects and activities shall be evaluated under the same criteria.

(3) The department shall give preference for applications based on some or all of the criteria under this subsection, and similar projects and activities shall be evaluated under the same criteria:

(a) The degree of leveraging of other funds that will occur;

(b) The degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;

(c) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;

(d) Local government project contributions in the form of infrastructure improvements, and others;

(e) Projects that encourage ownership, management, and other project-related responsibility opportunities;

(f) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least twenty-five years;

(g) The applicant has the demonstrated ability, stability and resources to implement the project;

(h) Projects which demonstrate serving the greatest need;

(i) Projects that provide housing for persons and families with the lowest incomes;

(j) Projects serving special needs populations which are under statutory mandate to develop community housing;

(k) Project location and access to employment centers in the region or area;

(l) Projects that provide employment and training opportunities for disadvantaged youth under a youthbuild or youthbuild-type program as defined in RCW 50.72.020; and

(m) Project location and access to available public transportation services.

(4) The department shall only approve applications for projects for mentally ill persons that are consistent with a regional support network six-year capital and operating plan. [1994 1st sp.s. c 3 § 9. Prior: 1991 c 356 § 5; 1991 c 295 § 2; 1988 c 286 § 1; 1986 c 298 § 8.]

43.185.074 Low-income housing grants and loans—

Applications. The director shall designate grant and loan applications for approval and for funding under the revenue from remittances made pursuant to RCW 18.85.310. These applications shall then be reviewed for final approval by the broker's trust account board created by *RCW 18.85.500.

The director shall submit to the broker's trust account board within any fiscal year only such applications which in their aggregate total funding requirements do not exceed the revenue to the housing trust found from remittances made pursuant to RCW 18.85.310 for the previous fiscal year. [1987 c 513 § 11. Formerly RCW 18.85.505.]

*Reviser's note: RCW 18.85.500 was repealed by 1994 1st sp.s. c 9 § 857, effective July 1, 1994.

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.076 Low-income housing grants and loans—

Approval—License education programs. The broker's trust account board shall review grant and loan applications placed before it by the director for final approval pursuant to RCW 43.185.074.

The decisions of the board shall be subject to the provisions of RCW 43.185.050, 43.185.060, and 43.185.070 with regard to eligible activities, eligible recipients, and criteria for evaluation.

The broker's trust account board shall serve in an advisory capacity to the real estate commission with regard to licensee education programs established pursuant to RCW 18.85.040 and 18.85.220. [1988 c 286 § 3; 1987 c 513 § 10. Formerly RCW 18.85.510.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.080 Preconstruction technical assistance. (1)

The department may use moneys from the housing trust fund and other legislative appropriations, but not appropriations from capital bond proceeds, to provide preconstruction technical assistance to eligible recipients seeking to construct, rehabilitate, or finance housing-related services for very low and low-income persons. The department shall emphasize providing preconstruction technical assistance services to rural areas and small cities and towns. The department may contract with nonprofit organizations to

provide this technical assistance. The department may contract for any of the following services:

(a) Financial planning and packaging for housing projects, including alternative ownership programs, such as limited equity partnerships and syndications;

(b) Project design, architectural planning, and siting;

(c) Compliance with planning requirements;

(d) Securing matching resources for project development;

(e) Maximizing local government contributions to project development in the form of land donations, infrastructure improvements, waivers of development fees, locally and state-managed funds, zoning variances, or creative local planning;

(f) Coordination with local planning, economic development, and environmental, social service, and recreational activities;

(g) Construction and materials management; and

(h) Project maintenance and management.

(2) The department shall publish requests for proposals which specify contract performance standards, award criteria, and contractor requirements. In evaluating proposals, the department shall consider the ability of the contractor to provide technical assistance to low and very low-income persons and to persons with special housing needs. [1991 c 356 § 6; 1986 c 298 § 9.]

43.185.090 Compliance monitoring. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1986 c 298 § 10.]

43.185.100 Rule-making authority. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. The department shall consider the recommendations of cities and counties regarding how the funds shall be used in their geographic areas. [1987 c 513 § 2; 1986 c 298 § 11.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.110 Affordable housing advisory board—State housing needs. The affordable housing advisory board established in RCW 43.185B.020 shall advise the director on housing needs in this state, including housing needs for persons who are mentally ill or developmentally disabled or youth who are blind or deaf or otherwise disabled, operational aspects of the grant and loan program or revenue collection programs established by this chapter, and implementation of the policy and goals of this chapter. Such advice shall be consistent with policies and plans developed by regional support networks according to chapter 71.24 RCW for the mentally ill and the developmental disabilities planning council for the developmentally disabled. [1993 c 478 § 15; 1991 c 204 § 4; 1987 c 513 § 3.]

Effective date—Severability—1987 c 513: See notes following RCW 18.85.310.

43.185.120 Protection of state's interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185.050 (2) (a), (i), and (j). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 7.]

43.185.900 Severability—1986 c 298. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1986 c 298 § 13.]

43.185.910 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 8.]

43.185.911 Severability—1991 c 356. See RCW 43.185A.901.

Chapter 43.185A

AFFORDABLE HOUSING PROGRAM

Sections

43.185A.010	Definitions.
43.185A.020	Affordable housing program—Purpose—Input.
43.185A.030	Activities eligible for assistance.
43.185A.040	Eligible organizations.
43.185A.050	Grant and loan application process.
43.185A.060	Protection of state interest.
43.185A.070	Monitor recipient activities.
43.185A.080	Rules.
43.185A.900	Short title.
43.185A.901	Severability—1991 c 356.
43.185A.902	Conflict with federal requirements—1991 c 356.

43.185A.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing for rental or private individual ownership which, as long as the same is occupied by low-income households, requires payment of monthly housing costs, including utilities other than telephone, of no more than thirty percent of the family's income.

(2) "Department" means the *department of community development.

(3) "Director" means the *director of the department of community development.

(4) "First-time home buyer" means an individual or his or her spouse who have not owned a home during the three-year period prior to purchase of a home.

(5) "Low-income household" means a single person, family or unrelated persons living together whose adjusted income is less than eighty percent of the median family income, adjusted for household size, for the county where the project is located. [1991 c 356 § 10.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.185A.020 Affordable housing program—

Purpose—Input. The affordable housing program is created in the *department of community development for the purpose of developing and coordinating public and private resources targeted to meet the affordable housing needs of low-income households in the state of Washington. The program shall be developed and administered by the department with advice and input from the affordable housing advisory board established in RCW 43.185B.020. [1993 c 478 § 16; 1991 c 356 § 11.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.185A.030 Activities eligible for assistance. (1) Using moneys specifically appropriated for such purpose, the department shall finance in whole or in part projects that will provide housing for low-income households.

(2) Activities eligible for assistance include, but are not limited to:

(a) New construction, rehabilitation, or acquisition of housing for low-income households;

(b) Rent subsidies in new construction or rehabilitated multifamily units;

(c) Down payment or closing costs assistance for first-time home buyers;

(d) Mortgage subsidies for new construction or rehabilitation of eligible multifamily units; and

(e) Mortgage insurance guarantee or payments for eligible projects.

(3) Legislative appropriations from capital bond proceeds may be used only for the costs of projects authorized under subsection (2) (a), (c), (d), and (e) of this section, and not for the administrative costs of the department.

(4) Moneys from repayment of loans from appropriations from capital bond proceeds may be used for all activities necessary for the proper functioning of the affordable housing program except for activities authorized under subsection (2)(b) of this section.

(5) Administrative costs of the department shall not exceed four percent of the annual funds available for the affordable housing program. [1994 c 160 § 3; 1991 c 356 § 12.]

43.185A.040 Eligible organizations. Organizations that may receive assistance from the department under this

chapter are local governments, local housing authorities, nonprofit community or neighborhood-based organizations, federally recognized Indian tribes in the state of Washington, and regional or state-wide nonprofit housing assistance organizations.

Eligibility for assistance from the department under this chapter also requires compliance with the revenue and taxation laws, as applicable to the recipient, at the time the grant is made. [1994 c 160 § 4; 1991 c 356 § 13.]

43.185A.050 Grant and loan application process.

(1) During each calendar year in which funds are available for use by the department for the affordable housing program, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department, not to exceed five percent of moneys appropriated to the affordable housing program.

(2) The department shall develop, with advice and input from the *low-income [housing] assistance advisory committee established in RCW 43.185.110, criteria to evaluate applications for assistance under this chapter. [1991 c 356 § 14.]

*Reviser's note: The "low-income housing assistance advisory committee" has been abolished and its powers, duties, and functions transferred to the affordable housing advisory board.

43.185A.060 Protection of state interest. The department shall adopt policies to ensure that the state's interest will be protected upon either the sale or change of use of projects financed in whole or in part under RCW 43.185A.030(2) (a), (b), (c), (d), and (e). These policies may include, but are not limited to: (1) Requiring a share of the appreciation in the project in proportion to the state's contribution to the project; (2) requiring a lump-sum repayment of the loan or grant upon the sale or change of use of the project; or (3) requiring a deferred payment of principal or principal and interest on loans after a specified time period. [1991 c 356 § 15.]

43.185A.070 Monitor recipient activities. The director shall monitor the activities of recipients of grants and loans under this chapter to determine compliance with the terms and conditions set forth in its application or stated by the department in connection with the grant or loan. [1991 c 356 § 16.]

43.185A.080 Rules. The department shall have the authority to promulgate rules pursuant to chapter 34.05 RCW, regarding the grant and loan process, and the substance of eligible projects, consistent with this chapter. [1991 c 356 § 17.]

43.185A.900 Short title. This chapter may be known and cited as the affordable housing act. [1991 c 356 § 9.]

43.185A.901 Severability—1991 c 356. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1991 c 356 § 18.]

43.185A.902 Conflict with federal requirements—1991 c 356. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this act in its application to the agencies concerned. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1991 c 356 § 19.]

Chapter 43.185B

WASHINGTON HOUSING POLICY ACT

Sections

43.185B.005	Finding.
43.185B.007	Goal.
43.185B.009	Objectives.
43.185B.010	Definitions.
43.185B.020	Affordable housing advisory board—Generally.
43.185B.030	Affordable housing advisory board—Duties.
43.185B.040	Housing advisory plan—Report to legislature.
43.185B.900	Short title.

43.185B.005 Finding. (1) The legislature finds that:

- Housing is of vital state-wide importance to the health, safety, and welfare of the residents of the state;
- Safe, affordable housing is an essential factor in stabilizing communities;
- Residents must have a choice of housing opportunities within the community where they choose to live;
- Housing markets are linked to a healthy economy and can contribute to the state's economy;
- Land supply is a major contributor to the cost of housing;
- Housing must be an integral component of any comprehensive community and economic development strategy;
- State and local government must continue working cooperatively toward the enhancement of increased housing units by reviewing, updating, and removing conflicting regulatory language;
- State and local government should work together in developing creative ways to reduce the shortage of housing;
- The lack of a coordinated state housing policy inhibits the effective delivery of housing for some of the state's most vulnerable citizens and those with limited incomes; and
- It is in the public interest to adopt a statement of housing policy objectives.

(2) The legislature declares that the purposes of the Washington housing policy act are to:

- Provide policy direction to the public and private sectors in their attempt to meet the shelter needs of Washington residents;

(b) Reevaluate housing and housing-related programs and policies in order to ensure proper coordination of those programs and policies to meet the housing needs of Washington residents;

(c) Improve the delivery of state services and assistance to very low-income and low-income households and special needs populations;

(d) Strengthen partnerships among all levels of government, and the public and private sectors, including for-profit and nonprofit organizations, in the production and operation of housing to targeted populations including low-income and moderate-income households;

(e) Increase the supply of housing for persons with special needs;

(f) Encourage collaborative planning with social service providers;

(g) Encourage financial institutions to increase residential mortgage lending; and

(h) Coordinate housing into comprehensive community and economic development strategies at the state and local level. [1993 c 478 § 1.]

Persons with handicaps: RCW 35.63.220, 35A.63.240, 36.70.990, 36.70A.410.

43.185B.007 Goal. It is the goal of the state of Washington to coordinate, encourage, and direct, when necessary, the efforts of the public and private sectors of the state and to cooperate and participate, when necessary, in the attainment of a decent home in a healthy, safe environment for every resident of the state. The legislature declares that attainment of that goal is a state priority. [1993 c 478 § 2.]

43.185B.009 Objectives. The objectives of the Washington housing policy act shall be to attain the state's goal of a decent home in a healthy, safe environment for every resident of the state by strengthening public and private institutions that are able to:

(1) Develop an adequate and affordable supply of housing for all economic segments of the population;

(2) Assist very low-income and special needs households who cannot obtain affordable, safe, and adequate housing in the private market;

(3) Encourage and maintain home ownership opportunities;

(4) Reduce life-cycle housing costs while preserving public health and safety;

(5) Preserve the supply of existing affordable housing;

(6) Provide housing for special needs populations;

(7) Ensure fair and equal access to the housing market;

(8) Increase the availability of mortgage credit at low interest rates; and

(9) Coordinate and be consistent with the goals, objectives, and required housing element of the comprehensive plan in the state's growth management act in RCW 36.70A.070. [1993 c 478 § 3.]

43.185B.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affordable housing" means residential housing that is rented or owned by a person or household whose monthly

housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.

(2) "Department" means the *department of community development.

(3) "Director" means the *director of community development.

(4) "Nonprofit organization" means any public or private nonprofit organization that: (a) Is organized under federal, state, or local laws; (b) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and (c) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income, low-income, or moderate-income households and special needs populations.

(5) "Regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including those embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by the state or local government in connection with its strategy under section 105(b)(4) of the Cranston-Gonzalez national affordable housing act (42 U.S.C. 12701 et seq.).

(6) "Tenant-based organization" means a nonprofit organization whose governing body includes a majority of members who reside in the housing development and are considered low-income households. [1993 c 478 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.185B.020 Affordable housing advisory board—Generally. (1) The department shall establish the affordable housing advisory board to consist of twenty-one members.

(a) The following eighteen members shall be appointed by the governor:

(i) Two representatives of the residential construction industry;

(ii) Two representatives of the home mortgage lending profession;

(iii) One representative of the real estate sales profession;

(iv) One representative of the apartment management and operation industry;

(v) One representative of the for-profit housing development industry;

(vi) One representative of the nonprofit housing development industry;

(vii) One representative of homeless shelter operators;

(viii) One representative of lower-income persons;

(ix) One representative of special needs populations;

(x) One representative of public housing authorities as created under chapter 35.82 RCW;

(xi) Two representatives of the Washington association of counties; one representative shall be from a county that is located east of the crest of the Cascade mountains;

(xii) Two representatives of the association of Washington cities; one representative shall be from a city that is located east of the crest of the Cascade mountains;

(xiii) One representative to serve as chair of the affordable housing advisory board;

(xiv) One representative at large.

(b) The following three members shall serve as ex officio, nonvoting members:

- (i) The director or the director's designee;
- (ii) The executive director of the Washington state housing finance commission or the executive director's designee; and
- (iii) The secretary of social and health services or the secretary's designee.

(2)(a) The members of the affordable housing advisory board appointed by the governor shall be appointed for four-year terms, except that the chair shall be appointed to serve a two-year term. The terms of five of the initial appointees shall be for two years from the date of appointment and the terms of six of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms. The members of the advisory board shall serve without compensation, but shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(b) The governor, when making appointments to the affordable housing advisory board, shall make appointments that reflect the cultural diversity of the state of Washington.

(3) The affordable housing advisory board shall serve as the department's principal advisory body on housing and housing-related issues, and replaces the department's existing boards and task forces on housing and housing-related issues.

(4) The affordable housing advisory board shall meet regularly and may appoint technical advisory committees, which may include members of the affordable housing advisory board, as needed to address specific issues and concerns.

(5) The department, in conjunction with the Washington state housing finance commission and the department of social and health services, shall supply such information and assistance as are deemed necessary for the advisory board to carry out its duties under this section.

(6) The department shall provide administrative and clerical assistance to the affordable housing advisory board. [1993 c 478 § 5.]

43.185B.030 Affordable housing advisory board—Duties. The affordable housing advisory board shall:

(1) Analyze those solutions and programs that could begin to address the state's need for housing that is affordable for all economic segments of the state, and special needs populations, including but not limited to programs or proposals which provide for:

- (a) Financing for the acquisition, rehabilitation, preservation, or construction of housing;
- (b) Use of publicly owned land and buildings as sites for affordable housing;
- (c) Coordination of state initiatives with federal initiatives and financing programs that are referenced in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended, and development of an approved housing strategy as required in the Cranston-Gonzalez national affordable housing act (42 U.S.C. Sec. 12701 et seq.), as amended;
- (d) Identification and removal, where appropriate and not detrimental to the public health and safety, or environ-

ment, of state and local regulatory barriers to the development and placement of affordable housing;

(e) Stimulating public and private sector cooperation in the development of affordable housing; and

(f) Development of solutions and programs affecting housing, including the equitable geographic distribution of housing for all economic segments, as the advisory board deems necessary;

(2) Consider both homeownership and rental housing as viable options for the provision of housing. The advisory board shall give consideration to various types of residential construction and innovative housing options, including but not limited to manufactured housing;

(3) Review, evaluate, and make recommendations regarding existing and proposed housing programs and initiatives including but not limited to tax policies, land use policies, and financing programs. The advisory board shall provide recommendations to the director, along with the department's response in the annual housing report to the legislature required in RCW 43.185B.040; and

(4) Prepare and submit to the director, by each December 1st, beginning December 1, 1993, a report detailing its findings and make specific program, legislative, and funding recommendations and any other recommendations it deems appropriate. [1993 c 478 § 6.]

43.185B.040 Housing advisory plan—Report to legislature. (1) The department shall, in consultation with the affordable housing advisory board created in RCW 43.185B.020, prepare and from time to time amend a five-

year housing advisory plan. The purpose of the plan is to document the need for affordable housing in the state and the extent to which that need is being met through public and private sector programs, to facilitate planning to meet the affordable housing needs of the state, and to enable the development of sound strategies and programs for affordable housing. The information in the five-year housing advisory plan must include:

- (a) An assessment of the state's housing market trends;
- (b) An assessment of the housing needs for all economic segments of the state and special needs populations;

(c) An inventory of the supply and geographic distribution of affordable housing units made available through public and private sector programs;

(d) A status report on the degree of progress made by the public and private sector toward meeting the housing needs of the state;

(e) An identification of state and local regulatory barriers to affordable housing and proposed regulatory and administrative techniques designed to remove barriers to the development and placement of affordable housing; and

(f) Specific recommendations, policies, or proposals for meeting the affordable housing needs of the state.

(2)(a) The five-year housing advisory plan required under subsection (1) of this section must be submitted to the legislature on or before February 1, 1994, and subsequent plans must be submitted every five years thereafter.

(b) Each February 1st, beginning February 1, 1995, the department shall submit an annual progress report, to the legislature, detailing the extent to which the state's affordable housing needs were met during the preceding year and

recommendations for meeting those needs. [1993 c 478 § 12.]

43.185B.900 Short title. This chapter may be known and cited as the "Washington housing policy act." [1993 c 478 § 24.]

Chapter 43.190

LONG-TERM CARE OMBUDSMAN PROGRAM

Sections

- 43.190.010 Findings.
- 43.190.020 "Long-term care facility" defined.
- 43.190.030 Office of state long-term care ombudsman created—Powers and duties.
- 43.190.040 Long-term care ombudsmen.
- 43.190.050 Posting of notice by long-term care facility—Distribution of information to residents.
- 43.190.060 Duties of ombudsman.
- 43.190.070 Referral procedures—Action on complaints.
- 43.190.080 Development of procedures on right of entry to facilities—Access to residents—Preservation of rights.
- 43.190.090 Liability of ombudsman—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony.
- 43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception.
- 43.190.120 Expenditure of funds on long-term care ombudsman program.
- 43.190.900 Severability—1983 c 290.

43.190.010 Findings. The legislature finds that in order to comply with the federal Older Americans Act and to effectively assist residents, patients, and clients of long-term care facilities in the assertion of their civil and human rights, a long-term care ombudsman program should be instituted. [1983 c 290 § 1.]

43.190.020 "Long-term care facility" defined. As used in this chapter, "long-term care facility" means any of the following which provide services to persons sixty years of age and older and is:

(1) A facility which:

(a) Maintains and operates twenty-four hour skilled nursing services for the care and treatment of chronically ill or convalescent patients, including mental, emotional, or behavioral problems, mental retardation, or alcoholism;

(b) Provides supportive, restorative, and preventive health services in conjunction with a socially oriented program to its residents, and which maintains and operates twenty-four hour services including board, room, personal care, and intermittent nursing care. "Long-term health care facility" includes nursing homes and nursing facilities, but does not include acute care hospital or other licensed facilities except for that distinct part of the hospital or facility which provides nursing facility services.

(2) Any family home, group care facility, or similar facility determined by the secretary, for twenty-four hour nonmedical care of persons in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual.

(3) Any swing bed in an acute care facility. [1991 sp.s. c 8 § 3; 1983 c 290 § 2.]

Effective date—1991 sp.s. c 8: See note following RCW 18.51.050.

(1994 Ed.)

43.190.030 Office of state long-term care ombudsman created—Powers and duties. There is created the office of the state long-term care ombudsman. The *department of community development shall contract with a private nonprofit organization to provide long-term care ombudsman services as specified under, and consistent with, the federal older Americans act as amended, federal mandates, the goals of the state, and the needs of its citizens. The *department of community development shall ensure that all program and staff support necessary to enable the ombudsman to effectively protect the interests of residents, patients, and clients of all long-term care facilities is provided by the nonprofit organization that contracts to provide long-term care ombudsman services. The long-term care ombudsman program shall have the following powers and duties:

(1) To provide services for coordinating the activities of long-term care ombudsmen throughout the state;

(2) Carry out such other activities as the *department of community development deems appropriate;

(3) Establish procedures consistent with RCW 43.190.110 for appropriate access by long-term care ombudsmen to long-term care facilities and patients' records, including procedures to protect the confidentiality of the records and ensure that the identity of any complainant or resident will not be disclosed without the written consent of the complainant or resident, or upon court order;

(4) Establish a state-wide uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems, with provision for submission of such data to the department of social and health services and to the federal department of health and human services, or its successor agency, on a regular basis; and

(5) Establish procedures to assure that any files maintained by ombudsman programs shall be disclosed only at the discretion of the ombudsman having authority over the disposition of such files, except that the identity of any complainant or resident of a long-term care facility shall not be disclosed by such ombudsman unless:

(a) Such complainant or resident, or the complainant's or resident's legal representative, consents in writing to such disclosure; or

(b) Such disclosure is required by court order. [1988 c 119 § 2; 1983 c 290 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—1988 c 119 § 2: "Section 2 of this act shall take effect July 1, 1989." [1988 c 119 § 5.] Section 2 of this act consists of the 1988 c 119 amendment to RCW 43.190.030.

Legislative findings—1988 c 119: "The legislature recognizes that the state long-term care ombudsman program and the office of the state long-term care ombudsman, located within the department of social and health services, have brought into serious question the ability of that office to serve as an effective mechanism on the state level for investigating and resolving complaints made by or on behalf of residents of long-term care facilities.

The legislature further finds it necessary to exercise its options under the federal older Americans act and identify an organization, outside of the department of social and health services and independent of any other state

agency, to provide, through contract, long-term care ombudsman services." [1988 c 119 § 1.]

Survey—1988 c 119: "The committee on health care of the house of representatives shall conduct a survey and analysis of the appropriate placement outside of state government of the office of the state long-term care ombudsman. The survey shall ascertain how the contracted placement of the office will most effectively allow it to meet its responsibilities under chapter 43.190 RCW. A draft of the findings shall be submitted to the governor and the legislature before the first Friday in November 1988 and the final findings, conclusions, and recommendations shall be submitted in a report to the governor and the legislature no later than December 30, 1988.

The survey required shall include, but is not limited to, a complete assessment of how independently contracting the program outside state government will provide the office with an effective means for resolving complaints and building program accountability and integrity facilitating local involvement and contributing to long-term care policy development. The study shall also clearly identify and describe how this model for administering the duties and responsibilities of the ombudsman will affect the ability of the office to function as mandated under the federal older Americans act, and provide suggestions that will assist the office to coordinate information and assistance, to the fullest degree possible, with citizen groups, the general public, the nursing home industry, and local volunteer programs. The survey shall further specify the operational program details necessary for adopting the proposed independently contracted plan." [1988 c 119 § 3.]

Use of survey findings—1988 c 119: "The survey findings, together with any reports of legislative committees in response to such survey, shall be used by the department of community development in determining the best manner to contract for and provide long-term care ombudsman services." [1988 c 119 § 4.]

43.190.040 Long-term care ombudsmen. (1) Any long-term care ombudsman authorized by this chapter or a local governmental authority shall have training or experience or both in the following areas:

- (a) Gerontology, long-term care, or other related social services programs.
- (b) The legal system.
- (c) Dispute or problem resolution techniques, including investigation, mediation, and negotiation.

(2) A long-term care ombudsman shall not have been employed by any long-term care facility within the past three years.

(3) No long-term care ombudsman or any member of his or her immediate family shall have, or have had within the past three years, any pecuniary interest in the provision of long-term health care facilities. [1983 c 290 § 4.]

43.190.050 Posting of notice by long-term care facility—Distribution of information to residents. Every long-term care facility shall post in a conspicuous location a notice of the nursing home complaint toll-free number and the name, address, and phone number of the office of the appropriate long-term care ombudsman and a brief description of the services provided by the office. The form of the notice shall be approved by the office and the organization responsible for maintaining the nursing home complaint toll-free number. This information shall also be distributed to the residents, family members, and legal guardians upon the resident's admission to the facility. [1983 c 290 § 5.]

43.190.060 Duties of ombudsman. A long-term care ombudsman shall:

(1) Investigate and resolve complaints made by or on behalf of older individuals who are residents of long-term

care facilities relating to administrative action which may adversely affect the health, safety, welfare, and rights of these individuals;

(2) Monitor the development and implementation of federal, state, and local laws, rules, regulations, and policies with respect to long-term care facilities in this state;

(3) Provide information as appropriate to public agencies regarding the problems of individuals residing in long-term care facilities; and

(4) Provide for training volunteers and promoting the development of citizen organizations to participate in the ombudsman program. A volunteer long-term care ombudsman shall be able to identify and resolve problems regarding the care of residents in long-term care facilities and to assist such residents in the assertion of their civil and human rights. However, volunteers shall not be used for complaint investigations but may engage in fact-finding activities to determine whether a formal complaint should be submitted to the department. [1987 c 158 § 3; 1983 c 290 § 6.]

43.190.070 Referral procedures—Action on complaints. (1) The office of the state long-term care ombudsman shall develop referral procedures for all long-term care ombudsman programs to refer any complaint to any appropriate state or local government agency. The department of social and health services shall act as quickly as possible on any complaint referred to them by a long-term care ombudsman.

(2) The department of social and health services shall respond to any complaint against a long-term care facility which was referred to it by a long-term care ombudsman and shall forward to that ombudsman a summary of the results of the investigation and action proposed or taken. [1983 c 290 § 7.]

43.190.080 Development of procedures on right of entry to facilities—Access to residents—Preservation of rights. (1) The office of the state long-term care ombudsman shall develop procedures governing the right of entry of all long-term care ombudsmen to long-term care facilities and shall have access to residents with provisions made for privacy for the purpose of hearing, investigating, and resolving complaints of, and rendering advice to, individuals who are patients or residents of the facilities at any time deemed necessary and reasonable by the state ombudsman to effectively carry out the provisions of this chapter.

(2) Nothing in this chapter restricts, limits, or increases any existing right of any organizations or individuals not described in subsection (1) of this section to enter or provide assistance to patients or residents of long-term care facilities.

(3) Nothing in this chapter restricts any right or privilege of any patient or resident of a long-term care facility to receive visitors of his or her choice. [1983 c 290 § 8.]

43.190.090 Liability of ombudsman—Discriminatory, disciplinary, or retaliatory actions—Communications privileged—Testimony. (1) No long-term care ombudsman is liable for good faith performance of responsibilities under this chapter.

(2) No discriminatory, disciplinary, or retaliatory action may be taken against any employee of a facility or agency,

any patient, resident, or client of a long-term care facility, or any volunteer, for any communication made, or information given or disclosed, to aid the long-term care ombudsman in carrying out its duties and responsibilities, unless the same was done maliciously or without good faith. This subsection is not intended to infringe on the rights of the employer to supervise, discipline, or terminate an employee for other reasons.

(3) All communications by a long-term care ombudsman, if reasonably related to the requirements of that individual's responsibilities under this chapter and done in good faith, are privileged and that privilege shall serve as a defense to any action in libel or slander.

(4) A representative of the office is exempt from being required to testify in court as to any confidential matters except as the court may deem necessary to enforce this chapter. [1983 c 290 § 9.]

43.190.110 Confidentiality of records and files—Disclosures prohibited—Exception. All records and files of long-term care ombudsmen relating to any complaint or investigation made pursuant to carrying out their duties and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is authorized by the patient or resident or his or her guardian or legal representative. No disclosures may be made outside the office without the consent of any named witnesses, resident, patient, client, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed. [1983 c 290 § 11.]

43.190.120 Expenditure of funds on long-term care ombudsman program. It is the intent that federal requirements be complied with and the department annually expend at least one percent of the state's allotment of social services funds from Title III B of the Older Americans Act of 1965, as it exists as of July 24, 1983, or twenty thousand dollars, whichever is greater to establish the state long-term care ombudsman program established by this chapter if funds are appropriated by the legislature. [1983 c 290 § 12.]

43.190.900 Severability—1983 c 290. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 290 § 17.]

**Chapter 43.200
RADIOACTIVE WASTE ACT**

Sections

- 43.200.010 Finding—Purpose.
- 43.200.015 Definitions.
- 43.200.020 Participation authority regarding federal statutes—Federal financial assistance.
- 43.200.030 Cooperation required.
- 43.200.040 Nuclear waste board created—Membership—Compensation and travel expenses.
- 43.200.070 Rules.
- 43.200.080 Additional powers and duties of director—Site closure account—Perpetual surveillance and maintenance account.

- 43.200.170 Waste disposal surcharges and penalty surcharges—Disposition.
- 43.200.180 Implementation of federal low-level radioactive waste policy amendments of 1985.
- 43.200.190 Studies on site closure and perpetual care and maintenance requirements and on adequacy of insurance coverage—Reports.
- 43.200.200 Review of potential damage—Financial assurance—Reports.
- 43.200.210 Immunity of state—Demonstration of financial assurance—Suspension of permit.
- 43.200.220 Site closure fee—Generally.
- 43.200.230 Fees for waste generators.
- 43.200.233 Waste generator surcharge remittal to counties.
- 43.200.235 Disposal of waste generator surcharges.
- 43.200.900 Construction of chapter.
- 43.200.901 Conflict with federal requirements—1983 1st ex.s. c 19.
- 43.200.902 Severability—1983 1st ex.s. c 19.
- 43.200.903 Severability—1984 c 161.
- 43.200.905 Construction—1986 c 191.
- 43.200.906 Severability—1986 c 191.

Nuclear energy and radiation: Chapter 70.98 RCW.

43.200.010 Finding—Purpose. The legislature finds that the safe transporting, handling, storage, or otherwise caring for radioactive wastes is required to protect the health, safety, and welfare of the citizens of the state of Washington. It is the purpose of this chapter to establish authority for the state to exercise appropriate oversight and care for the safe management and disposal of radioactive wastes; to consult with the federal government and other states on interim or permanent storage of these radioactive wastes; and to carry out the state responsibilities under the federal nuclear waste policy act of 1982. [1983 1st ex.s. c 19 § 1.]

43.200.015 Definitions. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "High-level radioactive waste" means "high-level radioactive waste" as the term is defined in 42 U.S.C. Sec. 10101 (P.L. 97-425).

(2) "Low-level radioactive waste" means waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than one hundred nanocuries of transuranic contaminants per gram of material, nor spent nuclear fuel, nor material classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under any applicable federal regulations.

(3) "Radioactive waste" means both high-level and low-level radioactive waste.

(4) "Spent nuclear fuel" means spent nuclear fuel as the term is defined in 42 U.S.C. Sec. 10101.

(5) "Department" means the department of ecology. [1989 c 322 § 1; 1985 c 293 § 1; 1984 c 161 § 1.]

43.200.020 Participation authority regarding federal statutes—Federal financial assistance. The department of ecology is designated as the executive branch agency for participation in the federal nuclear waste policy act of 1982 and the federal low-level radioactive waste policy act of 1980, however the legislature retains an autonomous role with respect to participation in all aspects of the federal nuclear waste policy act of 1982. The department may

receive federal financial assistance for carrying out radioactive waste management activities, including assistance for expenses, salaries, travel, and monitoring and evaluating the program of repository exploration and siting undertaken by the federal government. [1989 c 322 § 2; 1984 c 161 § 2; 1983 1st ex.s. c 19 § 2.]

43.200.030 Cooperation required. All departments, agencies, and officers of this state and its subdivisions shall cooperate with the department of ecology in the furtherance of any of its activities pursuant to this chapter. [1989 c 322 § 3; 1984 c 161 § 4; 1983 1st ex.s. c 19 § 3.]

43.200.040 Nuclear waste board created—Membership—Compensation and travel expenses.

Reviser's note: RCW 43.200.040 was both amended and repealed during the 1989 legislative sessions, each without reference to the other. It has been decodified for publication purposes pursuant to RCW 1.12.025.

43.200.070 Rules. The department of ecology shall adopt such rules as are necessary to carry out responsibilities under this chapter. The department of ecology is authorized to adopt such rules as are necessary to carry out its responsibilities under chapter 43.145 RCW. [1989 c 322 § 5; 1986 c 2 § 5; 1984 c 161 § 8; 1983 1st ex.s. c 19 § 7.]

43.200.080 Additional powers and duties of director—Site closure account—Perpetual surveillance and maintenance account. The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965 and the sublease between the state of Washington and the site operator of the Hanford low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. A site closure account and a perpetual surveillance and maintenance account is hereby created in the state treasury. The site closure account shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus

a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the Hanford low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. All moneys, including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service account [fund], pursuant to RCW 43.08.190 accruing under the authority of this section shall be directed to the site closure account until December 31, 1992. Thereafter receipts including earnings from the investment of balances in the site closure and the perpetual surveillance and maintenance account, less the allocation to the state treasurer's service account [fund], pursuant to RCW 43.08.190 shall be directed to the site closure account and the perpetual surveillance and maintenance account as specified by the department. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the site closure account and the perpetual surveillance and maintenance account;

(3) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(4) To institute a user permit system and issue site use permits, consistent with regulatory practices, for generators, packagers, or brokers using the Hanford low-level radioactive waste disposal facility. The costs of administering the user permit system shall be borne by the applicants for site use permits. The site use permit fee shall be set at a level that is sufficient to fund completely the executive and legislative participation in activities related to the Northwest Interstate Compact on Low-Level Radioactive Waste Management;

(5) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive and hazardous at all Hanford low-level radioactive waste disposal facilities; and

(6) To develop contingency plans for duties and options for the department and other state agencies related to the Hanford low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The plans shall be updated annually. The department shall report annually on the plans

and on the balances in the site closure and perpetual surveillance accounts to the energy and utilities committees of the senate and the house of representatives. [1991 sp.s. c 13 § 60; 1990 c 21 § 6; 1989 c 418 § 2; 1986 c 2 § 1; 1983 1st ex.s. c 19 § 8.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

Suspension and reinstatement of site use permits: RCW 70.98.085.

43.200.170 Waste disposal surcharges and penalty surcharges—Disposition. The governor may assess surcharges and penalty surcharges on the disposal of waste at the Hanford low-level radioactive waste disposal facility. The surcharges may be imposed up to the maximum extent permitted by federal law. Ten dollars per cubic foot of the moneys received under this section shall be transmitted monthly to the site closure account established under RCW 43.200.080. The rest of the moneys received under this section shall be deposited in the general fund. [1990 c 21 § 3; 1986 c 2 § 3.]

43.200.180 Implementation of federal low-level radioactive waste policy amendments of 1985. The department of ecology shall be the state agency responsible for implementation of the federal low-level radioactive waste policy amendments act of 1985, including:

(1) Collecting and administering the surcharge assessed by the governor under RCW 43.200.170;

(2) Collecting low-level radioactive waste data from disposal facility operators, generators, intermediate handlers, and the federal department of energy;

(3) Developing and operating a computerized information system to manage low-level radioactive waste data;

(4) Denying and reinstating access to the Hanford low-level radioactive waste disposal facility pursuant to the authority granted under federal law;

(5) Administering and/or monitoring (a) the maximum waste volume levels for the Hanford low-level radioactive waste disposal facility, (b) reactor waste allocations, (c) priority allocations under the Northwest Interstate Compact on Low-Level Radioactive Waste Management, and (d) adherence by other states and compact regions to federal statutory deadlines;

(6) Coordinating the state's low-level radioactive waste disposal program with similar programs in other states; and

(7) Preparing an annual report to the legislature which details the manifested curie content and cubic foot volume of the material received at the Hanford low-level radioactive waste disposal facility in a manner which allows for an assessment of the impact of volume reduction techniques and imposition of any surcharges on the amount of material received. [1986 c 2 § 4.]

43.200.190 Studies on site closure and perpetual care and maintenance requirements and on adequacy of insurance coverage—Reports. (1) The department of ecology shall perform studies, by contract or otherwise, to define site closure and perpetual care and maintenance requirements for the Hanford low-level radioactive waste disposal facility and to assess the adequacy of insurance

coverage for general liability, radiological liability, and transportation liability for the facility.

(2) The department shall complete the studies and report its findings to the legislature by December 31, 1987. The department shall make a preliminary progress report to the legislature by December 31, 1986. [1986 c 2 § 6.]

43.200.200 Review of potential damage—Financial assurance—Reports. (1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage arising from the transportation and disposal of commercial low-level radioactive waste under permits issued by the state.

(2) The director may require permit holders to demonstrate financial assurance in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the transportation or disposal of commercial low-level radioactive waste. The financial assurance may be in the form of insurance, cash deposits, surety bonds, corporate guarantees, and other acceptable instruments or guarantees determined by the director to be acceptable evidence of financial assurance.

(3) In making the determination of the appropriate level of financial assurance, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of waste being packaged, transported, buried, or otherwise handled;

(c) The location where the waste is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required financial assurance amount.

(4) The director may establish different levels of required financial assurance for various classes of permit holders.

(5) The director shall establish by rule the instruments or mechanisms by which a permit applicant or holder may demonstrate financial assurance as required by RCW 43.200.210.

(6) The director shall complete a review and determination, and report the results to the legislature by December 1, 1994, and at least every five years thereafter, the director shall conduct a new review and determination and report its results to the legislature. [1992 c 61 § 1; 1990 c 82 § 1; 1986 c 191 § 1.]

43.200.210 Immunity of state—Demonstration of financial assurance—Suspension of permit. (1) The department of ecology shall require that any person who holds or applies for a permit under this chapter indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property damage, arising or growing out of any operations and activities for which the person holds the permit, and any necessary or incidental operations.

(2) The department of ecology shall refuse to issue or shall suspend the permit of any person required by this section to demonstrate adequate financial assurance who fails to demonstrate compliance with this section. The permit shall not be issued or reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to demonstrate financial assurance maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents sufficient to evidence compliance with this section, (b) that the agency be notified of any changes in the instruments of financial assurance or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section. This subsection shall not apply to any person subject to the same requirements under RCW 70.98.095. [1992 c 61 § 2; 1990 c 82 § 2; 1986 c 191 § 2.]

43.200.220 Site closure fee—Generally. Beginning January 1, 1993, the department of ecology may impose a reasonable site closure fee if necessary to be deposited in the site closure account established under RCW 43.200.080. The department may continue to collect moneys for the site closure account until the account contains an amount sufficient to complete the closure plan, as specified in the radioactive materials license issued by the department of health. [1990 c 21 § 4.]

Rate regulation anticipated—1990 c 21: "State and national policy directs that the management of low-level radioactive waste shall be accomplished by a system of interstate compacts and the development of regional disposal sites. The Northwest regional compact, comprised of the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington, has as its disposal facility the low-level radioactive waste disposal site located near Richland, Washington. This site is expected to be the sole site for disposal of low-level radioactive waste for compact members effective January 1, 1993. Future closure of this site will require significant financial resources.

Low-level radioactive waste is generated by essential activities and services that benefit the citizens of the state. Washington state's low-level radioactive waste disposal site has been used by the nation and the Northwest compact as a disposal site since 1965. The public has come to rely on access to this site for disposal of low-level radioactive waste, which requires separate handling from other solid and hazardous wastes. The price of disposing of low-level radioactive waste at the Washington state low-level radioactive waste disposal site is anticipated to increase when the federal low-level radioactive waste policy amendments act of 1985 is implemented and waste generated outside the Northwest compact states is excluded. To protect Washington and other Northwest compact states' businesses and services, such as electrical production, medical and university research, and private industries, upon which the public relies, there may be a need to regulate the rates charged by the operator of Washington's low-level radioactive waste disposal site." [1990 c 21 § 1.]

Low-level waste disposal rate regulation study: RCW 81.04.520.

43.200.230 Fees for waste generators. The director of the department of ecology shall require that generators of waste pay a fee for each cubic foot of waste disposed at any facility in the state equal to six dollars and fifty cents. The fee shall be imposed specifically on the generator of the waste and shall not be considered to apply in any way to the low-level site operator's disposal activities. The fee shall be allocated in accordance with RCW 43.200.233 and 43.200.235. This subsection shall be invalidated and the authorization to collect a surcharge removed if the legislature or any administrative agency of the state of Washington

prior to January 1, 1993, (1) imposes fees, assessments, or charges other than perpetual care and maintenance, site surveillance, and site closing fees currently applicable to the Hanford commercial low-level waste site operator's activities, (2) imposes any additional fees, assessments, or charges on generators using the Hanford commercial low-level waste site, or (3) increases any existing fees, assessments, or charges. [1991 c 272 § 16.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.200.233 Waste generator surcharge remittance to counties. A portion of the surcharge received under RCW 43.200.230 shall be remitted monthly to the county in which the low-level radioactive waste disposal facility is located in the following manner:

(1) During 1993, six dollars and fifty cents per cubic foot of waste;

(2) During 1994, three dollars and twenty-five cents per cubic foot of waste; and

(3) During 1995 and thereafter, two dollars per cubic foot of waste. [1991 c 272 § 17.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.200.235 Disposal of waste generator surcharges. Except for moneys that may be remitted to a county in which a low-level radioactive waste disposal facility is located, all surcharges authorized under RCW 43.200.230 shall be deposited in the fund created in RCW 43.31.422. [1991 c 272 § 18.]

Effective dates—1991 c 272: See RCW 81.108.901.

43.200.900 Construction of chapter. The rules of strict construction do not apply to this chapter and it shall be liberally construed in order to carry out the objective for which it is designed, in accordance with the legislative intent to give the board the maximum possible freedom in carrying the provisions of this chapter into effect. [1984 c 161 § 15; 1983 1st ex.s. c 19 § 10.]

43.200.901 Conflict with federal requirements—1983 1st ex.s. c 19. If any part of this act shall be found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this act is hereby declared to be inoperative solely to the extent of such conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of this act in its application to the agencies concerned. The rules and regulations under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1983 1st ex.s. c 19 § 11.]

43.200.902 Severability—1983 1st ex.s. c 19. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 19 § 12.]

43.200.903 Severability—1984 c 161. If any provision of this act or its application to any person or circum-

stance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1984 c 161 § 17.]

43.200.905 Construction—1986 c 191. The provisions of this act shall not have the effect of reducing the level of liability coverage required under any law, regulation, or contract of the state before December 31, 1987, or the effective date of the first determination made pursuant to RCW 43.200.200, if earlier. [1986 c 191 § 4.]

43.200.906 Severability—1986 c 191. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1986 c 191 § 6.]

Chapter 43.205

HIGH-LEVEL NUCLEAR WASTE REPOSITORY SITING

Sections

- 43.205.010 Findings.
 43.205.020 Duties relating to the site selection process for a high-level nuclear waste repository.
 43.205.900 Transmission of copies of act—1986 ex.s. c 1.
 43.205.901 Referral to electorate—Ballot title—1986 ex.s. c 1.

Nuclear waste site—Election for disapproval: Chapter 29.91 RCW.

43.205.010 Findings. The legislature and the people of the state of Washington find that:

(1) In order to solve the problem of high-level radioactive waste disposal, congress established a process for selecting two sites for the safe, permanent, and regionally equitable disposal of such waste.

(2) The process of selecting three sites as final candidates, including the Hanford reservation, for a first high-level nuclear waste repository by the United States department of energy violated the intent and the mandate of congress.

(3) The United States department of energy has prematurely deferred consideration of numerous potential sites and disposal media that its own research indicates are more appropriate, safer, and less expensive.

(4) Placement of a repository at Hanford without methodical and independently verified scientific evaluation will pose a threat to the health and safety of the people and the environment of this state.

(5) The selection process is flawed and not credible because it did not include independent experts in the selection of the sites and in the review of that selection, as recommended by the National Academy of Sciences.

(6) By postponing indefinitely all site specific work for a second repository, the United States department of energy has not complied with the intent of congress expressed in the Nuclear Waste Policy Act, Public Law 97-425, and the fundamental compromise which enabled its enactment. [1986 ex.s. c 1 § 1.]

43.205.020 Duties relating to the site selection process for a high-level nuclear waste repository. In order to achieve complete compliance with federal law and

protect the health, safety, and welfare of the people of the state of Washington, the governor, the legislature, other state-wide elected officials, and the nuclear waste board shall use all legal means necessary to:

(1) Suspend the preliminary site selection process for a high-level nuclear waste repository, including the process of site characterization, until there is compliance with the intent of the Nuclear Waste Policy Act;

(2) Reverse the secretary of energy's decision to postpone indefinitely all site specific work on locating and developing a second repository for high-level nuclear waste;

(3) Insist that the United States department of energy's site selection process, when resumed, considers all acceptable geologic media and results in safe, scientifically justified, and regionally and geographically equitable high-level nuclear waste disposal;

(4) Demand that federal budget actions fully and completely follow the intent of the Nuclear Waste Policy Act; and

(5) Continue to pursue alliances with other states and interested parties, particularly with Pacific Northwest governors, legislatures, and other parties, affected by the site selection and transportation of high-level nuclear waste. [1986 ex.s. c 1 § 2.]

43.205.900 Transmission of copies of act—1986 ex.s. c 1. See RCW 29.91.900.

43.205.901 Referral to electorate—Ballot title—1986 ex.s. c 1. See RCW 29.91.901.

Chapter 43.210

SMALL BUSINESS EXPORT FINANCE ASSISTANCE CENTER

(Formerly: Export assistance center)

Sections

- 43.210.010 Findings.
 43.210.020 Small business export finance assistance center authorized—Purposes.
 43.210.030 Board of directors—Membership—Terms—Vacancies.
 43.210.040 Powers and duties.
 43.210.050 Export assistance services contract with department of trade and economic development.
 43.210.060 Rule-making authority.
 43.210.070 Small business export finance assistance center fund.
 43.210.100 Pacific Northwest export assistance project—Generally.
 43.210.110 Pacific Northwest export assistance project—Duties of center.
 43.210.120 Rules.
 43.210.130 Minority business export outreach program.

Reviser's note—Sunset Act application: The Pacific Northwest export assistance project is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.373. RCW 43.210.070, 43.210.100, 43.210.110, and 43.210.120 are scheduled for future repeal under RCW 43.131.374.

43.210.010 Findings. The legislature finds:

(1) The exporting of goods and services from Washington to international markets is an important economic stimulus to the growth, development, and stability of the state's businesses in both urban and rural areas, and that

these economic activities create needed jobs for Washingtonians.

(2) Impediments to the entry of many small and medium-sized businesses into export markets have restricted growth in exports from the state.

(3) Particularly significant impediments for many small and medium-sized businesses are the lack of easily accessible information about export opportunities and financing alternatives.

(4) There is a need for a small business export finance assistance center which will specialize in providing export assistance to small and medium-sized businesses throughout the state in acquiring information about export opportunities and financial alternatives for exporting. [1990 1st ex.s. c 17 § 65; 1985 c 231 § 1; 1983 1st ex.s. c 20 § 1.]

Intent—1990 1st ex.s. c 17: "The legislature finds that the Puget Sound region is experiencing economic prosperity and the challenges associated with rapid growth; much of the rest of the state is not experiencing economic prosperity, and faces challenges associated with slow economic growth. It is the intent of the legislature to encourage economic prosperity and balanced economic growth throughout the state.

In order to accomplish this goal, growth must be managed more effectively in the Puget Sound region, and rural areas must build local capacity to accommodate additional economic activity in their communities. Where possible, rural economies and low-income areas should be linked with prosperous urban economies to share economic growth for the benefit of all areas and the state.

To accomplish this goal it is the intent of the legislature to: (1) Assure equitable opportunities to secure prosperity for distressed areas, rural communities, and disadvantaged populations by promoting urban-rural economic links, and by promoting value-added product development, business networks, and increased exports from rural areas; (2) improve the economic development service delivery system to be better able to serve these areas, communities, and populations; (3) redirect the priorities of the state's economic development programs to focus economic development efforts into areas and sectors of the greatest need; (4) build local capacity so that communities are better able to plan for growth and achieve self-reliance; (5) administer grant programs to promote new feasibility studies and project development on projects of interest to rural areas or areas outside of the Puget Sound region; and (6) develop a coordinated economic investment strategy involving state economic development programs, businesses, educational and vocational training institutions, local governments and local economic development organizations, ports, and others." [1990 1st ex.s. c 17 § 64.]

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

43.210.020 Small business export finance assistance center authorized—Purposes. A nonprofit corporation, to be known as the small business export finance assistance center, and branches subject to its authority, may be formed under chapter 24.03 RCW for the following public purposes:

(1) To assist small and medium-sized businesses in both urban and rural areas in the financing of export transactions.

(2) To provide, singly or in conjunction with other organizations, information and assistance to these businesses about export opportunities and financing alternatives.

(3) To provide information to and assist those businesses interested in exporting products, including the opportunities available to them in organizing export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets. [1990 1st ex.s. c 17 § 66; 1985 c 231 § 2; 1983 1st ex.s. c 20 § 2.]

Intent—1990 1st ex.s. c 17: See note following RCW 43.210.010.

Severability—Part, section headings not law—1990 1st ex.s. c 17: See RCW 36.70A.900 and 36.70A.901.

Transfer of property—1985 c 231: "All reports, documents, surveys, books, records, files, papers, or written material in the possession of the export assistance center shall be delivered to the custody of the small business export finance assistance center. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the export assistance center shall be made available to the small business export finance assistance center. All funds, credits, or other assets held by the export assistance center shall be assigned to the small business export finance assistance center.

Whenever any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned." [1985 c 231 § 7.]

Existing contracts—1985 c 231: "All existing contracts and obligations shall remain in full force and shall be performed by the small business export finance assistance center." [1985 c 231 § 8.]

Savings—1985 c 231: "The transfer of the powers, duties, and functions of the export assistance center shall not affect the validity of any act performed prior to May 10, 1985." [1985 c 231 § 9.]

43.210.030 Board of directors—Membership—Terms—Vacancies. The small business export finance assistance center and its branches shall be governed and managed by a board of nineteen directors appointed by the governor and confirmed by the senate. The directors shall serve terms of six years except that two of the original directors shall serve for two years and two of the original directors shall serve for four years. The directors may provide for the payment of their expenses. The directors shall include a representative of a not-for-profit corporation formed for the purpose of facilitating economic development, at least two representatives of state financial institutions engaged in the financing of export transactions, a representative of a port district, and a representative of organized labor. Of the remaining board members, there shall be one representative of business from the area west of Puget Sound, one representative of business from the area east of Puget Sound and west of the Cascade range, one representative of business from the area east of the Cascade range and west of the Columbia river, one representative of business from the area east of the Columbia river, the *director of the department of trade and economic development, and the director of the department of agriculture. One of the directors shall be a representative of the public selected from the area in the state west of the Cascade mountain range and one director shall be a representative of the public selected from that area of the state east of the Cascade mountain range. One director shall be a representative of the public at large. The directors shall be broadly representative of geographic areas of the state, and the representatives of businesses shall represent at least four different industries in different sized businesses as follows: (a) One representative of a company employing fewer than one hundred persons; (b) one representative of a company employing between one hundred and five hundred persons; (c) one representative of a company employing more than five hundred persons; (d) one representative from an export management company; and (e) one representative from an agricultural or food processing company. Any vacancies on the board due to the expiration of a term or for any other reason shall be filled by appointment by the governor for the

unexpired term. [1991 c 314 § 15; 1985 c 231 § 3; 1983 1st ex.s. c 20 § 3.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.040 Powers and duties. (1) The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall have the powers granted under chapter 24.03 RCW. In exercising such powers, the center may:

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other sources to carry out its purposes;

(b) Make loans to Washington businesses with annual sales of twenty-five million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries. Loans by the small business export finance assistance center under this chapter shall not compete with nor be a substitute for available loans by a bank or other financial institution and shall only be considered upon a financial institution's assurance that such loan is not available;

(c) Provide loan guarantees on loans made by financial institutions to businesses with annual sales of one hundred million dollars or less for the purpose of financing exports of goods or services by those businesses to buyers in foreign countries;

(d) Establish and regulate the terms and conditions of any such loans and loan guarantees and charges for interest and services connected therewith;

(e) Provide export financial counseling to Washington exporters with annual sales of one hundred million dollars or less, provided that such counseling is not available from a Washington for-profit business. For such counseling, the center may charge such fees as it determines are necessary.

(f) Contract with the federal government and its agencies to become a program administrator for federally provided country risk insurance programs and for the purposes of this chapter; and

(g) Take whatever action may be necessary to accomplish the purposes set forth in this chapter.

(2) The center may not use any Washington state funds or funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(3) The small business export finance assistance center shall make every effort to seek nonstate funds for its continued operation.

(4) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of

the small business export finance assistance center and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1987 c 505 § 43; 1985 c 231 § 4; 1983 1st ex.s. c 20 § 4.]

43.210.050 Export assistance services contract with department of trade and economic development. The small business export finance assistance center formed under RCW 43.210.020 and 43.210.030 shall enter into a contract under this chapter with the *department of trade and economic development or its statutory successor. The contract shall require the center to provide export assistance services, consistent with RCW 43.210.070 and 43.210.100 through 43.210.120, shall have a duration of two years, and shall require the center to aggressively seek to fund its continued operation from nonstate funds. The contract shall also require the center to report annually to the department on its success in obtaining nonstate funding. Upon expiration of the contract, any provisions within the contract applicable to the Pacific Northwest export assistance project shall be automatically renewed without change provided the legislature appropriates funds for administration of the small business export assistance center and the Pacific Northwest export assistance project. The provisions of the contract related to the Pacific Northwest export assistance project may be changed at any time if the *director of the department of trade and economic development or the president of the small business export finance assistance center present compelling reasons supporting the need for a contract change to the board of directors and a majority of the board of directors agrees to the changes. The department of agriculture shall be included in the contracting negotiations with the *department of trade and economic development and the small business export finance assistance center when the Pacific Northwest export assistance project provides export services to industrial sectors within the administrative domain of the Washington state department of agriculture. The *department of trade and economic development, the small business export finance assistance center, and, if appropriate, the department of agriculture, shall report annually, as one group, to the appropriate legislative oversight committees on the progress of the Pacific Northwest export assistance project. [1991 c 314 § 16. Prior: 1985 c 466 § 64; 1985 c 231 § 5; 1983 1st ex.s. c 20 § 5.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings—1991 c 314: See note following RCW 43.31.601.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.210.060 Rule-making authority. The *department of trade and economic development or its statutory successor shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of this chapter. [1985 c 466 § 65; 1983 1st ex.s. c 20 § 6.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Effective date—Severability—1985 c 466: See notes following RCW 43.31.085.

43.210.070 Small business export finance assistance center fund. The small business export finance assistance center fund is created in the custody of the state treasurer. Expenditures from the fund may be used only for the purposes of funding the services of the small business export finance assistance center and its projects under this chapter. Only the *director of the department of trade and economic development or the director's designee may authorize expenditures from the fund. The *director of the department of trade and economic development shall not withhold funds appropriated for the administration of the small business export finance assistance center and its projects, if the small business export finance assistance center complies with the provisions of its contract under RCW 43.210.050 and 43.210.100. Funding appropriated by the state of Washington shall not be used to provide services to other states or provinces. The fund is subject to allotment procedures under chapter 43.88 RCW, but no appropriation is required for expenditures. [1991 c 314 § 14.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.100 Pacific Northwest export assistance project—Generally. (1) The Pacific Northwest export assistance project is hereby created for the following purposes:

(a) To assist manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars with comprehensive services for designing and managing introductory export strategies and in securing financing and credit guarantees for export transactions;

(b) To provide, in cooperation with the export promotion services offered by the *department of trade and economic development and the Washington state department of agriculture, information and assistance to manufacturers with gross annual revenues less than twenty-five million dollars about the methods and procedures of structuring company specific export financing and credit guarantee alternatives; or

(c) To provide information to their clients about opportunities in organizing cooperative export networks, foreign sales corporations, or export trading companies under the United States export trading company act of 1982, for the purpose of increasing their comparative sales volume and ability to export their products to foreign markets.

(2) The Pacific Northwest export assistance project is a separate branch of the small business export finance assistance center for accounting and auditing purposes.

(3) The Pacific Northwest export assistance project is subject to the authority of the small business export finance assistance center, under RCW 43.210.020, and shall be governed and managed by the board of directors, under RCW 43.210.030. [1991 c 314 § 11.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.110 Pacific Northwest export assistance project—Duties of center. (1) The small business export finance assistance center has the following powers and duties when exercising its authority under RCW 43.210.100(3):

(a) Solicit and accept grants, contributions, and any other financial assistance from the federal government, federal agencies, and any other public or private sources to carry out its purposes;

(b) Offer comprehensive export assistance and counseling to manufacturers relatively new to exporting with gross annual revenues less than twenty-five million dollars. As close to seventy-five percent as possible of each year's new cadre of clients must have gross annual revenues of less than five million dollars at the time of their initial contract. At least fifty percent of each year's new cadre of clients shall be from timber impact areas as defined in RCW 43.31.601. Counseling may include, but not be limited to, helping clients obtain debt or equity financing, in constructing competent proposals, and assessing federal guarantee and/or insurance programs that underwrite exporting risk; assisting clients in evaluating their international marketplace by developing marketing materials, assessing and selecting targeted markets; assisting firms in finding foreign customers by conducting foreign market research, evaluating distribution systems, selecting and assisting in identification of and/or negotiations with foreign agents, distributors, retailers, and by promoting products through attending trade shows abroad; advising companies on their products, guarantees, and after sales service requirements necessary to compete effectively in a foreign market; designing a competitive strategy for a firm's products in targeted markets and methods of minimizing their commercial and political risks; securing for clients specific assistance as needed, outside the center's field of expertise, by referrals to other public or private organizations. The Pacific Northwest export assistance project shall focus its efforts on facilitating export transactions for its clients, and in doing so, provide such technical services as are appropriate to accomplish its mission either with staff or outside consultants;

(c) Sign three-year counseling agreements with its clients that provide for termination if adequate funding for the Pacific Northwest export assistance project is not provided in future appropriations. Counseling agreements shall not be renewed unless there are compelling reasons to do so, and under no circumstances shall they be renewed for more than two additional years. A counseling agreement may not be renewed more than once. The counseling agreements shall have mutual performance clauses, that if not met, will be grounds for releasing each party, without penalty, from the provisions of the agreement. Clients shall be immediately released from a counseling agreement with the Pacific Northwest export assistance project, without penalty, if a client wishes to switch to a private export management service and produces a valid contract signed with a private export management service, or if the president of the small business export finance assistance center deter-

mines there are compelling reasons to release a client from the provisions of the counseling agreement;

(d) May contract with private or public international trade education services to provide Pacific Northwest export assistance project clients with training in international business. The president and board of directors shall decide the amount of funding allocated for educational services based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(e) May contract with the Washington state international trade fair to provide services for Pacific Northwest export assistance project clients to participate in one trade show annually. The president and board of directors shall decide the amount of funding allocated for trade fair assistance based on the availability of resources in the operating budget of the Pacific Northwest export assistance project;

(f) Provide biennial assessments of its performance. Project personnel shall work with the department of revenue and employment security department to confidentially track the performance of the project's clients in increasing tax revenues to the state, increasing gross sales revenues and volume of products destined to foreign clients, and in creating new jobs for Washington citizens. A biennial report shall be prepared for the governor and legislature to assess the costs and benefits to the state from creating the project. The president of the small business export finance assistance center shall design an appropriate methodology for biennial assessments in consultation with the director of community, trade, and economic development and the director of the Washington state department of agriculture. The department of revenue and the employment security department shall provide data necessary to complete this biennial evaluation, if the data being requested is available from existing data bases. Client-specific information generated from the files of the department of revenue and the employment security department for the purposes of this evaluation shall be kept strictly confidential by each department and the small business export finance assistance center;

(g) Take whatever action may be necessary to accomplish the purposes set forth in RCW 43.210.070 and 43.210.100 through 43.210.120; and

(h) Limit its assistance to promoting the exportation of value-added manufactured goods. The project shall not provide counseling or assistance, under any circumstances, for the importation of foreign made goods into the United States.

(2) The Pacific Northwest export assistance project shall not, under any circumstances, assume ownership or take title to the goods of its clients.

(3) The Pacific Northwest export assistance project may not use any Washington state funds which come from the public treasury of the state of Washington to make loans or to make any payment under a loan guarantee agreement. Under no circumstances may the center use any funds received under RCW 43.210.050 to make or assist in making any loan or to pay or assist in paying any amount under a loan guarantee agreement. Debts of the center shall be center debts only and may be satisfied only from the resources of the center. The state of Washington shall not in any way be liable for such debts.

(4) The Pacific Northwest export assistance project shall make every effort to seek nonstate funds to supplement its

operations. The small business export finance assistance center and the project are authorized to charge reasonable fees for services and products provided and to expend the proceeds for the particular purposes for which they were collected.

(5) The small business export finance assistance center and its Pacific Northwest export assistance project shall take whatever steps are necessary to provide its services, if requested, to the states of Oregon, Idaho, Montana, Alaska, and the Canadian provinces of British Columbia and Alberta. Interstate services shall not be provided by the Pacific Northwest export assistance project during its first biennium of operation. The provision of services may be temporary and subject to the payment of fees, or each state may request permanent services contingent upon a level of permanent funding adequate for services provided. Temporary services and fees may be negotiated by the small business export finance assistance center's president subject to approval of the board of directors. The president of the small business export finance assistance center may enter into negotiations with neighboring states to contract for delivery of the project's services. Final contracts for providing the project's counseling and services outside of the state of Washington on a permanent basis shall be subject to approval of the governor, appropriate legislative oversight committees, and the small business export finance assistance center's board of directors.

(6) The small business export finance assistance center may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of the Pacific Northwest export assistance project and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

(7) The president of the small business export finance assistance center, in consultation with the board of directors, may use the following formula in determining the number of clients that can be reasonably served by the Pacific Northwest export assistance project relative to its appropriation. Divide the amount appropriated for administration of the Pacific Northwest export assistance project by the marginal cost of adding each additional Pacific Northwest export assistance project client. For the purposes of this calculation, and only for the first biennium of operation, the biennial marginal cost of adding each additional Pacific Northwest export assistance project client shall be fifty-seven thousand ninety-five dollars. The biennial marginal cost of adding each additional client after the first biennium of operation shall be established from the actual operating experience of the Pacific Northwest export assistance project. [1994 c 284 § 7. Prior: 1993 sp.s. c 24 § 922; 1993 c 366 § 1; 1993 c 280 § 57; 1991 c 314 § 12.]

Sunset Act application: See note following chapter digest.

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

Severability—Effective dates—1993 sp.s. c 24: See notes following RCW 28A.165.070.

Effective date—Severability—1993 c 280: See RCW 43.330.902 and 43.330.903.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.120 Rules. The *department of trade and economic development shall adopt rules under chapter 34.05 RCW as necessary to carry out the purposes of RCW 43.210.070 and 43.210.100 through 43.210.120. [1991 c 314 § 13.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Findings—1991 c 314: See note following RCW 43.31.601.

43.210.130 Minority business export outreach program. The small business export finance assistance center shall develop a minority business export outreach program. The program shall provide outreach services to minority-owned businesses in Washington to inform them of the importance of and opportunities in international trade, and to inform them of the export assistance programs available to assist these businesses to become exporters. [1993 c 512 § 5.]

Short title—Part headings and section captions—Severability—Effective date—1993 c 512: See RCW 43.172.900 through 43.172.903.

Office of minority and women's business enterprises: Chapter 39.19 RCW.

Small business bonding assistance program: Chapter 43.172 RCW.

Chapter 43.220

WASHINGTON CONSERVATION CORPS

Sections

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- 43.220.902 Severability—1985 c 230.
- 43.220.903 Severability—1987 c 367.

Reviser's note—Sunset Act application: The Washington conservation corps is subject to review, termination, and possible extension under chapter 43.131 RCW, the Sunset Act. See RCW 43.131.383. RCW 43.220.010 through 43.220.250 are scheduled for future repeal under RCW 43.131.384.

43.220.010 Legislative declaration. The legislature declares that:

(1) A central element in the development of the state's young is the provision of meaningful work experience to teach the value of labor and membership in a productive society;

(2) It is important to provide an opportunity for group-oriented public service experiences for the state's young persons;

(3) The state is still benefiting from the wide range of public works accomplished by the conservation corps many years ago and that a similar program will likewise benefit future generations; and

(4) Values of hard work, public spiritedness, group achievement and cooperation, resource conservation, and environmental appreciation can and should be transmitted to society's youth through a conservation corps program. [1983 1st ex.s. c 40 § 2.]

Sunset Act application: See note following chapter digest.

43.220.020 Conservation corps created. The Washington conservation corps is hereby created, to be implemented by the following state departments: The employment security department, the department of ecology, the department of fish and wildlife, the department of natural resources, the department of agriculture, and the state parks and recreation commission. [1994 c 264 § 32; 1988 c 36 § 23; 1983 1st ex.s. c 40 § 1.]

Sunset Act application: See note following chapter digest.

43.220.030 Program goals. Program goals of the Washington conservation corps include:

(1) Conservation, rehabilitation, and enhancement of the state's natural, historic, environmental, and recreational resources with emphasis given to projects which address the following state-wide priorities:

(a) Timber, fish and wildlife management plan;

(b) Watershed management plan;

(c) 1989 centennial celebration and tourism;

(d) Puget Sound water quality;

(e) United States-Canada fisheries treaty;

(f) Public access to and environmental education about natural resources through recreational facilities;

(g) Recreational trails;

(2) Development of the state's youth resources through meaningful work experiences;

(3) Making outdoor and historic resources of the state available for public enjoyment;

(4) Teaching of the workings of natural, environmental, and biological systems, as well as basic employment skills;

(5) Assisting agencies in carrying out statutory assignments with limited funding resources; and

(6) Providing needed public services in both urban and rural settings. [1987 c 367 § 1; 1983 1st ex.s. c 40 § 3.]

Sunset Act application: See note following chapter digest.

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

(1) "Public lands" means any lands or waters, or interests therein, owned or administered by any agency or instrumentality of the state, federal, or local government.

(2) "Corps" means the Washington conservation corps.

(3) "Corps member" means an individual enrolled in the Washington conservation corps.

(4) "Corps member leaders" or "specialists" means members of the corps who serve in leadership or training capacities or who provide specialized services other than or in addition to the types of work and services that are performed by the corps members in general.

(5) "Council" means the Washington conservation corps coordinating council. [1987 c 367 § 2; 1983 1st ex.s. c 40 § 4.]

Sunset Act application: See note following chapter digest.

43.220.050 Coordination by youth employment exchange—Powers and duties. (1) The *youth employment exchange as established in RCW 50.65.030 shall be the overall coordinator of the Washington conservation corps and have such powers as are provided by this chapter for the purposes of recruitment. The *youth employment exchange shall develop guidelines for work performance standards for the conservation corps programs of the agencies listed in RCW 43.220.020.

(2) The *youth employment exchange shall be the sole recipient of federal funds for youth employment and conservation corps programs. [1983 1st ex.s. c 40 § 5.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** The youth employment exchange was redesignated the Washington service corps by 1987 c 167.

43.220.060 Powers and duties—Effect on employed workers—Facilities, supplies, instruments, and tools. (1) Each state department identified in RCW 43.220.020 shall have the following powers and duties to carry out its functions relative to the Washington conservation corps:

(a) Recruiting and employing staff and corps member leaders and specialists;

(b) Adopting criteria for the selection of applicants to the program from among the enrollees of the *youth employment exchange program;

(c) Executing agreements for furnishing the services of the employment conservation program to carry out conservation corps programs to any federal, state, or local public agency, any local organization as specified in this chapter in concern with the overall objectives of the conservation corps;

(d) Applying for and accepting grants or contributions of funds from any private source;

(e) Determining a preference for those projects which will provide long-term benefits to the public, will provide productive training and work experiences to the members involved, will be labor-intensive, may result in payments to the state for services performed, and can be promptly completed; and

(f) Entering into agreements with community colleges within the state's **community college system and other educational institutions or independent nonprofit agencies to

provide special education in basic skills, including reading, writing, and mathematics for those conservation corps members who may benefit by participation in such classes. Classes shall be scheduled after corps working hours. Participation by members is not mandatory but shall be strongly encouraged. The participation shall be a primary factor in determining whether the opportunity for corps membership beyond one year shall be offered. Instruction related to the specific role of the department in resource conservation shall also be offered, either in a classroom setting or as is otherwise appropriate.

(2) The assignment of corps members shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Supervising agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of using a corps member with available funds. In circumstances where substantial efficiencies or a public purpose may result, supervising agencies may use corps members to carry out essential agency work or contractual functions without displacing current employees.

(3) Facilities, supplies, instruments, and tools of the supervising agency shall be made available for use by the conservation corps to the extent that such use does not conflict with the normal duties of the agency. The agency may purchase, rent, or otherwise acquire other necessary tools, facilities, supplies, and instruments. [1987 c 505 § 44; 1983 1st ex.s. c 40 § 6.]

Sunset Act application: See note following chapter digest.

Reviser's note: *(1) The youth employment exchange was redesignated the Washington service corps by 1987 c 167.

** (2) The state board for community college education was renamed the state board for community and technical colleges by 1991 c 238 § 30.

43.220.070 Corps membership—Eligibility, terms, etc. (1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. The upper age requirement may be waived for residents who have a sensory or mental handicap. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) The legislature finds that people with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society.

The legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program people who have developmental disabilities, as defined in RCW 71A.10.020.

If an agency chooses to enroll people with developmental disabilities in its Washington conservation corps program, the agency may apply to the United States department of labor, employment standards administration for a special subminimum wage certificate in order to be allowed to pay enrollees with developmental disabilities according to their individual levels of productivity.

(3) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

(4) Enrollment shall be for a period of six months which may be extended for an additional six months by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by state or federal law, whichever is higher: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

(5) Corps members are to be available at all times for emergency response services coordinated through the *department of community development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies. [1990 c 71 § 2; 1988 c 78 § 1; 1986 c 266 § 48. Prior: 1985 c 230 § 7; 1985 c 7 § 110; 1983 1st ex.s. c 40 § 7.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

Legislative finding—1990 c 71: See note following RCW 43.220.230.

Severability—1986 c 266: See note following RCW 38.52.005.

43.220.080 Selection of corps members—Development of corps program. Conservation corps members shall be selected based on their orientation towards public service, development of job skills and productive work habits, and character development. Special effort shall be made at the time of initial screening to explain rigorous productivity standards and special expectations and obligations of corps membership. An employment agreement shall be entered into by the corps member, indicating the member's understanding of, and willingness to abide by, such standards.

In the development of the corps program, consideration shall be given to providing corps members with a beneficial and meaningful work experience. Standards of productivity, behavior, and punctuality shall be developed and observed. Consideration shall be given to the development of a program that deserves the respect of the public, both in terms of service provided and personal development of corps members. [1983 1st ex.s. c 40 § 8.]

Sunset Act application: See note following chapter digest.

43.220.090 Conservation corps established in department of ecology—Work project areas. (1) There is established a conservation corps within the department of ecology.

(2) Specific work project areas of the ecology conservation corps may include the following:

(a) Litter pickup as a supplement to the role of the litter patrol established by the waste reduction, recycling, and model litter control act, chapter 70.93 RCW;

(b) Stream rehabilitation, including trash removal, in-stream debris removal, and clearance of log jams and silt accumulation, to the extent that such projects do not conflict with similar tasks undertaken by the department of fish and wildlife;

(c) Minimum flow field work and stream gauging;

(d) Identification of indiscriminate solid waste dump sites;

(e) Laboratory and office assistance;

(f) General maintenance and custodial work at sewage treatment plants;

(g) Irrigation district assistance, including ditch cleaning and supervised work in surveying and engineering;

(h) Streambank erosion control; and

(i) Other projects as the director may determine. If a project requires certain levels of academic training, the director may assign corps members to categories of work projects according to educational background. If appropriate facilities are available, the director may authorize carrying out projects which involve overnight stays. [1994 c 264 § 33; 1983 1st ex.s. c 40 § 9.]

Sunset Act application: See note following chapter digest.

43.220.120 Conservation corps established in department of fish and wildlife—Work project areas. (1) There is established a conservation corps within the department of fish and wildlife.

(2) Specific work project areas of the game conservation corps may include the following:

(a) Habitat development;

(b) Land clearing;

(c) Construction projects;

(d) Noxious weed control;

(e) Brush cutting;

(f) Reader board construction;

(g) Painting;

(h) Cleaning and repair of rearing ponds;

(i) Fishtrap construction;

(j) Brush clearance;

(k) Spawning channel restoration;

(l) Log removal;

(m) Nest box maintenance and cleaning;

(n) Fence building;

(o) Winter game feeding and herding;

(p) Stream rehabilitation;

(q) Fish hatchery operation and maintenance;

(r) Fish tagging; and

(s) Such other projects as the director of fish and wildlife may determine. If appropriate facilities are available, the director of fish and wildlife may authorize carrying out projects which involve overnight stays. [1994 c 264 § 34; 1988 c 36 § 24; 1983 1st ex.s. c 40 § 12.]

Sunset Act application: See note following chapter digest.

43.220.130 Conservation corps established in department of natural resources—Work project areas.

(1) There is established a conservation corps within the department of natural resources.

(2) Specific work project areas of the natural resources conservation corps may include the following:

- (a) Research assistance;
- (b) Recreation projects;
- (c) Slash disposal;
- (d) Pit site reclamation;
- (e) Road deactivation;
- (f) Animal damage control;
- (g) Reforestation;
- (h) Wood cutting;
- (i) Firewood systems development;
- (j) Noxious weed control;
- (k) Fence construction and maintenance;
- (l) Wood products manufacturing;
- (m) Riparian area cleaning;
- (n) Spring development for grazing;
- (o) Erosion control;
- (p) Control of fires; and

(q) Such other projects as the commissioner of public lands may determine. If appropriate facilities are available, the commissioner of public lands may authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 13.]

Sunset Act application: See note following chapter digest.

43.220.150 Conservation corps established in department of agriculture—Work project areas. (1) There is established a conservation corps within the department of agriculture.

(2) Specific work project areas of the agriculture conservation corps may include the following:

- (a) Insect detection and control;
- (b) Noxious weed removal;
- (c) Irrigation district canal maintenance; and
- (d) Such other projects as the director of agriculture may determine. If appropriate facilities are available, the director of agriculture may authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 15.]

Sunset Act application: See note following chapter digest.

43.220.160 Conservation corps established in state parks and recreation commission—Work project areas. (1) There is established a conservation corps within the state parks and recreation commission.

(2) Specific work project areas of the state parks and recreation conservation corps may include the following:

- (a) Restoration or development of park facilities;
- (b) Trail construction and maintenance;
- (c) Litter control;
- (d) Park and land rehabilitation;
- (e) Fire suppression;
- (f) Road repair; and

(g) Other projects as the state parks and recreation commission may determine. If appropriate facilities are available, the state parks and recreation commission may

authorize carrying out projects which involve overnight stays. [1983 1st ex.s. c 40 § 16.]

Sunset Act application: See note following chapter digest.

43.220.170 Exemption from unemployment compensation coverage. The services of corps members placed with agencies listed in RCW 43.220.020 are exempt from unemployment compensation coverage under RCW 50.44.040(5) and the enrollees shall be so advised by the department. [1983 1st ex.s. c 40 § 17.]

Sunset Act application: See note following chapter digest.

43.220.180 Identification of historic properties and sites in need of rehabilitation or renovation—Use of corps members. The state historic preservation officer shall review the state and national registers of historic places to identify publicly owned historic properties and sites within the state which are in need of rehabilitation or renovation and which could utilize parks and recreation conservation corps members in such rehabilitation or renovation. Any such tasks shall be performed in such a way as not to conflict with the historic character of the structure as determined by the state historic preservation officer.

Conservation corps members shall be made available for tasks identified by the state historic preservation officer in the rehabilitation and renovation of historic sites within the state. [1983 1st ex.s. c 40 § 18.]

Sunset Act application: See note following chapter digest.

43.220.190 Coordinating council. The agencies listed in RCW 43.220.020 shall convene a conservation corps coordinating council to meet as needed to establish consistent work standards and placement and evaluation procedures of corps programs. The coordinating council shall be composed of administrative personnel of the agencies. The coordinating council shall serve to reconcile problems that arise in the implementation of the corps programs and develop coordination procedures for emergency responses of corps members. [1987 c 367 § 3; 1983 1st ex.s. c 40 § 20.]

Sunset Act application: See note following chapter digest.

43.220.210 Selection, review, approval, and evaluation of projects—Recruitment, job training and placement services. The Washington conservation corps coordinating council shall select, review, approve, and evaluate the success of projects under this chapter.

Up to fifteen percent of funds spent for recruitment, job training and placement services shall, wherever possible, be contracted through local educational institutions and/or nonprofit corporations.

Such contracts may include, but not be limited to, general education development testing, preparation of resumes and job search skills.

All contracts or agreements entered into by agencies listed in RCW 43.220.020 shall be reviewed by the council for compliance with legislative intent as set forth in this section. [1987 c 367 § 4; 1985 c 230 § 1.]

Sunset Act application: See note following chapter digest.

43.220.220 Use of funds for enrollees and members from distressed areas—Youth employment exchange—Evaluation of projects—Training plan. Sixty percent of the general funds available to the *youth employment exchange as prescribed in chapter 50.65 RCW, and the Washington conservation corps shall be for enrollees and members from distressed areas and for projects in distressed areas. A distressed area shall mean: (1) A county which has an unemployment rate which is twenty percent above the state average for the immediately previous three years; (2) a community which has experienced sudden and severe loss of employment; or (3) an area within a county which area: (a) Is composed of contiguous census tracts; (b) has a minimum population of five thousand persons; (c) the median household income is at least thirty-five percent below the county's median household income, as determined from data collected for the previous United States ten-year census; and (d) has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects.

The department of employment security shall evaluate projects on the basis of average cost per enrollee, public benefit of the proposed project, opportunity for placement of enrollees and corps members, degree of public and private support, and coordination of projects with other agencies. A training plan shall be developed for each corps member and enrollee. Preference shall be given to persons not less than eighteen years of age, and not older than twenty-three years of age. The department of employment security shall ensure the availability of corps members to respond to emergency projects and needs as they arise.

Agencies which do not develop projects which meet the department's requirements in the biennium, and result in unexpended funds, shall have those unexpended funds go to other distressed areas to encourage the recruitment of disadvantaged unemployed youth. [1985 c 230 § 2.]

Sunset Act application: See note following chapter digest.

***Reviser's note:** See note following RCW 43.220.050.

43.220.230 Limitation on use of funds. (1) Not more than fifteen percent of the funds available for the Washington conservation corps and the Washington service corps prescribed in chapter 50.65 RCW shall be expended for the cost of administration. For the purpose of this chapter, administrative costs are defined as including, but not limited to, program planning and evaluation, budget development and monitoring, personnel management, contract administration, payroll, development of program reports, normal recruitment and placement procedures, standard office space, and costs and utilities.

(2) The fifteen percent limitation does not include costs for any of the following: Program support activities such as direct supervision of enrollees, counseling, job training, equipment, and extraordinary recruitment procedures necessary to fill project positions.

(3) The total costs for all items included under subsection (1) of this section and excluded from the fifteen percent

lid under subsection (2) of this section shall not: (a) Exceed thirty percent of the appropriated funds available during a fiscal biennium for the Washington conservation corps and the Washington service corps programs; or (b) result in the average cost per enrollee exceeding the level established by the following formula: Corps member basic hourly wage multiplied by two thousand eighty. The tests included in items (a) and (b) of this subsection are in the alternative and it is only required that one of these tests be satisfied. For purposes of this section, the term administrative costs does not include those extraordinary placement costs of the department of employment security for which the department is eligible for reimbursement under RCW 43.220.240. The provisions of this section apply separately to each corps agency listed in RCW 43.220.020. [1990 c 71 § 3; 1985 c 230 § 3.]

Sunset Act application: See note following chapter digest.

Legislative finding—1990 c 71: "The legislature finds that the Washington conservation corps has proven to be an effective method to provide meaningful work experience for many of the state's young persons. Because of recent, and possible future, increases in the minimum wage laws, it is necessary to make an adjustment in the limitation that applies to corps member reimbursements." [1990 c 71 § 1.]

43.220.240 Staff support—Administration. Staff support to the department of employment security shall be provided by the Washington conservation corps coordinating council as established in RCW 43.220.190. The employment security department shall be the central administrative authority for data on projects, project requests, applicants and reports to the legislature. The department shall be reimbursed by the Washington conservation corps agencies specified in RCW 43.220.020. Reimbursement shall be for reasonable administrative costs associated with the department's role as the central administrative authority and for extraordinary placement costs incurred for the corps agencies. The Washington conservation corps coordinating council is to develop the most cost-effective administrative system to provide training, payroll, and purchasing services to the conservation corps agencies and present the system to the department for approval. The department shall select the administrative system which best meets the purposes of this chapter, and is cost-efficient. [1985 c 230 § 4.]

Sunset Act application: See note following chapter digest.

43.220.250 Reimbursement of nonprofit corporations for certain services. A nonprofit corporation which contracts with an agency listed in RCW 43.220.020 to provide a specific service, appropriate for the administration of this chapter which the agency cannot otherwise provide, may be reimbursed at the discretion of the agency for the reasonable costs the agency would absorb for providing those services. [1985 c 230 § 5.]

Sunset Act application: See note following chapter digest.

43.220.901 Severability—1983 1st ex.s. c 40. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 1st ex.s. c 40 § 24.]

43.220.902 Severability—1985 c 230. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 230 § 9.]

43.220.903 Severability—1987 c 367. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1987 c 367 § 6.]

Chapter 43.250

INVESTMENT OF LOCAL GOVERNMENT FUNDS

Sections

- 43.250.010 Purpose.
- 43.250.020 Definitions.
- 43.250.030 Public funds investment account.
- 43.250.040 Authority of local government official to place funds in the public funds investment account—Investment of funds by state treasurer—Degree of judgment and care required.
- 43.250.050 Employment of personnel.
- 43.250.060 Investment pool—Generally.
- 43.250.070 Investment pool—Separate accounts for participants—Monthly status report.
- 43.250.080 Annual summary of activity.
- 43.250.090 Administration of chapter—Rules.

Investment accounting: RCW 43.33A.180.

43.250.010 Purpose. The purpose of this chapter is to enable political subdivisions to participate with the state in providing maximum opportunities for the investment of surplus public funds consistent with the safety and protection of such funds. The legislature finds and declares that the public interest is found in providing maximum prudent investment of surplus funds, thereby reducing the need for additional taxation. The legislature also recognizes that not all political subdivisions are able to maximize the return on their temporary surplus funds. The legislature therefore provides in this chapter a mechanism whereby political subdivisions may, at their option, utilize the resources of the state treasurer's office to maximize the potential of surplus funds while ensuring the safety of public funds. [1986 c 294 § 1.]

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

(1) "Public funds investment account" or "investment pool" means the aggregate of all funds as defined in subsection (4) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "Political subdivision" means any county, city, town, municipal corporation, political subdivision, or special purpose taxing district in the state.

(3) "Local government official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision. However, the county treasurer shall be

deemed the only local government official for all political subdivisions for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(4) "Funds" means:

(a) Public funds under the control of or in the custody of any local government official by virtue of the official's authority that are not immediately required to meet current demands;

(b) State funds that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended. [1990 c 106 § 1; 1986 c 294 § 2.]

43.250.030 Public funds investment account. There is created a trust fund to be known as the public funds investment account. The account is to be separately accounted for and invested by the state treasurer. All moneys remitted under this chapter shall be deposited in this account. All earnings on any balances in the public funds investment account, less moneys for administration pursuant to RCW 43.250.060, shall be credited to the public funds investment account. [1991 sp.s. c 13 § 86; 1990 c 106 § 2; 1986 c 294 § 3.]

Effective dates—Severability—1991 sp.s. c 13: See notes following RCW 18.08.240.

43.250.040 Authority of local government official to place funds in the public funds investment account—Investment of funds by state treasurer—Degree of judgment and care required. If authorized by local ordinance or resolution, a local government official may place funds into the public funds investment account for investment and reinvestment by the state treasurer in those securities and investments set forth in RCW 43.84.080 and chapter 39.58 RCW. The state treasurer shall invest the funds in such manner as to effectively maximize the yield to the investment pool. In investing and reinvesting moneys in the public funds investment account and in acquiring, retaining, managing, and disposing of investments of the investment pool, there shall be exercised the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of the funds considering the probable income as well as the probable safety of the capital. [1986 c 294 § 4.]

43.250.050 Employment of personnel. The state treasurer's office is authorized to employ such personnel as are necessary to administer the public funds investment account. The bond of the state treasurer as required by law shall be made to include the faithful performance of all functions relating to the investment pool. [1986 c 294 § 5.]

43.250.060 Investment pool—Generally. The state treasurer shall by rule prescribe the time periods for investments in the investment pool and the procedure for withdrawal of funds from the investment pool. The state trea-

surer shall promulgate such other rules as are deemed necessary for the efficient operation of the investment pool. The rules shall also provide for the administrative expenses of the investment pool, including repayment of the initial administrative costs financed out of the appropriation included in chapter 294, Laws of 1986, to be paid from the pool's earnings and for the interest earnings in excess of the expenses to be credited or paid to participants in the pool. The state treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any funds appropriated and expended for the initial administrative costs of the pool. Any credits or payments to the participants shall be calculated and made in a manner which equitably reflects the differing amounts of the participants' respective deposits in the investment pool fund and the differing periods of time for which the amounts were placed in the investment pool. [1990 c 106 § 3; 1986 c 294 § 6.]

43.250.070 Investment pool—Separate accounts for participants—Monthly status report. The state treasurer shall keep a separate account for each participant having funds in the investment pool. Each separate account shall record the individual amounts deposited in the investment pool, the date of withdrawals, and the earnings credited or paid. The state treasurer shall report monthly the status of the respective account to each participant having funds in the pool during the previous month. [1990 c 106 § 4; 1986 c 294 § 7.]

43.250.080 Annual summary of activity. At the end of each fiscal year, the state treasurer shall submit to the governor, the state auditor, and the legislative budget committee a summary of the activity of the investment pool. The summary shall indicate the quantity of funds deposited; the earnings of the pool; the investments purchased, sold, or exchanged; the administrative expenses of the investment pool; and such other information as the state treasurer deems relevant. [1986 c 294 § 8.]

43.250.090 Administration of chapter—Rules. The state finance committee shall administer this chapter and adopt appropriate rules. [1986 c 294 § 9.]

Chapter 43.270

COMMUNITY MOBILIZATION AGAINST SUBSTANCE ABUSE

Sections

- 43.270.010 Intent.
- 43.270.020 Grant program—Activities funded.
- 43.270.030 Content of application.
- 43.270.040 Coordinated strategies.
- 43.270.050 Application requirements.
- 43.270.060 Criteria for making awards.
- 43.270.070 Community suggestions.
- 43.270.080 Gifts, grants, and endowments.
- 43.270.900 Severability—1989 c 271.

43.270.010 Intent. The legislature recognizes that state-wide efforts aimed at reducing the incidence of substance abuse must be increased. The legislature further

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recognizes that the most effective strategy for reducing the impact of alcohol and other drug abuse is through the collaborative efforts of educators, law enforcement, local government officials, local treatment providers, and concerned community and citizens' groups.

The legislature intends to support the development and activities of community mobilization strategies against substance abuse through the following efforts:

- (1) Provide funding support for prevention, treatment, and enforcement activities identified by communities that have brought together education, treatment, local government, law enforcement, and other key elements of the community;
- (2) Provide technical assistance and support to help communities develop and carry out effective activities; and
- (3) Provide communities with opportunities to share suggestions for state program operations and budget priorities. [1989 c 271 § 315.]

43.270.020 Grant program—Activities funded. There is established in the office of the governor a grant program to provide incentive for and support for communities to develop targeted and coordinated strategies to reduce the incidence and impact of substance abuse.

Activities which may be funded through this grant program include those which:

- (1) Prevent substance abuse through educational and self-esteem efforts, development of positive alternatives, intervention with high-risk groups, and other prevention strategies;
- (2) Support effective treatment by increasing access to and availability of treatment opportunities, particularly for underserved or highly impacted populations, developing aftercare and support mechanisms, and other strategies to increase the availability and effectiveness of treatment;
- (3) Provide meaningful consequences for participation in illegal activity and promote safe and healthy communities through support of law enforcement strategies;
- (4) Create or build on efforts by existing community programs, coordinate their efforts, and develop cooperative efforts or other initiatives to make most effective use of resources to carry out the community's strategy against substance abuse; and
- (5) Other activities which demonstrate both feasibility and a rationale for how the activity will achieve measurable results in the strategy against substance abuse. [1989 c 271 § 316.]

Report to legislature—1989 c 271 § 316: "The governor shall report to the legislature by January 1, 1991, regarding the operations of the grant program authorized in section 316 of this act. At a minimum, the report shall include the following:

- (1) Number of grants awarded and the amount of each grant;
- (2) Recipients of grants, including the communities in which they are based;
- (3) Purposes for which the grants were awarded;
- (4) Success of the projects in achieving their stated goals and objectives;
- (5) An assessment of the effect that the activities of *this act had on encouraging and supporting coordinated community action against substance abuse;
- (6) Recommendations for further funding by the state; and
- (7) Recommendations regarding future operations of the program, including criteria for awarding grants." [1989 c 271 § 324.] For codification of "this act" [1989 c 271], see Codification Tables, Volume 0.

43.270.030 Content of application. Applications for funding under this chapter must:

- (1) Demonstrate that the community has developed and is committed to carrying out a coordinated strategy of prevention, treatment, and law enforcement activities; and
- (2) Contain evidence of active participation of the community and specific commitments to implementing the community-wide agenda by leadership from at least education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, or other community efforts provide direct, ongoing contact with substance abusers. [1989 c 271 § 317.]

43.270.040 Coordinated strategies. This grant program will be available to communities of any geographic size but will encourage and reward communities which develop coordinated or complimentary strategies within geographic areas such as county areas or groups of county areas which correspond to units of government with significant responsibilities in the area of substance abuse, existing coalitions, or other entities important to the success of a community's strategy against substance abuse. [1989 c 271 § 318.]

43.270.050 Application requirements. At a minimum, grant applications must include the following:

- (1) Definition of geographic area;
- (2) A description of the extent and impact of substance abuse in the community, including an explanation of those who are most severely impacted and those most at risk of substance abuse;
- (3) An explanation of the community-wide strategy for prevention, treatment, and law enforcement activities related to substance abuse with particular attention to those who are most severely impacted and those most at risk of substance abuse;
- (4) Explanation of who was involved in development of the strategy and what specific commitments have been made to carrying it out;
- (5) Identification of existing prevention, treatment, and law enforcement resources committed by the community, including financial and other support, and an explanation of how the community's strategy involves and builds on the efforts of existing organizations or coalitions that have been carrying out community efforts against substance abuse;
- (6) Identification of activities that address specific objectives in the strategy for which additional resources are needed;
- (7) Identification of additional local resources, including public or private funds, donated goods or services, and other measurable commitments, that have been committed to the activities identified in subsection (6) of this section;
- (8) Identification of activities which address specific objectives in the strategy for which funding is requested. Activities should be presented in priority order;

(9) Each activity for which funding is requested must be explained in sufficient detail to demonstrate:

- (a) Feasibility through deliberative design, specific objectives, and realistic plan for implementation;
- (b) A rationale for how this activity will achieve measurable results and how it will be evaluated;
- (c) That funds requested are necessary and appropriate to effectively carry out the activity; and
- (10) Identification of a fiscal agent meeting state requirements for each activity proposed for funding. [1989 c 271 § 319.]

43.270.060 Criteria for making awards. The governor shall make awards, subject to funds appropriated by the legislature, under the following terms:

- (1) In order to be eligible for consideration, applications must demonstrate, at a minimum:
 - (a) That proposals submitted for funding are based on and address specific objectives contained in a coordinated strategy of prevention, treatment, and law enforcement against substance abuse;
 - (b) Evidence of active participation in preparation of the proposal and specific commitments to implementing the community-wide agenda by leadership from at least education, law enforcement, local government, tribal government, and treatment entities in the community, and the opportunity for meaningful involvement from others such as neighborhood and citizen groups, businesses, human service, health and job training organizations, and other key elements of the community, particularly those whose responsibilities in law enforcement, treatment, prevention, or other community efforts provide direct, ongoing contact with substance abusers, or those at risk for substance abuse;
 - (c) That they have met the requirements listed in RCW 43.270.050;
 - (d) Evidence of additional local resources committed to its strategy totaling at least twenty-five percent of funds awarded under this section. These resources may consist of public or private funds, donated goods or services, and other measurable commitments, including in-kind contributions such as volunteer services, materials, supplies, physical facilities or a combination thereof; and
 - (e) That the funds applied for, if received, will not be used to replace funding for existing activities.
- (2) In order to encourage and reward communities which develop coordinated or complementary strategies within geographic areas which correspond to units of government with significant responsibilities in the area of substance abuse, up to fifty percent of funds appropriated for the purposes of this chapter may be awarded on a per capita basis to eligible applications reflecting coordinated strategy from a county area or group of county areas. The governor may establish minimum allotments per eligible county areas up to fifteen thousand dollars; and
- (3) No less than fifty percent of funds appropriated under this chapter shall be awarded on a competitive basis for activities by communities not participating in a county-wide strategy and activities identified by county-wide strategies but not funded through per capita grants. Eligible applications will be assessed and compared by a peer review committee whose members have experience in prevention,

treatment, law enforcement, and other community efforts against substance abuse using the following criteria:

- (a) The extent and impact of substance abuse;
- (b) The extent to which key elements of the community are involved in and committed to the coordinated strategy;
- (c) The extent of commitments of local resources to the coordinated strategy;
- (d) The extent to which any activities in a community's strategy offer an innovative approach to a chronic, widespread problem.

The peer review committee will advise the governor on the extent to which each eligible applicant has met these criteria. The governor will distribute available funds based on this information.

(4) The governor shall distribute fifty percent of the initial appropriation for the purposes of this chapter no later than October 1, 1989, and the remainder no later than July 1, 1990.

(5) Activities funded under this section may be considered for funding in future years, but will be considered under the same terms and criteria of new activities. Funding under this section shall not constitute an obligation by the state of Washington to provide ongoing funding. [1989 c 271 § 320.]

43.270.070 Community suggestions. The governor shall ask communities for suggestions on state practices, policies, and priorities that would help communities implement their strategies against substance abuse. The governor or appropriate agency officials shall review and respond to those suggestions making necessary changes where feasible, making recommendations to the legislature where appropriate, and providing an explanation as to why suggested changes cannot be accomplished, if the suggestions cannot be acted upon. [1989 c 271 § 321.]

43.270.080 Gifts, grants, and endowments. The governor may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of RCW 43.270.010 through 43.270.080 and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1989 c 271 § 322.]

43.270.900 Severability—1989 c 271. See note following RCW 9.94A.310.

Chapter 43.280

COMMUNITY TREATMENT SERVICES FOR VICTIMS OF SEX OFFENDERS

Sections

- 43.280.010 Intent.
- 43.280.020 Grant program—Funding priority.
- 43.280.030 Applications.
- 43.280.040 Organizations eligible.
- 43.280.050 Applications—Minimum requirements.
- 43.280.060 Awarding of grants—Peer review committee.
- 43.280.070 Gifts, grants, and endowments.
- 43.280.900 Index, part headings not law—1990 c 3.
- 43.280.901 Severability—1990 c 3.

43.280.902 Effective dates—Application—1990 c 3.

43.280.010 Intent. The legislature recognizes the need to increase the services available to the victims of sex offenders. The legislature also recognizes that these services are most effectively planned and provided at the local level through the combined efforts of concerned community and citizens groups, treatment providers, and local government officials. The legislature further recognizes that adequate treatment for victims is not only a matter of justice for the victim, but also a method by which additional abuse can be prevented.

The legislature intends to enhance the community-based treatment services available to the victims of sex offenders by:

- (1) Providing funding support for local treatment programs which provide services to victims of sex offenders;
- (2) Providing technical assistance and support to help communities plan for and provide treatment services; and
- (3) Providing communities and local treatment providers with opportunities to share information about successful prevention and treatment programs. [1990 c 3 § 1201.]

43.280.020 Grant program—Funding priority. There is established in the *department of community development a grant program to enhance the funding for treating the victims of sex offenders. Activities that can be funded through this grant program are limited to those that:

- (1) Provide effective treatment to victims of sex offenders;
- (2) Increase access to and availability of treatment for victims of sex offenders, particularly if from underserved populations; and
- (3) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

Funding priority shall be given to those applicants that represent well-established existing programs and applicants that represent new programs that are being created in geographic areas where no programs presently exist. [1990 c 3 § 1203.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.280.030 Applications. Applications for funding under this chapter must:

- (1) Present evidence demonstrating how the criteria in RCW 43.280.010 will be met and demonstrating the effectiveness of the proposal.
- (2) Contain evidence of active participation of the community and its commitment to providing an effective treatment service for victims of sex offenders through the participation of local governments, tribal governments, human service and health organizations, and treatment entities and through meaningful involvement from others, including citizen groups. [1990 c 3 § 1204.]

43.280.040 Organizations eligible. Local governments, nonprofit community groups, and nonprofit treatment providers including organizations which provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants under the program established in RCW 43.280.020. [1990 c 3 § 1205.]

43.280.050 Applications—Minimum requirements. At a minimum, grant applications must include the following:

- (1) The geographic area from which the victims to be served are expected to come;
- (2) A description of the extent and effect of the needs of these victims within the relevant geographic area;
- (3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;
- (4) An explanation of what organizations were involved in the development of the proposal; and
- (5) An evaluation methodology. [1990 c 3 § 1206.]

43.280.060 Awarding of grants—Peer review committee. (1) Subject to funds appropriated by the legislature, the *department of community development shall make awards under the grant program established by RCW 43.280.020.

(2) Awards shall be made competitively based on the purposes of and criteria in this chapter.

(3) To aid the *department of community development in making its determination, the department shall form a peer review committee comprised of the executive administrator for the **crime victims' advocacy office and individuals who have experience in the treatment of victims of predatory violent sex offenders. The peer review committee shall advise the department on the extent to which each eligible applicant meets the purposes and criteria of this chapter. The department shall consider this advice in making awards.

(4) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding. [1990 c 3 § 1207.]

Reviser's note: *(1) Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

***(2) The section creating the crime victims' advocacy office, 1990 c 3 § 1202, was vetoed by the governor.

43.280.070 Gifts, grants, and endowments. The *department of community development may receive such gifts, grants, and endowments from public or private sources as may be made from time to time, in trust or otherwise, for the use and benefit of the purposes of this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments. [1990 c 3 § 1208.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic

development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.280.900 Index, part headings not law—1990 c 3. See RCW 18.155.900.

43.280.901 Severability—1990 c 3. See RCW 18.155.901.

43.280.902 Effective dates—Application—1990 c 3. See RCW 18.155.902.

Chapter 43.290

OFFICE OF INTERNATIONAL RELATIONS AND PROTOCOL

Sections

43.290.005 Finding—Purpose.

43.290.010 Office created.

43.290.020 Authority of office.

43.290.900 Effective date—1991 c 24.

43.290.005 Finding—Purpose. The legislature finds that it is in the public interest to create an office of international relations and protocol in order to: Make international relations and protocol a broad-based, focused, and functional part of state government; develop and promote state policies that increase international literacy and cross-cultural understanding among Washington state's citizens; expand Washington state's international cooperation role in such areas as the environment, education, science, culture, and sports; establish coordinated methods for responding to the increasing number of inquiries by foreign governments and institutions seeking cooperative activities within Washington state; provide leadership in state government on international relations and assistance to the legislature and state elected officials on international issues affecting the state; assist with multistate international efforts; and coordinate and improve communication and resource sharing among various state offices, agencies, and educational institutions with international programs.

It is the purpose of this chapter to bring these functions together in a new office under the office of the governor in order to establish a visible, coordinated, and comprehensive approach to international relations and protocol. [1991 c 24 § 1.]

Transfer of authority—1991 c 24: "All powers, duties, and functions of the office of international relations and protocol in the department of trade and economic development are transferred to the office of international relations and protocol under the office of the governor." [1991 c 24 § 8.]

43.290.010 Office created. The office of international relations and protocol is created under the office of the governor. The office shall serve as the state's official liaison and protocol office with foreign governments. The governor shall appoint a director of the office of international relations and protocol, who shall serve at the pleasure of the governor. Because of the diplomatic character of this office, the director and staff will be exempt from the provisions of chapter 41.06 RCW. The director will be paid a salary to be

fixed by the governor in accordance with the provisions of RCW 43.03.040. The director may hire such personnel as may be necessary for the general administration of the office. To the extent permitted by law, state agencies may temporarily loan staff to the office of international relations and protocol to assist in carrying out the office's duties and responsibilities under this chapter. An arrangement to temporarily loan staff must have the approval of the staff members to be loaned and the directors of the office and the agencies involved in the loan. [1991 c 24 § 2.]

43.290.020 Authority of office. The office of international relations and protocol may:

(1) Create temporary advisory committees as necessary to deal with specific international issues. Advisory committee representation may include external organizations such as the Seattle consular corps, world affairs councils, public ports, world trade organizations, private nonprofit organizations dealing with international education or international environmental issues, organizations concerned with international understanding, businesses with experience in international relations, or other organizations deemed appropriate by the director.

(2) Accept or request grants or gifts from citizens and other private sources to be used to defray the costs of appropriate hosting of foreign dignitaries, including appropriate gift-giving and reciprocal gift-giving, or other activities of the office. The office shall open and maintain a bank account into which it shall deposit all money received under this subsection. Such money and the interest accruing thereon shall not constitute public funds, shall be kept segregated and apart from funds of the state, and shall not be subject to appropriation or allotment by the state or subject to chapter 43.88 RCW. [1991 c 24 § 4.]

43.290.900 Effective date—1991 c 24. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1991. [1991 c 24 § 15.]

Chapter 43.300

DEPARTMENT OF FISH AND WILDLIFE

Sections

- 43.300.005 Purpose.
- 43.300.010 Department created—Transfer of powers, duties, and functions.
- 43.300.020 Definitions.
- 43.300.030 Director.
- 43.300.040 Director's duties.
- 43.300.050 Exempt positions.
- 43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79.
- 43.300.901 Severability—1993 sp.s. c 2.

43.300.005 Purpose. Perpetuation of fish and wildlife in Washington requires clear, efficient, streamlined, scientific, management from a single state fish and wildlife agency. Such a consolidation will focus existing funds for the greatest protection of species and stocks. It will bring combined resources to bear on securing, managing, and enhancing habitats. It will simplify licensing, amplify

research, increase field staff, avoid duplication, and magnify enforcement of laws and rules. It will provide all fishers, hunters, and observers of fish and wildlife with a single source of consistent policies, procedures, and access. [1993 sp.s. c 2 § 1.]

43.300.010 Department created—Transfer of powers, duties, and functions. There is hereby created a department of state government to be known as the department of fish and wildlife. The department shall be vested with all powers and duties transferred to it under this chapter and such other powers and duties as may be authorized by law. All powers, duties, and functions of the department of fisheries and the department of wildlife are transferred to the department of fish and wildlife. All references in the Revised Code of Washington to the director or the department of fisheries or the director or department of wildlife shall be construed to mean the director or department of fish and wildlife. [1993 sp.s. c 2 § 2.]

43.300.020 Definitions. As used in this chapter, unless the context indicates otherwise:

- (1) "Department" means the department of fish and wildlife.
- (2) "Director" means the director of fish and wildlife.
- (3) "Commission" means the fish and wildlife commission. [1993 sp.s. c 2 § 3.]

43.300.030 Director. The executive head and appointing authority of the department shall be the director. The director shall be appointed by the governor, with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 sp.s. c 2 § 4.]

43.300.040 Director's duties. In addition to other powers and duties granted or transferred to the director, the director shall have the following powers and duties:

- (1) Supervise and administer the department in accordance with law;
- (2) Appoint personnel and prescribe their duties. Except as otherwise provided, personnel of the department are subject to chapter 41.06 RCW, the state civil service law;
- (3) Enter into contracts on behalf of the agency;
- (4) Adopt rules in accordance with chapter 34.05 RCW, the administrative procedure act;
- (5) Delegate powers, duties, and functions as the director deems necessary for efficient administration but the director shall be responsible for the official acts of the officers and employees of the department;
- (6) Appoint advisory committees and undertake studies, research, and analysis necessary to support the activities of the department;
- (7) Accept and expend grants, gifts, or other funds to further the purposes of the department;
- (8) Carry out the policies of the governor and the basic goals and objectives as prescribed by the fish and wildlife commission pursuant to RCW 77.04.055; and
- (9) Perform other duties as are necessary and consistent with law. [1993 sp.s. c 2 § 5.]

43.300.050 Exempt positions. The director shall appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW. [1993 sp.s. c 2 § 6.]

43.300.900 Effective date—1993 sp.s. c 2 §§ 1-6, 8-59, and 61-79. Sections 1 through 6, 8 through 59, and 61 through 79, chapter 2, Laws of 1993 sp. sess. shall take effect March 1, 1994. [1994 c 6 § 4; 1993 sp.s. c 2 § 102.]

43.300.901 Severability—1993 sp.s. c 2. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1993 sp.s. c 2 § 106.]

Chapter 43.310 YOUTH GANGS

Sections

- 43.310.005 Finding.
- 43.310.007 Intent—Prevention and intervention pilot programs.
- 43.310.010 Definitions.
- 43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals.
- 43.310.030 Gang risk prevention and intervention pilot programs—Scope.
- 43.310.040 Cultural awareness retreats.

43.310.005 Finding. The legislature finds and declares that:

(1) The number of youth who are members and associates of gangs and commit gang violence has significantly increased throughout the entire greater Puget Sound, Spokane, and other areas of the state;

(2) Youth gang violence has caused a tremendous strain on the progress of the communities impacted. The loss of life, property, and positive opportunity for growth caused by youth gang violence has reached intolerable levels. Increased youth gang activity has seriously strained the budgets of many local jurisdictions, as well as threatened the ability of the educational system to educate our youth;

(3) Among youth gang members the high school drop-out rate is significantly higher than among nongang members. Since the economic future of our state depends on a highly educated and skilled work force, this high school drop-out rate threatens the economic welfare of our future work force, as well as the future economic growth of our state;

(4) The unemployment rate among youth gang members is higher than that among the general youth population. The unusual unemployment rate, lack of education and skills, and the increased criminal activity could significantly impact our future prison population;

(5) Most youth gangs are subcultural. This implies that gangs provide the nurturing, discipline, and guidance to gang youth and potential gang youth that is generally provided by communities and other social systems. The subcultural designation means that youth gang participation and violence can be effectively reduced in Washington communities and schools through the involvement of community, educational,

criminal justice, and employment systems working in a unified manner with parents and individuals who have a firsthand knowledge of youth gangs and at-risk youth; and

(6) A strong unified effort among parents and community, educational, criminal justice, and employment systems would facilitate: (a) The learning process; (b) the control and reduction of gang violence; (c) the prevention of youth joining negative gangs; and (d) the intervention into youth gangs. [1993 c 497 § 1.]

43.310.007 Intent—Prevention and intervention pilot programs. It is the intent of the legislature to cause the development of positive prevention and intervention pilot programs for elementary and secondary age youth through cooperation between individual schools, local organizations, and government. It is also the intent of the legislature that if the prevention and intervention pilot programs are determined to be effective in reducing problems associated with youth gang violence, that other counties in the state be eligible to receive special state funding to establish similar positive prevention and intervention programs. [1993 c 497 § 2.]

43.310.010 Definitions. Unless the context otherwise requires, the following definitions shall apply throughout RCW 43.310.005 through 43.310.040 and *sections 5 and 7 through 10, chapter 497, Laws of 1993:

(1) "School" means any public school within a school district any portion of which is in a county with a population of over one hundred ninety thousand.

(2) "Community organization" means any organization recognized by a city or county as such, as well as private, nonprofit organizations registered with the secretary of state.

(3) "Gang risk prevention and intervention pilot program" means a community-based positive prevention and intervention program for gang members, potential gang members, at-risk youth, and elementary through high school-aged youth directed at all of the following:

(a) Reducing the probability of youth involvement in gang activities and consequent violence.

(b) Establishing ties, at an early age, between youth and community organizations.

(c) Committing local business and community resources to positive programming for youth.

(d) Committing state resources to assist in creating the gang risk prevention and intervention pilot programs.

(4) "Cultural awareness retreat" means a program that temporarily relocates at-risk youth or gang members and their parents from their usual social environment to a different social environment, with the specific purpose of having them performing activities which will enhance or increase their positive behavior and potential life successes. [1993 c 497 § 3.]

***Reviser's note:** Sections 5 and 7 through 10, chapter 497, Laws of 1993 were vetoed by the governor.

43.310.020 Gang risk prevention and intervention pilot programs—Request for proposals. (1) The *department of community development may recommend existing programs or contract with either school districts or community organizations, or both, through a request for proposal

process for the development, administration, and implementation in the county of community-based gang risk prevention and intervention pilot programs.

(2) Proposals by the school district for gang risk prevention and intervention pilot program grant funding shall begin with school years no sooner than the 1994-95 session, and last for a duration of two years.

(3) The school district or community organization proposal shall include:

(a) A description of the program goals, activities, and curriculum. The description of the program goals shall include a list of measurable objectives for the purpose of evaluation by the *department of community development. To the extent possible, proposals shall contain empirical data on current problems, such as drop-out rates and occurrences of violence on and off campus by school-age individuals.

(b) A description of the individual school or schools and the geographic area to be affected by the program.

(c) A demonstration of broad-based support for the program from business and community organizations.

(d) A clear description of the experience, expertise, and other qualifications of the community organizations to conduct an effective prevention and intervention program in cooperation with a school or a group of schools.

(e) A proposed budget for expenditure of the grant.

(4) Grants awarded under this section may not be used for the administrative costs of the school district or the individual school. [1993 c 497 § 4.]

***Reviser's note:** Powers, duties, and functions of the department of community development and the department of trade and economic development were transferred to the department of community, trade, and economic development by 1993 c 280, effective July 1, 1994.

43.310.030 Gang risk prevention and intervention pilot programs—Scope. Gang risk prevention and intervention pilot programs shall include, but are not limited to:

(1) Counseling for targeted at-risk students, parents, and families, individually and collectively.

(2) Exposure to positive sports and cultural activities, promoting affiliations between youth and the local community.

(3) Job training, which may include apprentice programs in coordination with local businesses, job skills development at the school, or information about vocational opportunities in the community.

(4) Positive interaction with local law enforcement personnel.

(5) The use of local organizations to provide job search training skills.

(6) Cultural awareness retreats.

(7) The use of specified state resources, as requested.

(8) Full service schools under *section 9 of this act.

(9) Community service such as volunteerism and citizenship. [1993 c 497 § 6.]

***Reviser's note:** Section 9, chapter 497, Laws of 1993 was vetoed by the governor.

43.310.040 Cultural awareness retreats. Cultural awareness retreats shall include but are not limited to the following programs:

(1) To develop positive attitudes and self-esteem.

(2) To develop youth decision-making ability.

(3) To assist with career development and educational development.

(4) To help develop respect for the community, and ethnic origin. [1993 c 497 § 11.]

Chapter 43.320

DEPARTMENT OF FINANCIAL INSTITUTIONS

Sections

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43.320.030	Director—Qualifications—Conflicts of interest.
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43.320.080	Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds.
43.320.090	Borrowing money by director, deputy, or employee—Penalty.
43.320.100	Annual report—Contents.
43.320.110	Banking examination fund.
43.320.120	Credit unions examination fund.
43.320.130	Securities regulation fund.
43.320.900	Effective date—1993 c 472.
43.320.901	Implementation—1993 c 472.

43.320.005 Finding. The legislature finds that, given the overlap of powers and products in the companies regulated, the consolidation of the agencies regulating financial institutions and securities into one department will better serve the public interest through more effective use of staff expertise. Therefore, for the convenience of administration and the centralization of control and the more effective use of state resources and expertise, the state desires to combine the regulation of financial institutions and securities into one department. [1993 c 472 § 1.]

43.320.007 Regulatory reform—Findings—Construction—1994 c 256. (1) The legislature finds that the financial services industry is experiencing a period of rapid change with the development and delivery of new products and services and advances in technology.

(2) The legislature further finds it in the public interest to strengthen the regulation, supervision, and examination of business entities furnishing financial services to the people of this state and that this can be accomplished by streamlining and focusing regulation to reduce costs, increase effective

tiveness, and foster efficiency by eliminating requirements that are not necessary for the protection of the public.

(3) The provisions of chapter 256, Laws of 1994 should not be construed to limit the ability of the director of financial institutions to implement prudent regulation, prevent unsafe, unsound, and fraudulent practices, and undertake necessary enforcement actions to protect the public and promote the public interest. [1994 c 256 § 1.]

43.320.010 Department created. A state department of financial institutions, headed by the director of financial institutions, is created. The department shall be organized and operated in a manner that to the fullest extent permissible under applicable law protects the public interest, protects the safety and soundness of depository institutions and entities under the jurisdiction of the department, ensures access to the regulatory process for all concerned parties, and protects the interests of investors. The department of financial institutions shall be structured to reflect the unique differences in the types of institutions and areas it regulates. [1993 c 472 § 2.]

43.320.011 Department of general administration and department of licensing powers and duties transferred. (1) All powers, duties, and functions of the department of general administration under Titles 30, 31, 32, 33, and 43 RCW and any other title pertaining to duties relating to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, and other similar institutions are transferred to the department of financial institutions. All references to the director of general administration, supervisor of banking, or the supervisor of savings and loan associations in the Revised Code of Washington are construed to mean the director of the department of financial institutions when referring to the functions transferred in this section. All references to the department of general administration in the Revised Code of Washington are construed to mean the department of financial institutions when referring to the functions transferred in this subsection.

(2) All powers, duties, and functions of the department of licensing under chapters 19.100, 19.110, 21.20, 21.30, and 48.18A RCW and any other statute pertaining to the regulation of securities, franchises, business opportunities, commodities, and any other speculative investments are transferred to the department of financial institutions. All references to the director or department of licensing in the Revised Code of Washington are construed to mean the director or department of financial institutions when referring to the functions transferred in this subsection. [1993 c 472 § 6.]

43.320.012 Department of general administration and department of licensing equipment, records, funds transferred. All reports, documents, surveys, books, records, files, papers, or other written or electronically stored material in the possession of the department of general administration or the department of licensing and pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be delivered to the custody of the depart-

ment of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property purchased by the division of banking and the division of savings and loan in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be transferred to the department of financial institutions. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of licensing in carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall be made available to the department of financial institutions. All funds, credits, or other assets held by the department of general administration or the department of licensing in connection with the powers, functions, and duties transferred by RCW 43.320.011 shall be assigned to the department of financial institutions.

Any appropriations made to the department of general administration or the department of licensing for carrying out the powers, functions, and duties transferred by RCW 43.320.011 shall, on October 1, 1993, be transferred and credited to the department of financial institutions.

If a dispute arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned. [1993 c 472 § 7.]

43.320.013 Department of general administration and department of licensing civil service employees transferred. All employees classified under chapter 41.06 RCW, the state civil service law, who are employees of the department of general administration or the department of licensing engaged in performing the powers, functions, and duties transferred by RCW 43.320.011 are transferred to the department of financial institutions. All such employees are assigned to the department of financial institutions to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service. [1993 c 472 § 9.]

43.320.014 Department of general administration or department of licensing rules, business, contracts, and obligations continued. All rules and all pending business before the department of general administration or the department of licensing pertaining to the powers, functions, and duties transferred by RCW 43.320.011 shall be continued and acted upon by the department of financial institutions. All existing contracts and obligations shall remain in full force and shall be performed by the department of financial institutions. [1993 c 472 § 10.]

43.320.015 Department of general administration and department of licensing—Validity of acts. The transfer of the powers, duties, functions, and personnel of the department of general administration or the department of licensing under RCW 43.320.011 through 43.320.014 does not affect the validity of any act performed by such an employee before October 1, 1993. [1993 c 472 § 11.]

43.320.016 Apportionment of budgeted funds. If apportionments of budgeted funds are required because of the transfers directed by RCW 43.320.011 through 43.320.015, the director of financial management shall certify the apportionments to the agencies affected, to the state auditor, and to the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification. [1993 c 472 § 12.]

43.320.017 Collective bargaining agreements. Nothing contained in RCW 43.320.011 through 43.320.015 may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the expiration date of the current agreement or until the bargaining unit has been modified by action of the *personnel board as provided by law. [1993 c 472 § 13.]

***Reviser's note:** Powers, duties, and functions of the higher education personnel board and the state personnel board were transferred to the Washington personnel resources board by 1993 c 281, effective July 1, 1994.

43.320.020 Director—Salary—Powers and duties—Examiners, assistants, personnel. The director of financial institutions shall be appointed by the governor and shall exercise all powers and perform all of the duties and functions transferred under RCW 43.320.011, and such other powers and duties as may be authorized by law. The director may deputize, appoint, and employ examiners and other such assistants and personnel as may be necessary to carry on the work of the department. The director of financial institutions shall receive a salary in an amount fixed by the governor. [1993 c 472 § 3.]

43.320.030 Director—Qualifications—Conflicts of interest. A person is not eligible for appointment as director of financial institutions unless he or she is, and for the last two years before his or her appointment has been, a citizen of the United States. A person is not eligible for appointment as director of financial institutions if he or she has an interest at the time of appointment, as a director, trustee, officer, or stockholder in any bank, savings bank, savings and loan association, credit union, consumer loan company, trust company, securities broker-dealer or investment advisor, or other institution regulated by the department. [1993 c 472 § 4.]

43.320.040 Director's authority to adopt rules. The director of financial institutions may adopt any rules, under chapter 34.05 RCW, necessary to implement the powers and duties of the director under this chapter. [1993 c 472 § 5.]

43.320.050 Assistant directors—Divisions—"FDIC" defined. The director of financial institutions may appoint assistant directors for each of the divisions of the department and delegate to them the power to perform any act or duty conferred upon the director. The director is responsible for the official acts of these assistant directors.

The department of financial institutions shall consist of at least the following four divisions: The division of FDIC

insured institutions, with regulatory authority over all state-chartered FDIC insured institutions; the division of credit unions, with regulatory authority over all state-chartered credit unions; the division of consumer affairs, with regulatory authority over state-licensed nondepository lending institutions and other regulated entities; and the division of securities, with regulatory authority over securities, franchises, business opportunities, and commodities. The director of financial institutions is granted broad administrative authority to add additional responsibilities to these divisions as necessary and consistent with applicable law.

For purposes of this section, "FDIC" means the Federal Deposit Insurance Corporation. [1993 c 472 § 8.]

43.320.060 Deputization of assistant to exercise powers and duties of director. The director of financial institutions shall appoint, deputize, and employ examiners and such other assistants and personnel as may be necessary to carry on the work of the department of financial institutions.

In the event of the director's absence the director shall have the power to deputize one of the assistants of the director to exercise all the powers and perform all the duties prescribed by law with respect to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, trust companies and departments, securities, franchises, business opportunities, commodities, and other similar institutions or areas that are performed by the director so long as the director is absent: PROVIDED, That such deputized assistant shall not have the power to approve or disapprove new charters, licenses, branches, and satellite facilities, unless such action has received the prior written approval of the director. Any person so deputized shall possess the same qualifications as those set out in this section for the director. [1993 c 472 § 20; 1977 ex.s. c 185 § 1; 1965 c 8 § 43.19.020. Prior: 1955 c 285 § 5; prior: (i) 1919 c 209 § 2; 1917 c 80 § 2; RRS § 3209. (ii) 1945 c 123 § 1; 1935 c 176 § 12; Rem. Supp. 1945 § 10786-11. Formerly RCW 43.19.020.]

43.320.070 Oath of examiners—Liability for acts performed in good faith. Before entering office each examiner shall take and subscribe an oath faithfully to discharge the duties of the office.

Oaths shall be filed with the secretary of state.

Neither the director of financial institutions, any deputized assistant of the director, nor any examiner or employee shall be personally liable for any act done in good faith in the performance of his or her duties. [1993 c 472 § 21; 1977 ex.s. c 270 § 8; 1975 c 40 § 7; 1965 c 8 § 43.19.030. Prior: 1943 c 217 § 1; 1919 c 209 § 3; 1917 c 80 § 3; Rem. Supp. 1943 § 3210. Formerly RCW 43.19.030.]

Construction—1977 ex.s. c 270: See RCW 43.19.19364.

Powers and duties of director of general administration as to official bonds: RCW 43.19.540.

43.320.080 Director to maintain office in Olympia—Record of receipts and disbursements—Deposit of funds. The director of financial institutions shall maintain an office

at the state capitol, but may with the consent of the governor also maintain branch offices at other convenient business centers in this state. The director shall keep books of record of all moneys received or disbursed by the director into or from the banking examination fund, the credit union examination fund, the securities regulation fund, and any other accounts maintained by the department of financial institutions. [1993 c 472 § 22; 1965 c 8 § 43.19.050. Prior: 1917 c 80 § 4; RRS § 3211. Formerly RCW 43.19.050.]

43.320.090 Borrowing money by director, deputy, or employee—Penalty. (1) It shall be unlawful for the director of financial institutions, any deputized assistant of the director, or any employee of the department of financial institutions to borrow money from any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, or trust company or department, securities broker-dealer or investment advisor, or similar lending institution under the department's direct jurisdiction unless the extension of credit:

(a) Is made on substantially the same terms (including interest rates and collateral) as, and following credit underwriting procedures that are not less stringent than, those prevailing at the time for comparable transactions by the financial institution with other persons that are not employed by either the department or the institution; and

(b) Does not involve more than the normal risk of repayment or present other unfavorable features.

(2) The director of the office of financial management shall adopt rules, policies, and procedures interpreting and implementing this section.

(3) Every person who knowingly violates this section shall forfeit his or her office or employment and be guilty of a gross misdemeanor. [1993 c 472 § 23; 1965 c 8 § 43.19.080. Prior: 1917 c 80 § 11; RRS § 3218. Formerly RCW 43.19.080.]

43.320.100 Annual report—Contents. The director of financial institutions shall file in his or her office all reports required to be made to the director, prepare and furnish to banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments blank forms for such reports as are required of them, and each year make a report to the governor showing:

(1) A summary of the conditions of the banks, savings banks, foreign bank branches, savings and loan associations, credit unions, consumer loan companies, check cashers and sellers, and trust companies and departments at the date of their last report; and

(2) A list of those organized or closed during the year.

The director may publish such other statements, reports, and pamphlets as he or she deems advisable. [1993 c 472 § 24; 1977 c 75 § 43; 1965 c 8 § 43.19.090. Prior: 1917 c 80 § 13; RRS § 3220. Formerly RCW 43.19.090.]

43.320.110 Banking examination fund. There is created a local fund known as the "banking examination fund" which shall consist of all moneys received by the department of financial institutions from banks, savings

banks, foreign bank branches, savings and loan associations, consumer loan companies, check cashers and sellers, and trust companies and departments, and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the proper regulation of these companies. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1993 c 472 § 25; 1981 c 241 § 1. Formerly RCW 43.19.095.]

Effective date—1981 c 241: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1981." [1981 c 241 § 4.]

43.320.120 Credit unions examination fund. There is created a local fund known as the "credit unions examination fund" which shall consist of all moneys received by the department of financial institutions from credit unions and which shall be used for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of these institutions. The state treasurer shall be the custodian of the fund. Disbursements from the fund shall be on authorization of the director of financial institutions or the director's designee. In order to maintain an effective expenditure and revenue control, the fund shall be subject in all respects to chapter 43.88 RCW, but no appropriation is required to permit expenditures and payment of obligations from the fund. [1993 c 472 § 26; 1981 c 241 § 2. Formerly RCW 43.19.112.]

Effective date—1981 c 241: See note following RCW 43.19.095.

43.320.130 Securities regulation fund. There is created in the state treasury a fund known as the "securities regulation fund" that shall consist of thirteen percent of all moneys received by the division of securities of the department of financial institutions. Expenditures from the account may be used only for the purchase of supplies and necessary equipment and the payment of salaries, wages, utilities, and other incidental costs required for the regulation of securities, franchises, business opportunities, commodities, and other similar areas regulated by the division. Moneys in the account may be spent only after appropriation. [1993 c 472 § 27.]

43.320.900 Effective date—1993 c 472. This act takes effect October 1, 1993. [1993 c 472 § 31.]

43.320.901 Implementation—1993 c 472. The directors of the department of general administration and the department of licensing shall take such steps as are necessary to ensure that this act is implemented on October 1, 1993. [1993 c 472 § 32.]

Chapter 43.330

DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT

Sections

- 43.330.005 Intent.
- 43.330.007 Management responsibility.
- 43.330.010 Definitions.
- 43.330.020 Department created.
- 43.330.030 Director—Appointment—Salary.
- 43.330.040 Director powers and duties.
- 43.330.050 Community and economic development responsibilities.
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- 43.330.070 Local development capacity—Training and technical assistance.
- 43.330.080 Coordination of community and economic development services—Contracts with associate development organizations—Targeted sectors.
- 43.330.090 Economic diversification strategies—Tourism expansion—Targeted sectors.
- 43.330.100 Local infrastructure and public facilities—Grants and loans.
- 43.330.110 Housing—Energy assistance.
- 43.330.120 Growth management.
- 43.330.130 Services to poor and disadvantaged persons—Preschool children—Substance abuse—Family services—Fire protection and emergency management.
- 43.330.140 Washington quality award council—Organization—Duties—Expiration.
- 43.330.150 Fees—Conferences, workshops, training.
- 43.330.152 Fees—Service and product delivery areas.
- 43.330.155 Community and economic development fee account.
- 43.330.156 Fees—Adoption by rule.
- 43.330.900 References to director and department.
- 43.330.901 Captions.
- 43.330.902 Effective date—1993 c 280.
- 43.330.902 Effective date—1994 c 5.
- 43.330.903 Severability—1993 c 280.

43.330.005 Intent. The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a merged department of community, trade, and economic development that fosters new partnerships for strong and sustainable communities. The consolidation of the department of trade and economic development and the department of community development into one department will: Streamline access to services by providing a simpler point of entry for state programs; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; and increase accountability to the public, the executive branch, and the legislature.

A new department can bring together a focused effort to: Manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; construct public infrastructure; protect our cultural heritage; and promote the health and safety of the state's citizens.

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing

state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in this consolidation to maximize the use of local expertise and resources in the delivery of community and economic development services. [1993 c 280 § 1.]

43.330.007 Management responsibility. The purpose of this chapter is to establish the broad outline of the structure of the department of community, trade, and economic development, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the new department and is intended to provide flexibility to the director to reorganize these functions and to make recommendations for changes through the implementation plan required in section 8, chapter 280, Laws of 1993. [1993 c 280 § 2.]

Implementation plan—1993 c 280; 1994 c 5: "(1) The director of the department of trade and economic development and the director of the department of community development shall, by November 15, 1993, jointly submit a plan to the governor for the consolidation and smooth transition of the department of trade and economic development and the department of community development into the department of community, trade, and economic development so that the department will operate as a single entity on March 1, 1994.

(2) The plan shall include, but is not limited to, the following elements:

(a) Strategies for combining the existing functions and responsibilities of both agencies into a coordinated and unified department including a strategic plan for each major program area that includes implementation steps, evaluation measures, and methods for collaboration among programs;

(b) Recommendations for any changes in existing programs and functions of both agencies, including new initiatives and possible transfer of programs and functions to and from other departments;

(c) Implementation steps necessary to bring about operation of the combined department as a single entity;

(d) Benchmarks by which to measure progress and to evaluate the performance and effectiveness of the department's efforts; and

(e) Strategies for coordinating and maximizing federal, state, local, international, and private sector support for community and economic development efforts within the state.

(3) In developing this plan, the directors shall establish an advisory committee of representatives of groups using services and programs of both departments. The advisory committee shall include representatives of cities, counties, port districts, small and large businesses, labor unions, associate development organizations, low-income housing interests, housing industry, Indian tribes, community action programs, public safety groups, nonprofit community and development organizations, international trade organizations, minority and women business organizations, and any other organizations the directors determine should have input to the plan." [1994 c 5 § 1; 1993 c 280 § 8.]

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

(1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.

(2) "Department" means the department of community, trade, and economic development.

(3) "Director" means the director of the department of community, trade, and economic development. [1993 c 280 § 3.]

43.330.020 Department created. A department of community, trade, and economic development is created. The department shall be vested with all powers and duties established or transferred to it under this chapter and such other powers and duties as may be authorized by law. Unless otherwise specifically provided in chapter 280, Laws of 1993, the existing responsibilities and functions of the agency programs will continue to be administered in accordance with their implementing legislation. [1993 c 280 § 4.]

43.330.030 Director—Appointment—Salary. The executive head of the department shall be the director. The director shall be appointed by the governor with the consent of the senate, and shall serve at the pleasure of the governor. The director shall be paid a salary to be fixed by the governor in accordance with RCW 43.03.040. [1993 c 280 § 5.]

43.330.040 Director powers and duties. (1) The director shall supervise and administer the activities of the department and shall advise the governor and the legislature with respect to community and economic development matters affecting the state.

(2) In addition to other powers and duties granted to the director, the director shall have the following powers and duties:

(a) Enter into contracts on behalf of the state to carry out the purposes of this chapter;

(b) Act for the state in the initiation of or participation in any multigovernmental program relative to the purpose of this chapter;

(c) Accept and expend gifts and grants, whether such grants be of federal or other funds;

(d) Appoint such deputy directors, assistant directors, and up to seven special assistants as may be needed to administer the department. These employees are exempt from the provisions of chapter 41.06 RCW;

(e) Prepare and submit budgets for the department for executive and legislative action;

(f) Submit recommendations for legislative actions as are deemed necessary to further the purposes of this chapter;

(g) Adopt rules in accordance with chapter 34.05 RCW and perform all other functions necessary and proper to carry out the purposes of this chapter;

(h) Delegate powers, duties, and functions as the director deems necessary for efficient administration, but the director shall be responsible for the official acts of the officers and employees of the department; and

(i) Perform other duties as are necessary and consistent with law.

(3) When federal or other funds are received by the department, they shall be promptly transferred to the state treasurer and thereafter expended only upon the approval of the director.

(4) The director may request information and assistance from all other agencies, departments, and officials of the state, and may reimburse such agencies, departments, or

officials if such a request imposes any additional expenses upon any such agency, department, or official.

(5) The director shall, in carrying out the responsibilities of office, consult with governmental officials, private groups, and individuals and with officials of other states. All state agencies and their officials and the officials of any political subdivision of the state shall cooperate with and give such assistance to the department, including the submission of requested information, to allow the department to carry out its purposes under this chapter.

(6) The director may establish additional advisory or coordinating groups with the legislature, within state government, with state and other governmental units, with the private sector and nonprofit entities or in specialized subject areas as may be necessary to carry out the purposes of this chapter.

(7) The internal affairs of the department shall be under the control of the director in order that the director may manage the department in a flexible and intelligent manner as dictated by changing contemporary circumstances. Unless specifically limited by law, the director shall have complete charge and supervisory powers over the department. The director may create such administrative structures as the director deems appropriate, except as otherwise specified by law, and the director may employ such personnel as may be necessary in accordance with chapter 41.06 RCW, except as otherwise provided by law. [1993 c 280 § 6.]

43.330.050 Community and economic development responsibilities. The department shall be responsible for promoting community and economic development within the state by assisting the state's communities to increase the quality of life of their citizens and their economic vitality, and by assisting the state's businesses to maintain and increase their economic competitiveness, while maintaining a healthy environment. Community and economic development efforts shall include: Efforts to increase economic opportunity; local planning to manage growth; the promotion and provision of affordable housing and housing-related services; providing public infrastructure; business and trade development; assisting firms and industrial sectors to increase their competitiveness; fostering the development of minority and women-owned businesses; facilitating technology development, transfer, and diffusion; community services and advocacy for low-income persons; and public safety efforts. The department shall have the following general functions and responsibilities:

(1) Provide advisory assistance to the governor, other state agencies, and the legislature on community and economic development matters and issues;

(2) Assist the governor in coordinating the activities of state agencies that have an impact on local government and communities;

(3) Cooperate with the legislature and the governor in the development and implementation of strategic plans for the state's community and economic development efforts;

(4) Solicit private and federal grants for economic and community development programs and administer such programs in conjunction with other programs assigned to the department by the governor or the legislature;

(5) Cooperate with and provide technical and financial assistance to local governments, businesses, and community-based organizations serving the communities of the state for the purpose of aiding and encouraging orderly, productive, and coordinated development of the state, and, unless stipulated otherwise, give additional consideration to local communities and individuals with the greatest relative need and the fewest resources;

(6) Participate with other states or subdivisions thereof in interstate programs and assist cities, counties, municipal corporations, governmental conferences or councils, and regional planning commissions to participate with other states and provinces or their subdivisions;

(7) Hold public hearings and meetings to carry out the purposes of this chapter;

(8) Conduct research and analysis in furtherance of the state's economic and community development efforts including maintenance of current information on market, demographic, and economic trends as they affect different industrial sectors, geographic regions, and communities with special economic and social problems in the state; and

(9) Develop a schedule of fees for services where appropriate. [1993 c 280 § 7.]

43.330.060 Trade and business responsibilities. (1)

The department shall assist in expanding the state's role as an international center of trade, culture, and finance. The department shall promote and market the state's products and services internationally in close cooperation with other private and public international trade efforts and act as a centralized location for the assimilation and distribution of trade information.

(2) The department shall identify and work with Washington businesses that can use local, state, and federal assistance to increase domestic and foreign exports of goods and services.

(3) The department shall work generally with small businesses and other employers to facilitate resolution of siting, regulatory, expansion, and retention problems. This assistance shall include but not be limited to assisting in work force training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements. The department shall identify gaps in needed services and develop steps to address them including private sector support and purchase of these services.

(4) The department shall work to increase the availability of capital to small businesses by developing new and flexible investment tools and by assisting in targeting and improving the efficiency of existing investment mechanisms.

(5) The department shall assist women and minority-owned businesses in overcoming barriers to increased investment and employment and becoming full participants in Washington's traded sector economy. [1993 c 280 § 9.]

Tacoma world trade center—1993 c 134: "The legislature recognizes that export opportunities for small and medium-sized businesses stimulates economic growth. Within current resources, the department of trade and economic development shall work with the Tacoma world trade center, to assist small and medium-sized businesses with export opportunities." [1993 c 134 § 1.]

43.330.070 Local development capacity—Training and technical assistance. (1) The department shall work closely with local communities to increase their capacity to respond to economic, environmental, and social problems and challenges. The department shall coordinate the delivery of development services and technical assistance to local communities or regional areas. It shall promote partnerships between the public and private sectors and between state and local officials to encourage appropriate economic growth and opportunity in communities throughout the state. The department shall promote appropriate local development by: Supporting the ability of communities to develop and implement strategic development plans; assisting businesses to start up, maintain, or expand their operations; encouraging public infrastructure investment and private and public capital investment in local communities; supporting efforts to manage growth and provide affordable housing and housing services; providing for the identification and preservation of the state's historical and cultural resources; and expanding employment opportunities.

(2) The department shall define a set of services including training and technical assistance that it will make available to local communities, community-based nonprofit organizations, regional areas, or businesses. The department shall simplify access to these programs by providing more centralized and user-friendly information and referral. The department shall coordinate community and economic development efforts to minimize program redundancy and maximize accessibility. The department shall develop a set of criteria for targeting services to local communities.

(3) The department shall develop a coordinated and systematic approach to providing training to community-based nonprofit organizations, local communities, and businesses. The approach shall be designed to increase the economic and community development skills available in local communities by providing training and funding for training for local citizens, nonprofit organizations, and businesses. The department shall emphasize providing training in those communities most in need of state assistance. [1993 c 280 § 10.]

43.330.080 Coordination of community and economic development services—Contracts with associate development organizations—Targeted sectors. (1)

The department may contract with associate development organizations or other local organizations to increase the support for and coordination of community and economic development services in communities or regional areas. The organizations contracted with in each community or regional area shall be broadly representative of community and economic interests. The organization shall be capable of identifying key economic and community development problems, developing appropriate solutions, and mobilizing broad support for recommended initiatives. The contracting organization shall work with and include local governments, local chambers of commerce, private industry councils, port districts, labor groups, institutions of higher education, community action programs, and other appropriate private, public, or nonprofit community and economic development groups. The department shall be responsible for determining the scope of services delivered under these contracts.

(2) Associate development organizations or other local development organizations contracted with shall promote and coordinate, through local service agreements with local governments, small business development centers, port districts, community and technical colleges, private industry councils, and other development organizations, for the efficient delivery of community and economic development services in their areas.

(3) The department shall consult with associate development organizations, port districts, local governments, and other local development organizations in the establishment of service delivery regions throughout the state. The legislature encourages local associate development organizations to form partnerships with other associate development organizations in their region to combine resources for better access to available services, to encourage regional delivery of state services, and to build the local capacity of communities in the region more effectively.

(4) The department shall contract on a regional basis for surveys of key sectors of the regional economy and the coordination of technical assistance to businesses and employees within the key sectors. The department's selection of contracting organizations or consortiums shall be based on the sufficiency of the organization's or consortium's proposal to examine key sectors of the local economy within its region adequately and its ability to coordinate the delivery of services required by businesses within the targeted sectors. Organizations contracting with the department shall work closely with the department to examine the local economy and to develop strategies to focus on developing key sectors that show potential for long-term sustainable growth. The contracting organization shall survey businesses and employees in targeted sectors on a periodic basis to gather information on the sector's business needs, expansion plans, relocation decisions, training needs, potential layoffs, financing needs, availability of financing, and other appropriate information about economic trends and specific employer and employee needs in the region.

(5) The contracting organization shall participate with the work force training and education coordinating board as created in chapter 28C.18 RCW, and any regional entities designated by that board, in providing for the coordination of job skills training within its region. [1993 c 280 § 11.]

43.330.090 Economic diversification strategies—Tourism expansion—Targeted sectors. (1) The department shall work with private sector organizations, local governments, local economic development organizations, and higher education and training institutions to assist in the development of strategies to diversify the economy, facilitate technology transfer and diffusion, and increase value-added production by focusing on targeted sectors. The targeted sectors may include, but are not limited to, software, forest products, biotechnology, environmental industries, recycling markets and waste reduction, aerospace, food processing, tourism, film and video, microelectronics, new materials, robotics, and machine tools. The department shall, on a continuing basis, evaluate the potential return to the state from devoting additional resources to a targeted sector's approach to economic development and including additional sectors in its efforts. The department shall use information

gathered in each service delivery region in formulating its sectoral strategies and in designating new targeted sectors.

(2) The department shall ensure that the state continues to pursue a coordinated program to expand the tourism industry throughout the state in cooperation with the public and private tourism development organizations. The department shall work to provide a balance of tourism activities throughout the state and during different seasons of the year. In addition, the department shall promote, market, and encourage growth in the production of films and videos, as well as television commercials within the state; to this end the department is directed to assist in the location of a film and video production studio within the state.

(3) In assisting in the development of a targeted sector, the department's activities may include, but are not limited to:

(a) Conducting focus group discussions, facilitating meetings, and conducting studies to identify members of the sector, appraise the current state of the sector, and identify issues of common concern within the sector;

(b) Supporting the formation of industry associations, publications of association directories, and related efforts to create or expand the activities or industry associations;

(c) Assisting in the formation of flexible networks by providing (i) agency employees or private sector consultants trained to act as flexible network brokers and (ii) funding for potential flexible network participants for the purpose of organizing or implementing a flexible network;

(d) Helping establish research consortia;

(e) Facilitating joint training and education programs;

(f) Promoting cooperative market development activities;

(g) Analyzing the need, feasibility, and cost of establishing product certification and testing facilities and services; and

(h) Providing for methods of electronic communication and information dissemination among firms and groups of firms to facilitate network activity.

By January 10th of each year, the department shall report in writing on its targeted sector programs to the appropriate legislative economic development committees. The department's report shall include an appraisal of the sector, activities the department has undertaken to assist in the development of each sector, and recommendations to the legislature regarding activities that the state should implement but are currently beyond the scope of the department's program or resources. [1994 c 144 § 1; 1993 c 280 § 12.]

Effective date—1994 c 144: "This act shall take effect July 1, 1994." [1994 c 144 § 3.]

43.330.100 Local infrastructure and public facilities—Grants and loans. (1) The department shall support the development and maintenance of local infrastructure and public facilities and provide local communities with flexible sources of funding. The department shall coordinate grant and loan programs that provide infrastructure and investment in local communities. This shall include coordinating funding for eligible projects with other federal, state, local, private, and nonprofit funding sources.

(2) At a minimum, the department shall provide coordinated procedures for applying for and tracking grants and loans among and between the community economic revital-

ization board, the public works trust fund, and community development block grants. [1993 c 280 § 13.]

43.330.110 Housing—Energy assistance. (1) The department shall maintain an active effort to help communities, families, and individuals build and maintain capacity to meet housing needs in Washington state. The department shall facilitate partnerships among the many entities related to housing issues and leverage a variety of resources and services to produce comprehensive, cost-effective, and innovative housing solutions.

(2) The department shall assist in the production, development, rehabilitation, and operation of owner-occupied or rental housing for very low, low, and moderate-income persons; operate programs to assist home ownership, offer housing services, and provide emergency, transitional, and special needs housing services; and qualify as a participating state agency for all programs of the federal department of housing and urban development or its successor. The department shall develop or assist local governments in developing housing plans required by the state or federal government.

(3) The department shall coordinate and administer energy assistance and residential energy conservation and rehabilitation programs of the federal and state government through nonprofit organizations, local governments, and housing authorities. [1993 c 280 § 14.]

43.330.120 Growth management. (1) The department shall serve as the central coordinator for state government in the implementation of the growth management act, chapter 36.70A RCW. The department shall work closely with all Washington communities planning for future growth and responding to the pressures of urban sprawl. The department shall ensure coordinated implementation of the growth management act by state agencies.

(2) The department shall offer technical and financial assistance to cities and counties planning under the growth management act. The department shall help local officials interpret and implement the different requirements of the act through workshops, model ordinances, and information materials.

(3) The department shall provide alternative dispute resolution to jurisdictions and organizations to mediate disputes and to facilitate consistent implementation of the growth management act. The department shall review local governments compliance with the requirements of the growth management act and make recommendations to the governor. [1993 c 280 § 15.]

43.330.130 Services to poor and disadvantaged persons—Preschool children—Substance abuse—Family services—Fire protection and emergency management.

(1) The department shall coordinate services to communities that are directed to the poor and disadvantaged through private and public nonprofit organizations and units of general purpose local governments. The department shall coordinate these programs using, to the extent possible, integrated case management methods, with other community and economic development efforts that promote self-sufficiency.

(2) These services may include, but not be limited to, comprehensive education services to preschool children from low-income families, providing for human service needs and advocacy, promoting volunteerism and citizen service as a means for accomplishing local community and economic development goals, coordinating and providing emergency food assistance to distribution centers and needy individuals, and providing for human service needs through community-based organizations.

(3) The department shall provide local communities and at-risk individuals with programs that provide community protection and assist in developing strategies to reduce substance abuse. The department shall administer programs that develop collaborative approaches to prevention, intervention, and interdiction programs. The department shall administer programs that support crime victims, address youth and domestic violence problems, provide indigent defense for low-income persons, border town disputes, and administer family services and programs to promote the state's policy as provided in RCW 74.14A.025.

(4) The department shall provide fire protection and emergency management services to support and strengthen local capacity for controlling risk to life, property, and community vitality that may result from fires, emergencies, and disasters. [1993 c 280 § 16.]

43.330.140 Washington quality award council—Organization—Duties—Expiration. The Washington quality award council shall be organized as a part of the private, nonprofit corporation quality for Washington state foundation, with the assistance of the department, in accordance with chapter 24.03 RCW and this section.

(1) The council shall oversee the governor's Washington state quality achievement award program. The purpose of the program is to improve the overall competitiveness of the state's economy by stimulating Washington state industries, business, and organizations to bring about measurable success through setting standards of organizational excellence, encouraging organizational self-assessment, identifying successful organizations as role models, and providing a valuable mechanism for promoting and strengthening a commitment to continuous quality improvement in all sectors of the state's economy. The program shall annually recognize organizations that improve the quality of their products and services and are noteworthy examples of high-performing work organizations.

(2) The council shall consist of the governor and the director, as chair and vice-chair, respectively, and recognized professionals who shall have backgrounds in or experience with effective quality improvement techniques, employee involvement quality of work life initiatives, and development of innovative labor-management relations. The initial membership of the board beyond the chair and vice-chair shall be appointed by the governor from a list of nominees submitted by the quality for Washington state foundation. The list of nominees shall include representatives from the governor's small business improvement council, the Washington state efficiency commission, the Washington state productivity board, the Washington state service quality network, the association for quality and participation, the American society for quality control, business and labor

associations, educational institutions, elected officials, and representatives from former recipients of international, national, or state quality awards.

(3) The council shall establish a board of examiners, a recognition committee, and such other subcouncil groups as it deems appropriate to carry out its responsibilities. Subcouncil groups established by the council may be composed of noncouncilmembers.

(4) The council shall receive its administrative support and operational expenses from the quality for Washington state foundation.

(5) The council shall, in conjunction with the quality for Washington state foundation, compile a list of resources available for organizations interested in productivity improvement, quality techniques, effective methods of work organization, and upgrading work force skills as a part of the quality for Washington state foundation's ongoing educational programs. The council shall make the list of resources available to the general public, including labor, business, nonprofit and public agencies, and the department.

(6) The council, in conjunction with the quality for Washington state foundation, may conduct such public information, research, education, and assistance programs as it deems appropriate to further quality improvement in organizations operating in the state of Washington.

(7) The council shall:

(a) Approve and announce achievement award recipients;

(b) Approve guidelines to examine applicant organizations;

(c) Approve appointment of judges and examiners;

(d) Arrange appropriate annual awards and recognition for recipients, in conjunction with the quality for Washington state foundation;

(e) Formulate recommendations for change in the nomination form or award categories, in cooperation with the quality for Washington state foundation; and

(f) Review related education, training, technology transfer, and research initiatives proposed by the quality for Washington state foundation.

(8) By January 1st of each even-numbered year, the council shall report to the governor and the appropriate committees of the legislature on its activities in the proceeding two years and on any recommendations in state policies or programs that could encourage quality improvement and the development of high-performance work organizations.

(9) The council shall cease to exist on July 1, 2004, unless otherwise extended by law. [1994 c 306 § 1.]

43.330.150 Fees—Conferences, workshops, training. The department is authorized to charge reasonable fees to cover costs for conferences, workshops, and training purposes and to expend those fees for the purposes for which they were collected. [1994 c 284 § 1.]

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.152 Fees—Service and product delivery areas. In order to extend its services and programs, the department may charge reasonable fees for services and products provided in the areas of financial assistance,

housing, international trade, community assistance, economic development, and other service delivery areas, except as otherwise provided. These fees are not intended to exceed the costs of providing the service or preparing and distributing the product. [1994 c 284 § 2.]

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.155 Community and economic development fee account. The community and economic development fee account is created in the state treasury. The department may create subaccounts as necessary. The account consists of all receipts from fees charged by the department under RCW 43.330.150, 43.330.152, and 43.210.110. Expenditures from the account may be used only for the purposes of this chapter. Only the director or the director's designee may authorize expenditures from the account. Expenditures from the account may be spent only after appropriation. [1994 c 284 § 4.]

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.156 Fees—Adoption by rule. The fees authorized under RCW 43.330.150, 43.330.152, *70.95H.040, and 43.210.110 shall be adopted by rule pursuant to chapter 34.05 RCW. [1994 c 284 § 8.]

***Reviser's note:** The governor vetoed 1994 c 284 § 5, the amendment to RCW 70.95H.040 that provided for fees.

Severability—Effective date—1994 c 284: See RCW 43.63B.900 and 43.63B.901.

43.330.900 References to director and department.

(1) All references to the director or department of community development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development.

(2) All references to the director or department of trade and economic development in the Revised Code of Washington shall be construed to mean the director of community, trade, and economic development or the department of community, trade, and economic development. [1993 c 280 § 79.]

43.330.901 Captions. Captions used in this chapter do not constitute part of the law. [1993 c 280 § 83.]

43.330.902 Effective date—1993 c 280. Sections 1 through 7, 9 through 79, 82, and 83 of this act shall take effect March 1, 1994. [1994 c 5 § 2; 1993 c 280 § 86.]

43.330.9021 Effective date—1994 c 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect March 1, 1994. [1994 c 5 § 3.]

43.330.903 Severability—1993 c 280. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the

application of the provision to other persons or circumstances is not affected. [1993 c 280 § 87.]

Chapter 43.950 CONSTRUCTION

Sections

- 43.950.010 Continuation of existing law.
- 43.950.020 Title, chapter, section headings not part of law.
- 43.950.030 Invalidity of part of title not to affect remainder.
- 43.950.040 Repeals and saving.

43.950.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1965 reenactment of this title shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment. [1965 c 8 § 43.198.010. Formerly RCW 43.198.010.]

43.950.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1965 c 8 § 43.198.020. Formerly RCW 43.198.020.]

43.950.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1965 c 8 § 43.198.030. Formerly RCW 43.198.030.]

43.950.040 Repeals and saving. See 1965 c 8 § 43.198.040. Formerly RCW 43.198.040.

Title 44

STATE GOVERNMENT—LEGISLATIVE

Chapters

- 44.04** General provisions.
- 44.05** Washington State Redistricting Act.
- 44.07C** Legislative districts and apportionment.
- 44.16** Legislative inquiry.
- 44.20** Session laws.
- 44.28** Legislative budget committee.
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- 44.40** Legislative transportation committee—Senate and house transportation committees.
- 44.44** Office of state actuary—Joint committee on pension policy.
- 44.48** Legislative evaluation and accountability program committee.
- 44.52** Legislative committee on economic development.
- 44.60** Legislative ethics.
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Chapter 44.04

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44.04.010 Date of regular sessions. Regular sessions of the legislature shall be held annually, commencing on the second Monday of January. [1980 c 87 § 27; 1979 ex.s. c 48 § 1; 1891 c 20 § 1; RRS § 8177.]

Effective date—1979 ex.s. c 48: "This 1979 act shall take effect on January 1, 1980, if the proposed amendment to Article II, section 12 of the state Constitution by Substitute Senate Joint Resolution No. 110, providing for annual sessions of the legislature, is validly submitted and is approved and ratified by the voters at a general election held in November, 1979. If the proposed amendment is not so approved and ratified, this 1979 act shall be null and void in its entirety." [1979 ex.s. c 48 § 2.] "This 1979 act"

refers to the amendment to RCW 44.04.010 by 1979 ex.s. c 48. Substitute Senate Joint Resolution No. 110 was approved and ratified by the people at the November 6, 1979, general election.

Regular and special sessions: State Constitution, Art. 2 § 12.

44.04.015 Term limits. (1) No person is eligible to appear on the ballot or file a declaration of candidacy for the house of representatives of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the house of representatives of the legislature during six of the previous twelve years.

(2) No person is eligible to appear on the ballot or file a declaration of candidacy for the senate of the legislature who, by the end of the then current term of office will have served, or but for resignation would have served, as a member of the senate of the legislature during eight of the previous fourteen years.

(3) No person is eligible to appear on the ballot or file a declaration of candidacy for the legislature who has served as a member of the legislature for fourteen of the previous twenty years. [1993 c 1 § 3 (Initiative Measure No. 573, approved November 3, 1992).]

Preamble—Severability—1993 c 1 (Initiative Measure No. 573): See notes following RCW 43.01.015.

44.04.021 Commencement of terms of office. The regular term of office of each senator and representative shall commence on the second Monday in January following the date of election. [1987 c 13 § 1; 1981 c 288 § 68. Formerly RCW 44.07B.870.]

44.04.040 Vouchers for pay and mileage of members—Warrants. The chief clerk of the house of representatives and the secretary of the senate are hereby directed to prepare vouchers for the state treasurer for the mileage and daily pay of members of the legislature on presentation of certificates showing amounts due for miles traveled and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the chief clerk or secretary, respectively, of the body to which the members belong. The state treasurer shall issue warrants which shall be in favor of and payable to the order of the persons named in said certificates. [1973 c 106 § 17; 1890 p 6 § 1; RRS § 8150.]

Annual salary: RCW 43.03.010.

Mileage allowance: State Constitution Art. 2 § 23; RCW 43.03.010.

44.04.041 Warrants for pay and mileage of members—Payment of. Upon presentation of a warrant drawn as provided for in RCW 44.04.040, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [1890 p 6 § 2; RRS § 8151. Formerly RCW 44.04.070, part.]

44.04.050 Vouchers for pay of employees—Warrants. The chief clerk of the house of representatives and the secretary of the senate shall prepare vouchers for the state treasurer for sums covering amounts due officers and employees of the legislature on presentation of certificates signed by the speaker or president, and countersigned by the chief clerk or secretary of the body in which the service of the officer or employee is rendered, and showing amounts due to dates specified. The state treasurer shall issue warrants which shall be drawn in favor and be made payable to the order of the officer or employee named in each certificate. [1973 c 106 § 18; 1890 p 3 § 1; RRS § 8148.]

44.04.051 Warrants for pay of employees—Payment of. Upon presentation to the state treasurer of a warrant drawn as provided for in RCW 44.04.050, that officer shall pay the same from any money in the state treasury appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the treasury of the state covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from date of such indorsement and shall be payable thereafter as is provided by law and custom. [1890 p 3 § 2; RRS § 8149. Formerly RCW 44.04.070, part.]

44.04.060 Vouchers for incidental expenses—Warrants. The chief clerk of the house of representatives and the secretary of the senate are hereby directed to prepare vouchers for the state treasurer for the incidental expenses of the legislature, on presentation of certificates showing amounts due for material furnished and services rendered to dates specified. The certificates shall be signed by the speaker or president, and countersigned by the sergeant-at-arms, respectively, of the body ordering the expenditures. The state treasurer shall issue warrants which shall be in favor of and payable to the order of the persons named in said certificates. [1973 c 106 § 19; 1890 p 10 § 1; RRS § 8152.]

44.04.070 Warrants for incidental expenses—Payment of. Upon presentation of a warrant, drawn as provided for in RCW 44.04.060, to the state treasurer, that officer shall pay the same out of any money in the treasury of the state appropriated for the expenses of the legislature of the state of Washington: PROVIDED, That should there be no money in the state treasury covered by such appropriation, the state treasurer shall indorse such fact on the warrant presented, and said warrant shall draw interest from the date of such presentation and indorsement, and shall be payable thereafter in the manner provided by existing law and custom. [1890 p 10 § 2; RRS § 8153. FORMER PARTS OF SECTION: (i) 1890 p 3 § 2, now codified as RCW 44.04.051. (ii) 1890 p 6 § 2, now codified as RCW 44.04.041.]

44.04.090 Warrants for subsistence and lodging. The state treasurer shall issue warrants for said reimbursement supported by affidavits that the reimbursement is claimed for expenses of subsistence and lodging actually incurred without itemization and without receipts. Such

warrants shall be immediately paid from any funds appropriated for the purpose. [1973 c 106 § 20; 1941 c 173 § 2; Rem. Supp. 1941 § 8153-2.]

44.04.100 Contest of election—Depositions. Any person desiring to contest the election of any member of the legislature, may, at any time after the presumptive election of such member and before the convening of the ensuing regular session of the legislature, have the testimony of witnesses, to be used in support of such contest, taken and perpetuated, by serving not less than three days' written notice upon the member whose election he desires to contest, of his intention to institute such contest and that he desires to take the testimony of certain witnesses named in such notice, at a time and place named therein, before a notary public duly commissioned and qualified and residing in the county where the presumptive member resides, giving the name of such notary public, which deposition shall be taken in the manner provided by law for the taking of depositions in civil actions in the superior court. The presumptive member of the legislature, whose election is to be contested, shall have the right to appear, in person or by counsel, at the time and place named in the notice, and cross examine any witness produced and have such cross examination made a part of such deposition, and to produce witnesses and have their depositions taken for the purpose of sustaining his election. The notary public before whom such deposition is taken shall transmit such depositions to the presiding officer of the senate, or house of representatives, as the case may be, in which said contest is to be instituted, in the care of the secretary of state, at the state capitol, by registered mail, and it shall be the duty of the secretary of state upon the convening of the legislature to transmit said depositions, unopened, to the presiding officer of the senate, or the house of representatives, as the case may be, to whom it is addressed, and in case such contest is instituted said depositions may be opened and read in evidence in the manner provided by law for the opening and introduction of depositions in civil actions in the superior court. [1927 c 205 § 1; RRS § 8162-1. Prior: Code 1881 §§ 3125-3139.]

Contest of elections: Chapter 29.65 RCW.

Depositions: Rules of court: CR 26 through 37.

Legislature to judge election and qualifications of members: State Constitution Art. 2 § 8.

Recall: State Constitution Art. 1 §§ 33, 34, chapter 29.82 RCW.

44.04.120 Members' allowances when engaged in legislative business. Each member of the senate or house of representatives when serving on official legislative business shall be entitled to receive, in lieu of per diem or any other payment, for each day or major portion thereof in which he is actually engaged in legislative business or business of the committee, commission, or council, notwithstanding any laws to the contrary, an allowance in an amount fixed by the secretary of the senate and chief clerk of the house, respectively, in accordance with applicable rules and resolutions of each body. Such allowance shall be reasonably calculated to reimburse expenses, exclusive of mileage, which are ordinary and necessary in the conduct of legislative business, recognizing cost variances which are encountered in different locales. The allowance authorized

shall not exceed the greater of forty-four dollars per day or the maximum daily amount determined under RCW 43.03.050, as now or hereafter amended. In addition, a mileage allowance shall be paid at the rate per mile provided for in RCW 43.03.060, as now or hereafter amended, when authorized by the house, committee, commission, or council of which he is a member and on the business of which he is engaged. [1985 c 3 § 1; 1979 ex.s. c 255 § 3; 1974 ex.s. c 157 § 2; 1973 1st ex.s. c 197 § 5; 1967 ex.s. c 112 § 4; 1963 ex.s. c 7 § 1; 1959 ex.s. c 10 § 1.]

Effective date—1979 ex.s. c 255: See note following RCW 43.03.010.

44.04.125 Allowances of members-elect when attending meetings. Each member-elect of the senate or house of representatives who attends any meeting of the legislature or any of its committees, upon the invitation of the committee on rules of his or her respective house, shall be entitled to receive per diem, mileage, and incidental expense allowances at the rates prescribed in chapter 44.04 RCW, as now or hereafter amended. [1975 1st ex.s. c 185 § 1.]

44.04.130 Accidental death and dismemberment coverage during aircraft flights for members of legislature. See RCW 43.01.120.

44.04.140 Security and protection of legislature—Duty of state patrol to provide. See RCW 43.43.037.

44.04.170 Associations of municipal corporations or municipal officers to furnish information to legislature and governor. It shall be the duty of each association of municipal corporations or municipal officers, which is recognized by law and utilized as an official agency for the coordination of the policies and/or administrative programs of municipal corporations, to submit biennially, or oftener as necessary, to the governor and to the legislature the joint recommendations of such participating municipalities regarding changes which would affect the efficiency of such municipal corporations. Such associations shall include but shall not be limited to the Washington state association of fire commissioners, the Washington state association of water districts, the Washington state association of sewer districts, and the Washington state school directors' association. [1970 ex.s. c 69 § 2.]

Purpose—1970 ex.s. c 69: "It is the purpose of this act to assist the legislature in obtaining adequate information as to the needs of its municipal corporations and other public agencies and their recommendations for improvements." [1970 ex.s. c 69 § 1.]

Intent—Construction—1970 ex.s. c 69: "The intent of this act is to clarify and implement the powers of the public agencies to which it relates and nothing herein shall be construed to impair or limit the existing powers of any municipal corporation or association." [1970 ex.s. c 69 § 3.]

44.04.180 Legislative records—Preservation. See RCW 40.14.100 through 40.14.180.

44.04.190 Fiscal impact of proposed legislation on political subdivisions—Fiscal notes. See chapter 43.132 RCW.

44.04.200 References to regular session of the legislature. After June 12, 1980, all references in the Revised Code of Washington to a regular session of the legislature mean a regular session during an odd- or even-numbered year unless the context clearly requires otherwise. [1980 c 87 § 1.]

44.04.210 Statutes, memorials, and resolutions to be in gender-neutral terms—Exception—Effect of noncompliance. (1) All statutes, memorials, and resolutions enacted, adopted, or amended by the legislature after July 1, 1983, shall be written in gender-neutral terms unless a specification of gender is intended.

(2) No statute, memorial, or resolution is invalid because it does not comply with this section. [1983 c 20 § 3.]

Intent—1983 c 20: See note following RCW 43.01.160.

Chapter 44.05

WASHINGTON STATE REDISTRICTING ACT

Sections

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44.05.901	Severability—1983 c 16.
44.05.902	Severability—1984 c 13.

44.05.010 Short title. This act may be cited as the Washington State Redistricting Act. [1983 c 16 § 1.]

44.05.020 Definitions. The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise.

(1) "Chief election officer" means the secretary of state.

(2) "Federal census" means the decennial census required by federal law to be prepared by the United States bureau of the census in each year ending in zero.

(3) "Lobbyist" means an individual required to register with the Washington public disclosure commission pursuant to RCW 42.17.150.

(4) "Plan" means a plan for legislative and congressional redistricting mandated by Article II, section 43 of the state Constitution. [1983 c 16 § 2.]

44.05.030 Redistricting commission—Membership—Chairperson—Vacancies. A redistricting commission shall be established in January of each year ending in one to accomplish state legislative and congressional redistricting. The five-member commission shall be appointed as follows:

(1) Each legislative leader of the two largest political parties in each house of the legislature shall appoint one voting member to the commission by January 15th of each year ending in one.

(2) The four legislators appointing commission members pursuant to this section shall certify their appointments to the chief election officer. If an appointing legislator does not certify an appointment by January 15th of each year ending in one, within five days the supreme court shall certify an appointment to the chief election officer.

(3) No later than January 31st of the year of their selection, the four appointed members, by an affirmative vote of at least three, shall appoint and certify to the chief election officer the nonvoting fifth member who shall act as the commission's chairperson. If by January 31st of the year of their selection three of the four voting members fail to elect a chairperson, the supreme court shall within five days certify an appointment to the chief election officer. A vacancy on the commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the vacancy occurs. [1984 c 13 § 1; 1983 c 16 § 3.]

44.05.040 Oath. Before serving on the commission every person shall take and subscribe an oath to faithfully perform the duties of that office. The oath shall be filed in the office of the secretary of state. [1983 c 16 § 4.]

44.05.050 Members—Persons ineligible to serve. No person may serve on the commission who:

(1) Is not a registered voter of the state at the time of selection; or

(2) Is or has within one year prior to selection been a registered lobbyist; or

(3) Is or has within two years prior to selection been an elected official or elected legislative district, county, or state party officer. The provisions of this subsection do not apply to the office of precinct committeeperson. [1984 c 13 § 2; 1983 c 16 § 5.]

44.05.060 Members—Political activities prohibited. No member of the commission may:

(1) Campaign for elective office while a member of the commission;

(2) Actively participate in or contribute to any political campaign of any candidate for state or federal elective office while a member of the commission; or

(3) Hold or campaign for a seat in the state house of representatives, the state senate, or congress for two years after the effective date of the plan. [1984 c 13 § 3; 1983 c 16 § 6.]

44.05.070 Employment of experts, consultants, and staff—Assistance of chief election officer, treasurer, and attorney general—Expense reimbursement of witnesses—Appropriation to commission required—Compensation of

members and employees. (1) The commission may employ the services of experts, consultants, and support staff, including attorneys not employed by the attorney general, as necessary to carry out its duties pursuant to this chapter.

(2) The chief election officer, the treasurer, and the attorney general shall make available to the commission such personnel, facilities, and other assistance as the commission may reasonably request. The chief election officer shall be the official recipient of all provisional and preliminary census data and maps, and shall forward such data and maps, upon request, to the commission.

(3) The commission, upon written request by a witness and subject to rules promulgated by the commission, may reimburse witnesses for their necessary expenses incurred in appearing before the commission.

(4) The legislature shall appropriate funds to enable the commission to carry out its duties. Members shall receive one hundred dollars of compensation for each day spent in the performance of their duties. Compensation of employees shall be determined by the commission. The provisions of RCW 43.03.050 and 43.03.060 shall apply to both the members and the employees of the commission. [1983 c 16 § 7.]

44.05.080 Duties. In addition to other duties prescribed by law, the commission shall:

(1) Adopt rules pursuant to the Administrative Procedure Act, chapter 34.05 RCW, to carry out the provisions of Article II, section 43 of the state Constitution and of this chapter, which rules shall provide that three voting members of the commission constitute a quorum to do business, and that the votes of three of the voting members are required for any official action of the commission;

(2) Act as the legislature's recipient of the final redistricting data and maps from the United States Bureau of the Census;

(3) Comply with requirements to disclose and preserve public records as specified in chapters 40.14 and 42.17 RCW;

(4) Hold open meetings pursuant to the open public meetings act, chapter 42.30 RCW;

(5) Prepare and disclose its minutes pursuant to RCW 42.32.030;

(6) Be subject to the provisions of RCW 42.17.240;

(7) Prepare and publish a report with the plan; the report will be made available to the public at the time the plan is published. The report will include but will not be limited to: (a) The population and percentage deviation from the average district population for every district; (b) an explanation of the criteria used in developing the plan with a justification of any deviation in a district from the average district population; (c) a map of all the districts; and (d) the estimated cost incurred by the counties for adjusting precinct boundaries. [1983 c 16 § 8.]

44.05.090 Redistricting plan. In the redistricting plan:

(1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census.

(2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:

(a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as small as possible;

(b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and

(c) Whenever practicable, a precinct shall be wholly within a single legislative district.

(3) The commission's plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall provide for forty-nine legislative districts.

(4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall consist of forty-nine members, one of whom shall be elected from each legislative district.

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group. [1990 c 126 § 1; 1983 c 16 § 9.]

44.05.100 Submission of redistricting plan to legislature—Amendment—Effect—Adoption of plan by supreme court upon failure of commission. (1) Upon approval of a redistricting plan by three of the voting members of the commission, but not later than January 1st of the year ending in two, the commission shall submit the plan to the legislature.

(2) After submission of the plan by the commission, the legislature shall have the next thirty days during any regular or special session to amend the commission's plan. If the legislature amends the commission's plan the legislature's amendment must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto, and may not include more than two percent of the population of any legislative or congressional district.

(3) The plan approved by the commission, with any amendment approved by the legislature, shall be final upon approval of such amendment or after expiration of the time provided for legislative amendment by subsection (2) of this section whichever occurs first, and shall constitute the districting law applicable to this state for legislative and congressional elections, beginning with the next elections held in the year ending in two. This plan shall be in force until the effective date of the plan based upon the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6).

(4) If three of the voting members of the commission fail to approve and submit a plan within the time limitations provided in subsection (1) of this section, the supreme court shall adopt a plan by March 1st of the year ending in two.

Any such plan approved by the court is final and constitutes the districting law applicable to this state for legislative and congressional elections, beginning with the next election held in the year ending in two. This plan shall be in force until the effective date of the plan based on the next succeeding federal decennial census or until a modified plan takes effect as provided in RCW 44.05.120(6). [1983 c 16 § 10.]

44.05.110 Cessation of operations—Financial statement—Official record. (1) Following the period provided by RCW 44.05.100(1) for the commission's adoption of a plan, the commission shall take all necessary steps to conclude its business and cease operations. The commission shall prepare a financial statement disclosing all expenditures made by the commission. The official record shall contain all relevant information developed by the commission pursuant to carrying out its duties under this chapter, maps, data collected, minutes of meetings, written communications, and other information of a similar nature. Once the commission ceases to exist, the chief election officer shall be the custodian of the official record for purposes of reprecincting and election administration. The chief election officer shall provide for the permanent preservation of this official record pursuant to chapter 42.17 RCW and Title 40 RCW. Once the commission ceases to exist any budget surplus shall revert to the state general fund.

(2) Except as provided in RCW 44.05.120 for a reconvened commission, the commission shall cease to exist on July 1st of each year ending in two unless the supreme court extends the commission's term. [1983 c 16 § 11.]

44.05.120 Reconvening of commission—Eligibility to serve—Vacancies—Modification of plan—Amendment by legislature—Cessation of operations. (1) If a commission has ceased to exist, the legislature may, upon an affirmative vote in each house of two-thirds of the members elected or appointed thereto, adopt legislation reconvening the commission for the purpose of modifying the redistricting plan.

(2) RCW 44.05.050 governs the eligibility of persons to serve on the reconvened commission. A vacancy involving a voting member of the reconvened commission shall be filled by the person who made the initial appointment, or their successor, within fifteen days after the effective date of the legislation reconvening the commission. A vacancy involving the nonvoting member of the commission shall be filled by an affirmative vote of at least [least] three of four voting members, within fifteen days after all other vacancies are filled or, if no other vacancies exist, within fifteen days after the effective date of the legislation reconvening the commission. A subsequent vacancy on a reconvened commission shall be filled by the person or persons who made the initial appointment, or their successor, within fifteen days after the vacancy occurs. If any appointing authority fails to make a required appointment within the time limitations established by this subsection, within five days after that date the supreme court shall make the required appointment.

(3) The provisions of RCW 44.05.070 and 44.05.080 are applicable if a commission is reconvened under this section.

(4) The commission shall complete the modification to the redistricting plan as soon as possible, but no later than sixty days after the effective date of the legislation reconvening the commission. At least three of the voting members shall approve the modification to the redistricting plan.

(5) Following approval of a modification to the redistricting plan by the commission, the legislature has the next thirty days during any regular or special session to amend the commission's modification. Any amendment by the legislature must be approved by an affirmative vote in each house of two-thirds of the members elected or appointed thereto. No amendment by the legislature may include more than two percent of the population of any legislative or congressional district contained in the commission's modification.

(6) The commission's modification to the redistricting plan, with any amendments approved by the legislature, shall be final upon approval of the amendments or after expiration of the time provided for legislative amendment by subsection (5) of this section, whichever occurs first.

(7) Following the period provided by subsection (4) of this section for the commission's approval of a modification to the redistricting plan, the commission shall take all necessary steps to conclude its business and cease operations in accordance with RCW 44.05.110(1). A reconvened commission shall cease to exist ninety days after the effective date of the legislation reconvening the commission, unless the supreme court extends the commission's term. [1983 c 16 § 12.]

44.05.130 Challenges to plan. After the plan takes effect as provided in RCW 44.05.100, any registered voter may file a petition with the supreme court challenging the plan. After a modification to the redistricting plan takes effect as provided in RCW 44.05.120, any registered voter may file a petition with the supreme court challenging the amended plan. The court may consolidate any or all petitions and shall give all such petitions precedence over all other matters. [1983 c 16 § 13.]

44.05.900 Contingent effective date—1983 c 16. This act shall take effect if the proposed amendment to Article II of the state Constitution establishing a commission for state legislative and congressional redistricting is validly submitted to and is approved and ratified by the voters at a general election held in November, 1983. If the proposed amendment is not so approved and ratified, this act shall be null and void in its entirety. [1983 c 16 § 18.]

Reviser's note: Senate Joint Resolution No. 103, requiring redistricting commissions and plans, was approved by the voters November 8, 1983, and is codified as Article II, section 43 of the state Constitution.

44.05.901 Severability—1983 c 16. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1983 c 16 § 17.]

44.05.902 Severability—1984 c 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of

the provision to other persons or circumstances is not affected. [1984 c 13 § 5.]

Chapter 44.07C
LEGISLATIVE DISTRICTS AND
APPORTIONMENT

Reviser's note: The following material represents the legislative portion of the redistricting plan filed with the legislature by the Washington State Redistricting Commission on January 1, 1992. For United States congressional districts, see chapter 29.69B RCW.

WASHINGTON STATE REDISTRICTING COMMISSION
REDISTRICTING PLAN

A PLAN Relating to the redistricting of state legislative and congressional districts.

BE IT APPROVED BY THE REDISTRICTING COMMISSION OF THE STATE OF WASHINGTON:

Sec. 1. It is the intent of the commission to reapportion and redistrict the congressional and legislative districts of the state of Washington in accordance with the Constitution and laws of the United States and the state of Washington.

Sec. 2. The definitions set forth in RCW 44.05.020 apply throughout this plan, unless the context requires otherwise.

Sec. 3. In every case the population of the congressional and legislative districts described by this plan has been ascertained on the basis of the total number of persons found inhabiting such areas as of January 1, 1990, in accordance with the 1990 federal decennial census data submitted pursuant to P.L. 94-171.

Sec. 4. (a) Any area not specifically included within the boundaries of any of the districts as described in this plan and which is completely surrounded by a particular district, shall be a part of that district. Any such area not completely surrounded by a particular district shall be a part of the district having the smallest number of inhabitants and having territory contiguous to such area.

(b) Any area described in this plan as specifically embraced in two or more noninclusive districts shall be a part of the adjacent district having the smallest number of inhabitants and shall not be a part of the other district or districts.

(c) Any area specifically mentioned as embraced within a district but separated from such district by one or more other districts, shall be assigned as though it had not been included in any district specifically described.

(d) The 1990 United States federal decennial census data submitted pursuant to P.L. 94-171 shall be used for determining the number of inhabitants under this plan.

(e) If any court of competent jurisdiction requires nonresident military personnel that were not included in the United States census bureau data to be included, these persons shall be included in the population of the district or districts from which the persons were excluded.

Sec. 5. For purposes of this plan, districts shall be described in terms of:

(1) Official United States census bureau tracts, block numbering areas, block groups, blocks, or census county divisions established by the United States bureau of the census in the 1990 federal decennial census;

(2) Counties, municipalities, or other political subdivisions as they existed on January 1, 1990;

(3) Any natural or artificial boundaries or monuments including but not limited to rivers, streams, or lakes as they existed on January 1, 1990;

(4) Roads, streets, or highways as they existed on January 1, 1990.

Sec. 6. The following abbreviations used in this plan have the following meanings:

(1) "T" means "census tract";

(2) "BG" means "census block group";

(3) "B" means "block";

(4) "BNA" means "block numbering area"; and

(5) "Division" or "div." means "census county division".

Sec. 7. For election of members of the legislature, the territory of the state shall be divided into forty-nine districts. Two members of the house of representatives shall be elected from and run at large within each legislative district. One member of the senate shall be elected from each legislative district.

Sec. 8. The legislative districts described by this plan shall be those recorded electronically as "PLAN PRCOM - 019L", maintained in computer files designated as FINAL-LEG, which are public records of the commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish PLAN PRCOM - 019L in conformity with the description terminology set forth in sec. 6.

Sec. 9. For election of members of Congress, the territory of the state shall be divided into nine districts. The congressional districts described by this plan shall be those recorded electronically as "PLAN PRCOM - 0_C", maintained in computer files designated as FINAL-CON, which are public records of the commission. As soon as practicable after approval and submission of this plan to the legislature, the commission shall publish PLAN PRCOM - 0_C in conformity with the description terminology set forth in sec. 6.

Sec. 10. The commission intends that existing law shall continue to govern such matters as the terms and dates of election for members of the senate to be elected from each district, the status of "hold-over" senators, and the elections to fill vacancies, when required, provided that districts referred to in existing law and designated by number (without regard to any letter following that number) shall refer to districts of the same number described in this plan, beginning with the next elections in 1992.

Sec. 11. This commission intends that this plan supersede the district boundaries established by chapter 288, Laws of 1981 and chapter 17, Laws of 1983, and acknowledges that it is inconsistent with certain provisions of existing law, including but not limited to RCW 44.07B.001, RCW 44.07B.002, RCW 44.07B.005 through RCW 44.07B.800, RCW 44.07B.840, and RCW 29.69A.001 through RCW 29.69A.080.

District 1: King; Tract 0217: Block Group 1: Block 101, Block 102, Block 104, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212A, Block 212B, Block 213, Block 214A, Block 214B, Block 215, Block 216, Block 217A, Block 217B, Block 217C, Block 218A, Block 218B, Block 219; Tract 0218.01: Block Group 1: Block 101, Block 102A, Block 102B, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316A, Block 316B, Block 317, Block 318A, Block 318B, Block 319, Block 320, Block 321, Block 322; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 404, Block 405, Block 406A, Block 406B, Block 406C, Block 406D, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412A, Block 412B, Block 413; Block Group 5: Block 501A, Block 501B, Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512A, Block 512B, Block 513, Block 514A, Block 514B, Block 514C, Block 514D, Block 514E, Block 514F, Block 514G, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521, Block 522, Block 523, Block 524, Block 525; Tract 0218.02: Block Group 1: Block 101A, Block 101B, Block 101C, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 205C, Block 206A, Block 206B, Block 206C, Block 207; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309A, Block 309B, Block 310; Tract 0219.01: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108,

Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 217; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413A, Block 413B, Block 414, Block 415, Block 416A, Block 416B, Block 416C; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 512, Block 514, Block 515, Block 516; Tract 0262: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110; Block Group 2: Block 204, Block 205, Block 206, Block 207; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 424, Block 425; Tract 0263: Block Group 1: Block 102, Block 104, Block 105, Block 106, Block 107A, Block 107B, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 215; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 317, Block 318; Block Group 9: Block 901A, Block 901B, Block 902, Block 903, Block 904A, Block 904B, Block 904C, Block 905, Block 906, Block 907, Block 908, Block 909, Block 910, Block 911, Block 912, Block 913, Block 914, Block 915, Block 916, Block 917; Tract 0264: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 110; Block Group 2: Block 201, Block 202, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310; Block Group 4: Block 402B, Block 402C, Block 409, Block 410, Block 411, Block 413; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 508, Block 512, Block 514, Block 515, Block 516; Tract 0265: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104A, Block 104B, Block 104C, Block 105, Block 106, Block 107, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 210, Block 212, Block 213, Block 214; Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 508, Block 509; Tract 0266: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 209, Block 218, Block 219; Tract 0267: Block Group 1: Block 103, Block 107; Block Group 5: Block 511; Tract 0268: Block Group 4: Block 405, Block 406, Block 407, Block 408, Block 409; Block Group 5: Block 502, Block 504, Block 505, Block 506, Block 507, Block 508, Block 516; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713; Block Group 8: Block 803, Block 804, Block 805, Block 810, Block 811, Block 812, Block 813, Block 814, Block 815, Block 816; Tract 0269: Block Group 3: Block 308, Block 312; Tract 0271: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 108; Block Group 2: Block 201, Block 203, Block 204, Block 205, Block 206, Block 210, Block 211; Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313; Tract 0272: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 207, Block 208, Block 209; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 306, Block 308, Block 313, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405A, Block 405B, Block 407, Block 411, Block 412; Tract 0273: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205,

Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 310; Block Group 4: Block 416; Block Group 5: Block 501, Block 502, Block 503, Block 511, Block 512, Block 513, Block 514; Block Group 6: Block 601, Block 603, Block 604, Block 605, Block 607, Block 608; Tract 0281: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 106; Block Group 2: Block 201, Block 204, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 303; Tract 0282: Block Group 2: Block 207; Block Group 3: Block 301, Block 304, Block 305, Block 306, Block 307; Block Group 4: Block 401.

District 12: Chelan, Douglas, Grant: Tract 9801, Tract 9802: Block Group 1: Block 129, Block 130, Block 131, Block 132; Tract 9803: Block Group 1: Block 129, Block 130A, Block 130B, Block 131A, Block 131B, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145; Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 203C, Block 204, Block 205A, Block 205B, Block 206, Block 207A, Block 207B, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229A, Block 229B, Block 230, Block 231, Block 232, Block 233A, Block 233B, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241; Block Group 3: Block 301, Block 302, Block 303A, Block 303B, Block 304, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351A, Block 351B, Block 352A, Block 352B, Block 353, Block 354, Block 355, Block 356, Block 357; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 448; Okanogan: Tract 9701: Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220A, Block 220B, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227A, Block 227B, Block 227C, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234A, Block 234B, Block 235, Block 236, Block 237, Block 238, Block 239A, Block 239B, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263, Block 264, Block 265, Block 266, Block 267, Block 268, Block 269, Block 270, Block 271, Block 272, Block 273, Block 274, Block 275A, Block 275B, Block 276, Block 277, Block 278, Block 279, Block 280, Block 281, Block 282, Block 283, Block 284, Block 285, Block 286, Block 287, Block 288, Block 289, Block 290, Block 291, Block 292, Block 293, Block 294, Block 295, Block 296, Block 297; Block Group 3: Block 301A, Block 301B, Block 302, Block 303A, Block 303B, Block 303C, Block 303D, Block 304, Block 305, Block 306, Block 307, Block 308A, Block 308B, Block 309A, Block 309B, Block 310, Block 311A, Block 311B, Block 312, Block 313, Block 314A, Block 314B, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320A, Block 320B, Block 321, Block 322, Block 323A, Block 323B, Block 323C, Block 324, Block 325, Block 326, Block 327, Block 328A, Block 328B, Block 329, Block 330, Block 331, Block 332, Block 333A, Block 333B, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340, Block 341, Block 342, Block 343, Block 344, Block 345A, Block 345B, Block 346, Block 347, Block 348, Block 349, Block 350, Block 351, Block 352, Block 353, Block 354, Block 355A, Block 355B, Block 355C, Block 356; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 404, Block 405A, Block 405B, Block 406A, Block 406B, Block 407A, Block 407B, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 427, Block 428, Block 429, Block 430, Block 431, Block 432, Block 433, Block 434, Block 435, Block 436, Block 437, Block 438, Block 439, Block 440, Block 441, Block 442, Block 443, Block 444, Block 445, Block 446, Block 447, Block 448, Block 449;

Block 406A, Block 406B, Block 407A, Block 407B, Block 408; Tract 0508: Block Group 1: Block 101, Block 102, Block 103, Block 104A, Block 104B, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404A, Block 404B, Block 405, Block 406A, Block 406B, Block 406C, Block 407, Block 409A, Block 409B, Block 410A, Block 410B, Block 412, Block 413, Block 414, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 510, Block 511, Block 512, Block 513, Block 516; Tract 0509: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 106A, Block 106B, Block 107, Block 110, Block 111, Block 112; Block Group 2: Block 201, Block 202, Block 203A, Block 203B, Block 204, Block 205, Block 206, Block 207, Block 208, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 311; Tract 0510: Block Group 1: Block 101, Block 102, Block 103A, Block 103B, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 113, Block 114, Block 121, Block 123A, Block 123B; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 301A, Block 301B, Block 301C, Block 302A, Block 302B, Block 303A, Block 303B, Block 303C, Block 304A, Block 304B, Block 304C, Block 305, Block 306, Block 307, Block 308, Block 309A, Block 309B, Block 309C, Block 310, Block 311, Block 312, Block 313; Block Group 5: Block 501A, Block 501B, Block 502A, Block 502B, Block 503, Block 508A, Block 508B; Tract 0513: Block Group 1: Block 101A; Tract 0514: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109A, Block 109B, Block 110, Block 120, Block 121, Block 122; Block Group 2: Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 219; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307A, Block 307B, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 319, Block 322, Block 324; Block Group 4: Block 411, Block 412, Block 413, Block 415; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 516, Block 519, Block 521, Block 522; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605A, Block 605B; Tract 0515: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 2: Block 201, Block 202, Block 210; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305A, Block 305B, Block 305C, Block 306A, Block 306B, Block 307A, Block 307B, Block 308, Block 309; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 408, Block 409, Block 413, Block 415, Block 416; Block Group 5: Block 506, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514; Tract 0516: Block Group 1: Block 102A, Block 103A, Block 103B, Block 104, Block 105A, Block 105B, Block 106, Block 107; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312A, Block 312B, Block 313; Block Group 4: Block 401A, Block 401B, Block 402, Block 403A, Block 403B, Block 403C, Block 403D, Block 404A, Block 404B, Block 405; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 506, Block 507A, Block 507B, Block 507C, Block 508, Block 509A, Block 509B, Block 509C, Block 510, Block 511, Block 512, Block 513, Block 514, Block 517, Block 522, Block 525, Block 526; Tract 0517: Block Group 1: Block 101, Block 102A, Block 102B, Block 102C, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 311, Block 312, Block 314, Block 315, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408; Block Group 5: Block 501B, Block 502A, Block 502B, Block 503, Block 504, Block 505, Block 506, Block 507; Tract 0518.02: Block Group 1: Block 103, Block 104A, Block 104B, Block 105B; Block Group 3: Block 302A, Block 302B, Block 305A, Block 306A, Block 308A, Block 308B, Block 309A, Block 310A, Block 310B, Block 311A, Block 311B, Block 312, Block 313, Block 314;

Tract 0519.05: Block Group 1: Block 103A, Block 103B; Block Group 2: Block 204B, Block 205A, Block 205B, Block 206; Block Group 4: Block 401, Block 402A, Block 402B, Block 402C, Block 403A, Block 403B, Block 404A, Block 404B, Block 404C, Block 405A, Block 406, Block 407, Block 408A, Block 408C.

District 22: Thurston: Tract 0101, Tract 0102: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104A, Block 104B, Block 106, Block 108, Block 109, Block 110, Block 131, Block 142, Block 143; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250A, Block 250B, Block 250C, Block 251A, Block 251B, Block 252, Block 253, Block 254, Block 255, Block 256; Block Group 3: Block 301A, Block 301B, Block 302A, Block 302B, Block 302C, Block 302D, Block 303, Block 304, Block 305, Block 306, Block 307A, Block 307B, Block 307C, Block 307D, Block 307E, Block 308, Block 309, Block 310; Tract 0103: Block Group 1: Block 101, Block 102, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 338A, Block 338B, Block 339A, Block 339B, Block 340A, Block 340B, Block 341, Block 350, Block 351, Block 352; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408A, Block 408B, Block 409, Block 410, Block 411, Block 412, Block 413A, Block 413B, Block 414A, Block 414B, Block 415A, Block 415B, Block 416; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505A, Block 505B, Block 505C, Block 506A, Block 506B, Block 507A, Block 507B, Block 508A, Block 508B, Block 509, Block 510, Block 511, Block 512, Block 513, Block 514, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520, Block 521A, Block 521B, Block 521C, Block 522A, Block 522B, Block 522C, Block 523, Block 524; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620, Block 621, Block 622, Block 623, Block 624, Block 625, Block 626, Block 627, Block 628; Tract 0104: Block Group 1: Block 101A, Block 101B, Block 102A, Block 102B, Block 103A, Block 103B, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118A, Block 118B, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125A, Block 125B, Block 126, Block 127; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 205C, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212A, Block 212B, Block 213, Block 214, Block 215; Block Group 3: Block 301, Block 302A, Block 302B, Block 302C, Block 303A, Block 303B, Block 303C, Block 303D, Block 303E, Block 303F, Block 303G, Block 303H, Block 304A, Block 304B, Block 304C, Block 304D, Block 305, Block 311A, Block 311B, Block 315A, Block 315B, Block 315C, Block 316A, Block 316B, Block 316C, Block 316D, Block 317A, Block 317B, Block 317C, Block 351, Block 352A, Block 352B, Block 352C; Tract 0105: Block Group 1: Block 115, Block 116, Block 117A, Block 117B, Block 117C, Block 118A, Block 118B, Block 119; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233,

Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230; Block Group 3: Block 301, Block 302A, Block 302B, Block 303, Block 304A, Block 304B, Block 304C, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311; Tract 0015: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152, Block 153, Block 154, Block 155, Block 156, Block 157, Block 158, Block 159, Block 160, Block 161, Block 162, Block 163, Block 164, Block 165, Block 166, Block 167, Block 168, Block 169; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211A, Block 211B, Block 212, Block 213, Block 214A, Block 214B, Block 215A, Block 215B, Block 216, Block 217, Block 218, Block 219A, Block 219B, Block 219C, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260, Block 261, Block 262, Block 263, Block 264, Block 265, Block 266, Block 267, Block 268, Block 269, Block 270, Block 271, Block 272A, Block 272B, Block 273A, Block 273B; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323; Tract 0017.98: Block Group 2: Block 234B; Jefferson.

District 25: King: Tract 0304.02: Block Group 4: Block 408B, Block 408C, Block 408D, Block 408E, Block 409, Block 410, Block 411, Block 412, Block 413, Block 415B, Block 415C, Block 415D, Block 416; Block Group 5: Block 502C; Tract 0308: Block Group 2: Block 223B, Block 227B, Block 227C; Tract 0309: Block Group 2: Block 209B, Block 215B, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 228, Block 230, Block 231, Block 232, Block 233; Block Group 3: Block 302B, Block 304, Block 305, Block 306, Block 307, Block 308B, Block 309, Block 310B, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317, Block 318, Block 319, Block 320, Block 321, Block 322, Block 323, Block 324A, Block 324B, Block 325, Block 326, Block 327, Block 328, Block 329, Block 330, Block 331, Block 332, Block 333, Block 334, Block 335, Block 336, Block 337, Block 338, Block 339, Block 340A, Block 340B; Tract 0310: Block Group 9: Block 913B, Block 914, Block 915, Block 916C, Block 917B; Pierce: Tract 0702.01: Block Group 1: Block 105, Block 106; Tract 0703.03: Block Group 3: Block 316, Block 317A; Block Group 4: Block 401C, Block 402, Block 403, Block 405B; Tract 0703.05: Block Group 1: Block 101B, Block 102B, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 2: Block 206, Block 207; Tract 0704: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220; Tract 0705: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113A, Block 113B, Block 113C, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306A, Block 306B, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 312, Block 313, Block 314, Block 315, Block 316, Block 317,

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Tract 0707.01: Block Group 1: Block 101, Block 102, Block 103A, Block 103B, Block 104, Block 112; Block Group 2: Block 201, Block 202, Block 203, Block 204; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507; Block Group 6: Block 601A, Block 601B, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609A, Block 609B, Block 610A, Block 610B, Block 611; Tract 0707.02: Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306A, Block 306B, Block 307A, Block 307B, Block 307C, Block 308A, Block 308B, Block 309, Block 310, Block 311A, Block 311B, Block 312A, Block 312B, Block 313A, Block 313B, Block 313C, Block 313D, Block 314, Block 315, Block 316, Block 317; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422A, Block 422B; Block Group 5: Block 501, Block 502A, Block 502B, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512A, Block 512B, Block 513, Block 514A, Block 514B, Block 515, Block 516, Block 517, Block 518, Block 519, Block 520A, Block 520B, Block 521A, Block 521B, Block 522, Block 523A, Block 523B, Block 524, Block 525, Block 526, Block 527, Block 528, Block 529, Block 530, Block 531; Block Group 6: Block 601, Block 602, Block 603, Block 604A, Block 604B, Block 605, Block 606A, Block 606B, Block 606C, Block 607A, Block 607B, Block 607C, Block 607D, Block 607E, Block 608, Block 609A, Block 609B, Block 610, Block 611, Block 612A, Block 612B, Block 613, Block 614, Block 615A, Block 615B, Block 616, Block 617, Block 618A, Block 618B, Block 619A, Block 619B, Block 620A, Block 620B, Block 621A, Block 621B, Block 622, Block 623, Block 624A, Block 624B, Block 625, Block 626A, Block 626B, Block 627A, Block 627B, Block 628, Block 629, Block 630; Block Group 7: Block 701, Block 702A, Block 702B, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711A, Block 711B, Block 712, Block 713, Block 714B, Block 714C, Block 714D, Block 714E; Block Group 8: Block 801, Block 802, Block 803, Block 804, Block 805, Block 806, Block 807, Block 808A, Block 808B, Block 809, Block 810, Block 811B, Block 812, Block 813, Block 814, Block 815, Block 816, Block 817, Block 818, Block 819, Block 820, Block 821, Block 822, Block 823, Block 824, Block 825, Block 826, Block 827, Block 828, Block 829, Block 830, Block 831, Block 832, Block 833, Block 834; Tract 0709: Block Group 1: Block 108, Block 109; Tract 0710: Block Group 4: Block 402; Block Group 5: Block 501, Block 508, Block 509, Block 510, Block 511, Block 513; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 615; Tract 0711: Block Group 1: Block 101, Block 102, Block 103, Block 106, Block 107; Block Group 2: Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213; Tract 0712.02: Block Group 1: Block 101, Block 102, Block 103, Block 105, Block 106, Block 107, Block 108A, Block 108B, Block 109A, Block 109B, Block 109C, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509; Block Group 6: Block 601, Block 602,

Block 508, Block 509, Block 510; Tract 0274: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 206, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 303, Block 305, Block 306, Block 307, Block 308; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 509, Block 510, Block 511; Block Group 6: Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 616; Tract 0275: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513; Tract 0276: Block Group 1: Block 101, Block 102, Block 103, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 214, Block 215, Block 218; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Tract 0277.01, Tract 0277.02, Tract 0278: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 109, Block 110; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 206A, Block 206B, Block 207, Block 208, Block 209; Block Group 3: Block 301, Block 302A, Block 302B, Block 303, Block 304, Block 305, Block 306, Block 307, Block 309A, Block 309B, Block 310A, Block 310B, Block 311, Block 312, Block 313; Block Group 4: Block 401, Block 402, Block 403A, Block 403B, Block 404, Block 405, Block 406; Tract 0279: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312, Block 313, Block 314, Block 318, Block 320, Block 321; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615, Block 616, Block 617, Block 618, Block 619, Block 620; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709, Block 710, Block 711, Block 712, Block 713, Block 714; Tract 0280: Block Group 1: Block 101A, Block 101B, Block 102, Block 103; Block Group 2: Block 201, Block 202, Block 206, Block 209; Block Group 3: Block 301, Block 305, Block 308, Block 309, Block 311, Block 312, Block 314A, Block 314B, Block 316; Tract 0281: Block Group 2: Block 206; Block Group 3: Block 304, Block 305, Block 306, Block 307, Block 308, Block 309; Block Group 4: Block 401, Block 402, Block 413; Tract 0282: Block Group 2: Block 203, Block 204, Block 205; Tract 0283: Block Group 1: Block 105; Tract 0284.01: Block Group 9: Block 901; Tract 0284.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 203, Block 204, Block 205, Block 207, Block 208, Block 209; Tract 0286: Block Group 1: Block 106A, Block 106B.

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Tract 0808.98: Block Group 9: Block 901; Tract 0809.98: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105A, Block 105B, Block 106, Block 107, Block 108A, Block 108B, Block 109, Block 110, Block 111, Block 112A, Block 112B, Block 113, Block 114, Block 115, Block 116, Block 117A, Block 117B, Block 117C, Block 117D, Block 117E, Block 117F, Block 117G, Block 117H, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 125, Block 126, Block 127, Block 128, Block 129, Block 134, Block 138; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205A, Block 205B, Block 205C, Block 205D, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227, Block 228, Block 229A, Block 229B, Block 230, Block 231, Block 232A, Block 232B, Block 233, Block 234, Block 235; 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Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 215, Block 218, Block 219, Block 220, Block 221, Block 226; Block Group 3: Block 301A; Block Group 8: Block 801A, Block 801C; Block Group 9: Block 901, Block 902, Block 903, Block 904, Block 905, Block 906, Block 907, Block 908, Block 909, Block 910, Block 911, Block 912, Block 913, Block 914, Block 915, Block 916, Block 917, Block 918; Tract 0414, Tract 0415, Tract 0416.01: Block Group 1: Block 111A, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124; Block Group 2: Block 202, Block 203, Block 211, Block 212A, Block 214A, Block 215; Tract 0416.03: Block Group 3: Block 303A; Block Group 4: Block 403A; Block Group 9: Block 902A; Tract 0417: Block Group 1: Block 101, Block 102, Block 103A, Block 104, Block 105A, Block 106, Block 108A, Block 109, Block 110A, Block 111A, Block 112, Block 113, Block 114A, Block 114B, Block 117; 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Block Group 9: Block 901, Block 902, Block 903A, Block 903B, Block 903C, Block 903D, Block 903E, Block 903M, Block 904, Block 905A, Block 910, Block 911, Block 912, Block 913A; Tract 0521.04: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106A, Block 106B, Block 106C, Block 107A, Block 107B, Block 108A, Block 108B, Block 109A, Block 109B, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144; Block Group 9: Block 901, Block 902, Block 903, Block 904, Block 905, Block 906, Block 907, Block 908, Block 909, Block 910, Block 911, Block 912, Block 913, Block 914, Block 915, Block 916A, Block 916B, Block 917, Block 918, Block 919, Block 920, Block 921, Block 922, Block 923, Block 924A, Block 924B, Block 925, Block 926, Block 927, Block 928, Block 929, Block 930, Block 931, Block 932, Block 933, Block 934, Block 935, Block 936, Block 937, Block 938, Block 939, Block 940, Block 941, Block 942; Tract 0521.05: Block Group 1: Block 109A; Tract 0525.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125; Block Group 2: Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215; Block Group 3: Block 303, Block 304, Block 305, Block 314, Block 315; Tract 0526.01: Block Group 2: Block 216, Block 217; Tract 0527.02: Block Group 2:

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District 39: King: Tract 0329; **Snohomish:** Tract 0521.05: Block Group 1: Block 101, Block 102, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 125, Block 126, Block 127, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141A, Block 141B, Block 142, Block 143, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150, Block 151, Block 152; Block Group 2: Block 201, Block 202, Block 203, Block 204,

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Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 309, Block 310, Block 311, Block 312, Block 313; Block Group 4: Block 401A, Block 401B, Block 401C, Block 402A, Block 402B, Block 402C, Block 402D, Block 403, Block 404, Block 405, Block 406A, Block 406B, Block 407, Block 408, Block 409, Block 410A, Block 410B, Block 411A, Block 411B, Block 412A, Block 412B, Block 412C, Block 413A, Block 413B, Block 414A, Block 414B, Block 415, Block 416; Tract 0248: Block Group 1: Block 101A, Block 101B, Block 101C, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108A, Block 108B, Block 109, Block 110, Block 111; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 209, Block 211A, Block 211B, Block 212A, Block 212B, Block 212C; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304, Block 305, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 311B; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409A, Block 409B, Block 410, Block 411, Block 412A, Block 412B, Block 413, Block 414A, Block 414B, Block 414C, Block 414D; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505; Tract 0249.01: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309; Block Group 4: Block 401A, Block 401B, Block 401C, Block 401D, Block 402, Block 403A, Block 403B, Block 404, Block 405, Block 406, Block 407A, Block 407B; Block Group 9: Block 901, Block 902, Block 903, Block 904, Block 905, Block 906, Block 907; Tract 0249.02: Block Group 1: Block 101A, Block 101B, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107A, Block 107B, Block 108A, Block 108B, Block 109, Block 110, Block 111; Block Group 2: Block 201A, Block 201B, Block 202; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405A, Block 405B, Block 406A, Block 406B, Block 407, Block 408, Block 409, Block 410; Block Group 9: Block 901A, Block 901B, Block 902, Block 903, Block 904; Tract 0249.03: Block Group 1: Block 101, Block 102, Block 103A, Block 103B, Block 103C, Block 103D, Block 104, Block 105, Block 106, Block 107; Block Group 2: Block 201A, Block 201B, Block 202, Block 203, Block 204, Block 205; Block Group 3: Block 301, Block 302; Block Group 9: Block 901A, Block 901B, Block 901C; Tract 0250.01, Tract 0250.02: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111; Block Group 2: Block 201, Block 202A, Block 202B, Block 202D, Block 202E, Block 202F, Block 202G, Block 202H, Block 203, Block 204, Block 205, Block 206, Block 207; Block Group 3: Block 301A, Block 301B, Block 302, Block 303, Block 304; Block Group 9: Block 901A, Block 901D, Block 902, Block 903, Block 904A, Block 904B, Block 905, Block 906; Tract 0250.98, Tract 0251: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 108, Block 109; 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Block 101B, Block 101C, Block 102, Block 103, Block 106, Block 107, Block 109; Block Group 2: Block 201, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 307, Block 308, Block 309, Block 310, Block 311; Block Group 4: Block 401A, Block 401B, Block 402A, Block 402B, Block 403, Block 404A, Block 404B, Block 405, Block 406, Block 407, Block 408A, Block 408B, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416A, Block 416B, Block 417; Tract 0254: Block Group 1: Block 102, Block 103; Tract 0255: Block Group 1: Block 101, Block 102, Block 103; Block Group 2: Block 204; Tract 0256: Block Group 3: Block 301, Block 302A, Block 302B, Block 311, Block 312, Block 319, Block 320, Block 321, Block 322, Block 323A, Block 324A; Block Group 9: Block 901, Block 902, Block 903, Block 904, Block 905, Block 906A, Block 908, Block 909, Block 910, Block 911, Block 912, Block 913, Block 917, Block 919, Block 920; Tract 0319.03: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309; Block Group 4: Block 402, Block 403, Block 404, Block 407, Block 408; Block Group 5: Block 501, Block 502, Block 503, Block 504; Block Group 9: Block 902; Tract 0321.01: Block Group 6: Block 609B; Block Group 9: Block 901C, Block 904, Block 906, Block 922.

District 42: Whatcom: Tract 0001: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 121, Block 122, Block 124, Block 125; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225, Block 226, Block 227; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311A, Block 311B, Block 312, Block 313, Block 314, Block 315A, Block 315B, Block 316, Block 317, Block 318A, Block 318B, Block 319, Block 320A, Block 320B, Block 320C, Block 321, Block 322, Block 323, Block 324, Block 325, Block 326, Block 327A, Block 327B, Block 328, Block 329, Block 330A, Block 330B, Block 331, Block 332, Block 333, Block 334; Tract 0002: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106A, Block 106B, Block 107, Block 108A, Block 108B, Block 108C, Block 109, Block 110A, Block 110B, Block 111A, Block 111B, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127A, Block 127B, Block 128, Block 129, Block 130, Block 131, Block 132, Block 133, Block 134A, Block 134B, Block 135, Block 136, Block 137, Block 138, Block 139, Block 140, Block 141; Block Group 2: Block 201A, Block 201B, Block 201C, Block 202A, Block 202B, Block 203A, Block 203B, Block 204A, Block 204B, Block 205A, Block 205B, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221, Block 222, Block 223, Block 224, Block 225A, Block 225B, Block 226, Block 227, Block 228, Block 229, Block 230, Block 231, Block 232, Block 233, Block 234, Block 235, Block 236, Block 237, Block 238, Block 239, Block 240, Block 241, Block 242, Block 243, Block 244, Block 245, Block 246, Block 247, Block 248, Block 249, Block 250, Block 251, Block 252, Block 253, Block 254, Block 255, Block 256, Block 257, Block 258, Block 259, Block 260; Tract 0003: Block Group 1: Block 101A, Block 101B, Block 102A, Block 102B, Block 103A, Block 103B, Block 104A, Block 104B, Block 105A, Block 105B, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112A, Block 112B, Block 113A, Block 113B, Block 114, Block 115, Block 116, Block 117, Block 118, Block 119, Block 120, Block 121, Block 122, Block 123, Block 124, Block 125, Block 126, Block 127, Block 128A, Block 128B, Block 128C, Block 129, Block 130, Block 131A, Block 131B, Block 132, Block 133, Block 134, Block 135, Block 136, Block 137A, Block 137B, Block 138, Block 139, Block 140, Block 141, Block 142, Block 143, Block 144, Block 145, Block 146, Block 147, Block 148, Block 149, Block 150A, Block 150B, Block 151, Block 152, Block 153, Block 154, Block 155A, Block 155B, Block 156A, Block 156B, Block 156C, Block 156D, Block 157; Tract 0004: Block Group 1: Block 101,

Block 412, Block 413, Block 414, Block 415; Tract 0074: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407; Block Group 5: Block 501, Block 502, Block 503, Block 505, Block 506, Block 507, Block 508, Block 509; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606; Block Group 7: Block 701, Block 702, Block 703, Block 704, Block 705, Block 706, Block 707, Block 708, Block 709; Tract 0075: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111; Block Group 2: Block 201, Block 202A, Block 202B, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 307, Block 309, Block 310, Block 311, Block 312, Block 313, Block 316; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501, Block 504, Block 505, Block 506, Block 507, Block 508, Block 509, Block 510, Block 511, Block 512, Block 513; Block Group 6: Block 601, Block 602, Block 603, Block 604, Block 605, Block 606, Block 607, Block 608, Block 609, Block 610, Block 611, Block 612, Block 613, Block 614, Block 615; Tract 0077: Block Group 5: Block 510; Tract 0080: Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209; Block Group 3: Block 323, Block 324; Tract 0081: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111, Block 112, Block 113, Block 114, Block 115, Block 116, Block 117, Block 118, Block 120; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 212, Block 213, Block 214, Block 215, Block 216, Block 217, Block 218, Block 219, Block 220, Block 221; Block Group 3: Block 303, Block 304, Block 308, Block 311, Block 312, Block 313, Block 314, Block 315, Block 316, Block 318, Block 320, Block 321, Block 322; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410, Block 411, Block 412, Block 413, Block 414, Block 415, Block 416, Block 417, Block 418, Block 419, Block 420, Block 421, Block 422, Block 423, Block 424, Block 425, Block 426, Block 429; Tract 0082: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310, Block 311, Block 312; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Tract 0083: Block Group 1: Block 101, Block 102, Block 104, Block 105, Block 106; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210; Block Group 3: Block 301, Block 302, Block 303, Block 304, Block 305, Block 306; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406; Tract 0084: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 2: Block 201, Block 202, Block 203, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 211; Block Group 3: Block 302, Block 303, Block 304, Block 305, Block 306, Block 307, Block 308, Block 309, Block 310; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 411, Block 412, Block 413; Tract 0085: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107; Block Group 4: Block 401, Block 402, Block 403, Block 404, Block 405, Block 406, Block 407, Block 408, Block 409, Block 410; Block Group 5: Block 501, Block 502, Block 503, Block 504, Block 505, Block 506, Block 507, Block 508; Tract 0086: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109; Block Group 5: Block 501, Block 504, Block 513.

District 44: Snohomish: Tract 0416.01: Block Group 1: Block 101, Block 102, Block 103, Block 104, Block 105, Block 106, Block 107, Block 108, Block 109, Block 110, Block 111B, Block 112, Block 113, Block 114, Block 115, Block 116, Block 125; Block Group 2: Block 201, Block 204, Block 205, Block 206, Block 207, Block 208, Block 209, Block 210, Block 212B, Block 214B, Block 214C, Block 214D; Tract 0416.03: Block Group 3: Block 301, Block 302, Block 303B, Block 304; Block Group 4: Block 401, Block 402, Block 403B,

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Chapter 44.16

LEGISLATIVE INQUIRY

Sections

44.16.010	Examination of witnesses—Compulsory process.
44.16.020	Service of process.
44.16.030	Chairman to administer oaths.
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44.16.050	Commission executed during recess.
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44.16.070	Oath and powers of commissioner.
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44.16.160	Warrant of imprisonment.
44.16.170	Record of proceedings.

Reviser's note: "Act" has been translated to "chapter" throughout chapter 44.16 RCW as the entire chapter is composed of 1895 c 6 with the exception of 1897 c 33 § 1, which is supplementary thereto.

44.16.010 Examination of witnesses—Compulsory process. Every chairman or presiding member of any committee of either the senate or house of representatives, or any joint committee of the senate or house of representatives, which, by the terms of its appointment, shall be authorized to send for persons and papers, shall have power, under the direction of such committee, to issue compulsory process for the attendance of any witness within the state whom the committee may wish to examine. [1895 c 6 § 1; RRS § 8178.]

44.16.020 Service of process. All process provided for in this chapter may be served in the same manner as is provided by law for the service of process in the superior court; and it shall be the duty of any officer to whom any process may be delivered or issued, to serve the same as

directed: PROVIDED, That in the service of process a copy thereof shall be delivered to the witness. [1895 c 6 § 15; RRS § 8192.]

Service of summons: RCW 4.28.080.

44.16.030 Chairman to administer oaths. The chairman or presiding member of any committee of either the senate, house of representatives, or any joint committee thereof, shall be authorized to administer oaths to all witnesses coming before such committee for examination; and all witnesses who shall testify in any proceeding provided for in this chapter, shall be under oath or affirmation. [1895 c 6 § 2; RRS § 8179.]

44.16.040 Commission to examine absent witness. Every such chairman or presiding member shall also have power, under the direction of the committee, to issue a commission for the examination of any witness who shall be without the jurisdiction of the state, or if within the state, shall be unable to attend, or who shall, for any reasons, be excused by the committee from attendance. [1895 c 6 § 3; RRS § 8180.]

44.16.050 Commission executed during recess. Whenever such committee shall obtain authority for that purpose, from the senate or house, or legislature, by which it may be appointed, it may issue such commission to be executed during the recess of the legislature. [1895 c 6 § 4; RRS § 8181.]

44.16.060 To whom directed—Interrogatories. Every such commission shall be directed to such magistrate or other person, as the committee may designate, and interrogatories framed by the committee shall be annexed thereto. [1895 c 6 § 5; RRS § 8182.]

44.16.070 Oath and powers of commissioner. The person to whom such commission shall be directed, if he reside within the state and accept the trust, shall, before entering upon the execution of his duties, take the oath of office prescribed in the Constitution. Such commissioner shall have power to issue process to compel the attendance of witnesses, whom he shall be required to examine, and shall have power to administer oaths to such witnesses. [1895 c 6 § 6; RRS § 8183.]

44.16.080 Examination to be private. Unless otherwise directed by the committee, it shall in all cases be the duty of the commissioner to examine, in private, every witness attending before him, and not to make public the particulars of such examination, when so made in private, until the same shall be made public by order of the house or legislature appointing the committee. [1895 c 6 § 7; RRS § 8184.]

44.16.090 Testimony reduced to writing. Every witness so attending shall be examined on oath or affirmation, and his testimony shall be reduced to writing by the commissioner, or by some disinterested person in his

presence and under the direction of said commissioner, and signed by the witness. [1895 c 6 § 8; RRS § 8185.]

44.16.100 Return of depositions. When a commission shall have been duly executed, the commissioner shall annex thereto the depositions of the witnesses, duly certified by him, and shall, without delay, transmit the same by mail, inclosed and under seal, or deliver the same, to the chairman of the committee by which the commission shall have been issued, or to such person as by the committee directed. [1895 c 6 § 9; RRS § 8186.]

44.16.110 Fees of commissioner and witnesses. A person executing any such commission shall be paid, out of the state treasury, the same fees that are allowed by law for the taking of depositions on commissions issued out of the superior courts of this state; and any witness attending before either house of the legislature, or any committee or joint committee thereof, or before any such commissioner, shall be so paid two dollars per day for each day in attendance, and five cents a mile for the distance necessarily traveled in attending as such witness. [1895 c 6 § 10; RRS § 8187.]

44.16.120 Punishment of recalcitrant witness. Any person who shall fail to attend as a witness upon any committee appointed by either the house or senate of the state of Washington, or both, after having been duly subpoenaed as provided in this chapter, or who, being in attendance as a witness before such committee, shall refuse to answer any question or produce any paper or document or book which he is required to answer or to produce by such committee, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars, or by imprisonment in the county jail for a term not longer than six months, or by both such fine and imprisonment. [1897 c 33 § 1; RRS § 8194.]

Witness refusing to attend or testify if requested by legislature or committee thereof: RCW 9.55.020.

44.16.130 Failure to attend—Contempt. A person who, being duly summoned to attend as a witness before either house of the legislature, or any committee or joint committee thereof, or commissioner authorized to summon witnesses, refuses or neglects, without lawful excuse, to attend pursuant to such summons, shall be punished as for contempt, as hereinafter provided. [1895 c 6 § 11; RRS § 8188.]

44.16.140 Refusal to testify—Contempt. A person who, being present before either house of the legislature, or any committee or joint committee thereof, or commissioner authorized to summon witnesses, wilfully refuses to be sworn or affirmed, or to answer any material and proper question, or to produce, upon reasonable notice, any material and proper books, papers or documents in his possession or under his control, shall be punished as for contempt, as hereinafter provided. [1895 c 6 § 12; RRS § 8189.]

44.16.150 Punishment for contempt. Any person being in contempt, as hereinbefore provided, shall be

punished by fine in any sum not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail in the county where such examination is being had, for any period of time not extending beyond the legislative session then being held, or by both such fine and imprisonment, as the legislative body which authorized such examination may order. And in case the contempt arises in a joint proceeding of both houses, or before a joint committee thereof, the senate shall prescribe the penalty. [1895 c 6 § 13; RRS § 8190.]

Contempt: Chapter 7.21 RCW.

Witness refusing to attend legislature or committee or to testify: RCW 9.55.020.

44.16.160 Warrant of imprisonment. If any fine is imposed against any person for contempt, as hereinbefore provided, he shall stand committed to the county jail of the county in which the offense was committed until such fine is paid. The presiding officer of the house, fixing the fine, shall issue a warrant to the sheriff of the county where the offense was committed, commanding him to imprison such person in the county jail until such fine is paid, or until he has been imprisoned in such jail one day for every three dollars of such fine. [1895 c 6 § 14; RRS § 8191.]

44.16.170 Record of proceedings. Every such committee shall keep a record of its proceedings under the provisions of this chapter, which record shall be signed by the chairman or presiding officer of the committee, and the same returned to the legislative body by which the committee was appointed, as a part of the report of such committee. [1895 c 6 § 16; RRS § 8193.]

Chapter 44.20 SESSION LAWS

Sections

- 44.20.010 Engrossed bills to be filed with secretary of state.
- 44.20.020 Chapter numbers—Bill copies certified, delivered—Citation by number and year.
- 44.20.030 Publication of temporary edition.
- 44.20.050 Headings, index—Publication of permanent edition.
- 44.20.060 Duty of code reviser in arranging laws.
- 44.20.080 Private publication restricted.
- 44.20.090 Legislative records—Preservation.

Distribution of session laws: RCW 40.04.040.

Public printer to print and bind session laws: RCW 43.78.030.

Revised Code of Washington: Chapter 1.04 RCW.

Salaries for public officials to appear in session laws: RCW 43.03.047.

44.20.010 Engrossed bills to be filed with secretary of state. Whenever any bill shall have passed both houses, the house transmitting the enrolled bill to the governor shall also file with the secretary of state the engrossed bill, together with the history of such bill up to the time of transmission to the governor. [1907 c 136 § 1; RRS § 8196.]

Secretary of state to keep record of acts of the legislature: State Constitution Art. 3 § 17; RCW 43.07.040.

44.20.020 Chapter numbers—Bill copies certified, delivered—Citation by number and year. Whenever any

bill shall become a law the secretary of state shall number such bill in the order in which it became a law, commencing with each session of the legislature, and shall forthwith certify and deliver three copies of such bill to the statute law committee. Such number shall be in Arabic numerals, and shall be the chapter number of the act when published. A citation to the chapter number and year of the session laws heretofore or hereafter published shall be a sufficient reference to the act so designated. [1969 c 6 § 1; 1907 c 136 § 2; RRS § 8197.]

44.20.030 Publication of temporary edition. The statute law committee, after each and every legislative session, whether regular or extraordinary, shall cause to be reproduced or printed for temporary use separate copies of each act filed in the office of secretary of state within ten days after the filing thereof.

The committee shall cause to be reproduced or printed three thousand copies or such additional number as may be necessary of temporary bound sets of all acts filed in the office of secretary of state within seventy-five days after the final adjournment of the legislature for that year. [1982 1st ex.s. c 32 § 3; 1969 c 6 § 2; 1961 c 21 § 1; 1933 ex.s. c 31 § 1; 1933 c 27 § 1; 1925 ex.s. c 35 § 1; 1907 c 136 § 3; RRS § 8198.]

Distribution of temporary edition of session laws: RCW 40.04.035.

Statute law committee: Chapter 1.08 RCW.

44.20.050 Headings, index—Publication of permanent edition. When all of the acts of any session of the legislature and initiative measures enacted by the people since the next preceding session have been certified to the statute law committee, the code reviser employed by the statute law committee shall make the proper headings and index of such acts or laws and, after such work has been completed, the statute law committee shall have published and bound in good buckram at least six hundred copies or such additional copies as may be necessary of such acts and laws, with such headings and indexes, and such other matter as may be deemed essential, including a title page showing the session at which such acts were passed, the date of convening and adjournment of the session, and any other matter deemed proper, including a certificate by the secretary of state of such referendum measures as may have been enacted by the people since the next preceding session. [1982 1st ex.s. c 32 § 4; 1969 c 6 § 4; 1951 c 157 § 18; 1915 c 27 § 1; 1907 c 136 § 5; RRS § 8200.]

Distribution of permanent edition of session laws: RCW 40.04.040.

44.20.060 Duty of code reviser in arranging laws. In arranging the laws, memorials and resolutions for publication, the code reviser is hereby authorized to make such corrections in the orthography, clerical errors and punctuation of the same as in his judgment shall be deemed essential: PROVIDED, That when any words or clauses shall be inserted, the same shall be inclosed in brackets; and no correction shall be made which changes the intent or meaning of any sentence, section or act of the legislature. [1969 c 6 § 5; 1890 p 632 § 8; RRS § 8203.]

44.20.080 Private publication restricted. It shall be unlawful for any person to print and publish for sale the session laws of any session in book form within one year after the adjournment of such session, other than those ordered printed by the statute law committee, or to deliver to anyone other than such committee or upon their order any of the session laws so ordered printed by them: PROVIDED, This section shall not apply to any general compilation of the laws of this state or to a compilation of any special laws or laws on any special subject. [1969 c 6 § 6; 1907 c 136 § 6; RRS § 8201.]

44.20.090 Legislative records—Preservation. See RCW 40.14.100 through 40.14.180.

Chapter 44.28

LEGISLATIVE BUDGET COMMITTEE

Sections

- 44.28.010 Legislative budget committee created—Members.
- 44.28.020 Terms of members—Vacancies.
- 44.28.030 Continuation of memberships and powers.
- 44.28.040 Travel expenses of members.
- 44.28.050 Expenses of committee—Vouchers.
- 44.28.060 Powers of committee—General.
- 44.28.080 Powers—Appropriations, expenses, revenues.
- 44.28.085 Management surveys and program reviews—Review of state auditor's report, recommendations.
- 44.28.086 Management surveys—Reviews of program goals and objectives, performance audits to be included.
- 44.28.087 Agencies to furnish committee with performance reports, internal audits, etc.
- 44.28.100 Powers—Reports, minutes.
- 44.28.110 Examinations—Subpoenas—Depositions.
- 44.28.120 Contempt proceedings—Witnesses failing to appear or testify.
- 44.28.130 Witness fees and mileage.
- 44.28.140 Legislative auditor and other assistants—Employment—Duties of legislative auditor.
- 44.28.150 Cooperation with legislative committees and others.
- 44.28.180 State agency program evaluation.
- 44.28.900 Severability—1951 c 43.

Director of financial management: Chapter 43.41 RCW.

Loan program for mathematics and science teachers—Review of: RCW 28B.15.766.

Personal service contracts, filing with legislative budget committee required: Chapter 39.29 RCW.

State budgeting, accounting, and reporting: Chapter 43.88 RCW.

Study of funds related to state transportation programs: RCW 44.40.025.

Sunset review process: Chapter 43.131 RCW.

Termination of tax preferences: Chapter 43.136 RCW.

44.28.010 Legislative budget committee created—Members. There is hereby created a legislative budget committee which shall consist of eight senators and eight representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than four members from each house shall be from the same political party. Members shall be appointed before the close of each regular session of the legislature during an odd-numbered year: PROVIDED, That if prior to the close of a regular session during an odd-numbered year, the governor issues a proclamation convening the legislature into special session,

or the legislature by resolution convenes the legislature into special session, following such regular session, then such appointments shall be made as a matter of closing business of such special session. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. In the event of a failure to appoint committee members, either on the part of the president of the senate or on the part of the speaker of the house, or in the event of a refusal by either the senate or the house to confirm appointments on the committee, then the members of the committee from either house in which there is a failure to appoint or confirm shall be elected forthwith by the members of such house. [1983 c 52 § 1; 1980 c 87 § 30; 1969 c 10 § 4; 1967 ex.s. c 114 § 1; 1963 ex.s. c 20 § 1; 1955 c 206 § 4; 1951 c 43 § 1.]

44.28.020 Terms of members—Vacancies. The term of office of the members of the committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as provided in RCW 44.28.010 until the close of the next regular session during an odd-numbered year or special session following such regular session, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year during which successors are appointed or elected. The term of office of such committee members as shall not continue to be members of the senate and house shall cease upon the convening of the next regular session of the legislature during an odd-numbered year after their confirmation, election or appointment. Vacancies on the committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated. [1980 c 87 § 31; 1969 c 10 § 5; 1955 c 206 § 5; 1951 c 43 § 12.]

44.28.030 Continuation of memberships and powers. On and after the commencement of a succeeding general session of the legislature, those members of the committee who continue to be members of the senate and house, respectively, shall continue as members of the committee as indicated in RCW 44.28.020 and the committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use. [1955 c 206 § 6; 1951 c 43 § 13.]

44.28.040 Travel expenses of members. The members of the committee shall serve without additional compensation, but shall be reimbursed for their travel expenses, in accordance with RCW 44.04.120 as now existing or hereafter amended, incurred while attending sessions of the committee or meetings of any subcommittee of the committee, while engaged on other committee business authorized by the committee, and while going to and coming from committee sessions or committee meetings. [1975-'76 2nd ex.s. c 34 § 134; 1951 c 43 § 14.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

44.28.050 Expenses of committee—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor. The legislative auditor may be authorized by the legislative budget committee's executive committee to sign vouchers. Such authorization shall specify a dollar limitation and be set out in writing. A monthly report of such vouchers shall be submitted to the executive committee. If authorization is not given to the legislative auditor then the chair, or the vice-chair in the chair's absence, is authorized to sign vouchers. This authority shall continue until the chair's or vice-chair's successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1989 c 137 § 1; 1955 c 206 § 7; 1951 c 43 § 15.]

Vouchers on public funds: Chapter 42.24 RCW.

44.28.060 Powers of committee—General. The committee shall have the power and duty to appoint its own chairman, vice chairman, and other officers; to make rules and regulations for orderly procedure; to perform, either through the legislative budget committee or through subcommittees of the legislative budget committee, all duties and functions relating to improving the economy, efficiency, and effectiveness of state agency management by performance audits and other staff studies of state government, its officers, boards, committees, commissions, institutions, and other state agencies. [1975 1st ex.s. c 293 § 13; 1951 c 43 § 2.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.080 Powers—Appropriations, expenses, revenues. The committee shall have the following powers:

(1) To make examinations and reports concerning whether or not appropriations are being expended for the purposes and within the statutory restrictions provided by the legislature; concerning the economic outlook and estimates of revenue to meet expenditures; and concerning the organization and operation of procedures necessary or desirable to promote economy, efficiency, and effectiveness in state government, its officers, boards, committees, commissions, institutions and other state agencies, and to make recommendations and reports to the legislature.

(2) To make such other studies and examinations of economy, efficiency, and effectiveness of state government and its state agencies as it may find advisable, and to hear complaints, hold hearings, gather information and make findings of fact with respect thereto.

(3) The committee shall have the power to receive messages and reports in person or in writing from the governor or any other state officials and to study generally any and all business relating to economy, efficiency, and effectiveness in state government and state agencies. [1975 1st ex.s. c 293 § 14; 1955 c 206 § 10; 1951 c 43 § 4.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.085 Management surveys and program reviews—Review of state auditor's report, recommendations. The legislative budget committee shall make management surveys and program reviews as to every public body, officer or employee subject to the provisions of RCW 43.09.290 through 43.09.340. The legislative budget committee may also make management surveys and program reviews of local school districts, intermediate school districts, and other units of local government receiving state funds as grants-in-aid or as shared revenues. Management surveys for the purposes of this section shall be an independent examination for the purpose of providing the legislature with an evaluation and report of the manner in which any public agency, officer, administrator, or employee has discharged the responsibility to faithfully, efficiently, and effectively administer any legislative purpose of the state. Program reviews for the purpose of this section shall be an examination of state or local government programs to ascertain whether or not such programs continue to serve their intended purposes, are conducted in an efficient and effective manner, or require modification or elimination. Nothing in this section shall limit the power or duty of the state auditor to report to the legislature as directed by RCW 43.88.160.

The legislative budget committee shall receive a copy of each report of examination issued by the state auditor under RCW 43.09.310, shall review all such reports, and shall make such recommendations to the legislature and to the state auditor as it deems appropriate. [1993 c 406 § 6; 1975 1st ex.s. c 293 § 15; 1971 ex.s. c 170 § 3.]

Short title—1993 c 406: See note following RCW 43.88.020.

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Severability—1971 ex.s. c 170: See note following RCW 43.09.050.

44.28.086 Management surveys—Reviews of program goals and objectives, performance audits to be included. The legislative budget committee authority for management surveys contained in RCW 44.28.085 shall include reviews of program goals and objectives of public bodies, officers or employees to determine conformity with legislative intent and shall include comprehensive performance audits to ensure that agency programs are being conducted in accordance with legislative intent and program goals and objectives. [1973 1st ex.s. c 197 § 1.]

44.28.087 Agencies to furnish committee with performance reports, internal audits, etc. All agency reports concerning program performance, including administrative review, quality control, and other internal audit or performance reports, as requested by the legislative budget committee, shall be furnished by the agency requested to provide such report. [1973 1st ex.s. c 197 § 2.]

44.28.100 Powers—Reports, minutes. The committee shall have the power to make reports from time to time to the members of the legislature and to the public with respect to any of its findings or recommendations. The committee shall keep complete minutes of its meetings. [1987 c 505 § 45; 1975 1st ex.s. c 293 § 16; 1951 c 43 § 6.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.110 Examinations—Subpoenas—Depositions.

In the discharge of any duty herein imposed, the committee or any personnel under its authority and its subcommittees shall have the authority to examine and inspect all properties, equipment, facilities, files, records and accounts of any state office, department, institution, board, committee, commission or agency, and to administer oaths, issue subpoenas, compel the attendance of witnesses and the production of any papers, books, accounts, documents and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by laws for taking depositions in civil actions in the superior courts. [1955 c 206 § 8; 1951 c 43 § 8.]

Depositions: Rules of court: CR 26 through 37.

44.28.120 Contempt proceedings—Witnesses failing to appear or testify. In case of the failure on the part of any person to comply with any subpoena issued in behalf of the committee, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. [1951 c 43 § 9.]

Contempt: Chapter 7.21 RCW.

Legislative inquiry: Chapter 44.16 RCW.

Witness refusing to attend or testify before legislature or committee: RCW 9.55.020.

44.28.130 Witness fees and mileage. Each witness who appears before the committee by its order, other than a state official or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness and approved by the secretary and chairman of the committee. [1951 c 43 § 10.]

Witness fees and mileage: Chapter 2.40 RCW.

44.28.140 Legislative auditor and other assistants—Employment—Duties of legislative auditor. The committee is hereby authorized and empowered to appoint an officer to be known as the legislative auditor, and to fix his compensation, who shall be the executive officer of the committee and assist in its duties and shall compile information for the committee. The committee is hereby authorized and empowered to select and employ other clerical, legal, accounting, research and other personnel that it may deem desirable in the performance of its duties, and the compensation and salaries shall be fixed by the legislative budget committee.

The duties of the legislative auditor shall be as follows:

(1) To ascertain the facts and make recommendations to the committee and under their direction to the committees of the state legislature concerning

(a) revenues and expenditures of the state; and

(b) the organization and functions of the state, its departments, subdivisions and agencies.

(2) To assist the several standing committees of the house and senate in consideration of legislation affecting state departments and their efficiency; to appear before other legislative committees and to assist any other legislative committee upon instruction by the legislative budget committee.

(3) To provide the legislature with information obtained under the direction of the legislative budget committee.

(4) To maintain a record of all work performed by the legislative auditor under the direction of the legislative budget committee and to keep and make available all documents, data and reports submitted to him by any legislative committee. [1975 1st ex.s. c 293 § 17; 1955 c 206 § 9; 1951 c 43 § 11.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.150 Cooperation with legislative committees and others. The committee shall cooperate, act and function with legislative committees and with the councils or committees of other states similar to this committee and with other interstate research organizations. [1975 1st ex.s. c 293 § 18; 1951 c 43 § 7.]

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

44.28.180 State agency program evaluation. (1) In conducting program evaluations as defined in RCW 43.88.020, the legislative budget committee may establish a biennial work plan that identifies state agency programs for which formal evaluation appears necessary. Among the factors to be considered in preparing the work plan are:

(a) Whether a program newly created or significantly altered by the legislature warrants continued oversight because (i) the fiscal impact of the program is significant, or (ii) the program represents a relatively high degree of risk in terms of reaching the stated goals and objectives for that program;

(b) Whether implementation of an existing program has failed to meet its goals and objectives by any significant degree.

(2) The project description for each program evaluation shall include start and completion dates, the proposed research approach, and cost estimates.

(3) The overall plan may include proposals to employ contract evaluators. As conditions warrant, the program evaluation work plan may be amended from time to time. All biennial work plans shall be transmitted to the appropriate fiscal and policy committees of the senate and the house of representatives. [1993 c 406 § 5.]

Short title—1993 c 406: See note following RCW 43.88.020.

44.28.900 Severability—1951 c 43. If any section, subsection, paragraph or provision of this chapter shall be held invalid by any court for any reason, such invalidity shall not in any way affect the validity of the remainder of this chapter. [1951 c 43 § 16.]

Chapter 44.39

JOINT COMMITTEE ON ENERGY AND UTILITIES

Sections

- 44.39.010 Committee created.
- 44.39.015 Composition—Appointment of members.
- 44.39.020 Terms.
- 44.39.025 Vacancies.
- 44.39.038 Study of state building code relating to energy.
- 44.39.039 State-wide thermal efficiency and lighting code—State building code council authorized to adopt; presentation to legislative committees on energy and utilities.
- 44.39.045 Expenses and per diem.
- 44.39.050 Payment of expenses—Vouchers.
- 44.39.060 Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees.
- 44.39.070 Meetings—Energy supply alert or energy emergency—Duties.

Energy supply emergencies, alerts: Chapter 43.21G RCW.

44.39.010 Committee created. There is hereby created the joint committee on energy and utilities of the legislature of the state of Washington. [1977 ex.s. c 328 § 13; 1969 ex.s. c 260 § 1.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.015 Composition—Appointment of members. The committee shall consist of four senators and four representatives who shall be selected biennially as follows:

(1) The president of the senate shall nominate four members from the energy and utilities committee, including the chairman, two members being from each major political party, to serve on the committee, and shall submit the list of nominees to the senate for confirmation. Upon confirmation, the senators shall be deemed installed as members.

(2) The speaker of the house shall nominate four members from the energy and utilities committee, including the chairman, two members being from each major political party, to serve on the committee, and shall submit the list of nominees to the house of representatives for confirmation. Upon confirmation, the representatives shall be deemed installed as members. The chairmen of the senate and house energy and utilities committees shall alternately serve as chairman for one year terms. The chairman of the house committee shall serve as the initial chairman. The chairman may designate another committee member to serve as chairman in his or her absence. [1977 ex.s. c 328 § 14; 1969 ex.s. c 260 § 2.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.020 Terms. Members shall serve until their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, at the next succeeding regular session of the legislature during an odd-numbered year, or until they are no longer members of the legislature, whichever is sooner. [1980 c 87 § 38; 1977 ex.s. c 328 § 15; 1969 ex.s. c 260 § 3.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.025 Vacancies. The presiding officer of the appropriate legislative chamber shall fill any vacancies [Title 44 RCW—page 94]

occurring on the committee by appointment from the same political party as the departing member. Notwithstanding the provisions of RCW 44.39.015 as now or hereafter amended, any such appointee shall be deemed installed as a member upon appointment. Members filling vacancies shall serve until they or their successors are installed as provided in RCW 44.39.015, as now or hereafter amended, or until they are no longer members of the legislature, whichever is sooner. [1977 ex.s. c 328 § 16; 1969 ex.s. c 260 § 4.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.038 Study of state building code relating to energy. The senate and house committees on energy and utilities shall make continuing studies of the state building code as it relates to energy consumption, conservation and retention and shall submit their recommendations concerning such to the legislature periodically. [1977 ex.s. c 14 § 13.]

Severability—1977 ex.s. c 14: See RCW 19.27.905.

Energy-related building standards: Chapter 19.27A RCW.

44.39.039 State-wide thermal efficiency and lighting code—State building code council authorized to adopt; presentation to legislative committees on energy and utilities. See RCW 19.27A.020.

44.39.045 Expenses and per diem. The members of the committee shall serve without compensation, but shall be reimbursed for their expenses incurred while attending sessions of the committee or any subcommittee of the committee, or while engaged in other committee business authorized by the committee, as provided for in RCW 44.04.120. [1969 ex.s. c 260 § 8.]

44.39.050 Payment of expenses—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the director of financial management and signed by the chairman of the committee. Vouchers may be drawn upon funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee. [1979 c 151 § 156; 1969 ex.s. c 260 § 9.]

44.39.060 Examinations—Subpoenas—Depositions—Contempt proceedings—Witness fees. In the discharge of any duty imposed by this chapter, the committee or any personnel acting under its direction shall have the authority to examine and inspect all properties, equipment, facilities, files, records, and accounts of any state office, department, institution, board, committee, commission, or agency; to administer oaths; and to issue subpoenas, upon approval of a majority of the members of the house or senate rules committee, to compel the attendance of witnesses and the production of any papers, books, accounts, documents, and testimony, and to cause the deposition of witnesses, either residing within or without the state, to be taken in the manner prescribed by law for taking depositions in civil actions in the superior courts.

In case of the failure of any person to comply with any subpoena issued in behalf of the committee, or on the refusal

of any witness to testify to any matters regarding which he may be lawfully interrogated, it shall be the duty of the superior court of any county, or of the judge thereof, on application of the committee, to compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein.

Each witness who appears before the committee by its order, other than a state official or employee, shall receive for his attendance the fees and mileage provided for witnesses in civil cases in courts of record, which shall be audited and paid upon the presentation of proper vouchers signed by such witness and approved by the chairman of the committee. [1977 ex.s. c 328 § 17.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

44.39.070 Meetings—Energy supply alert or energy emergency—Duties. The committee shall only meet and function during a condition of energy supply alert or energy emergency. Upon the declaration by the governor of a condition of energy supply alert or energy emergency, the committee on energy and utilities shall meet to receive any plans proposed by the governor for programs, controls, standards, and priorities for the production, allocation, and consumption of energy during any current or anticipated condition of energy supply alert or energy emergency, any proposed plans for the suspension or modification of existing rules of the Washington Administrative Code, and any other relevant matters the governor deems desirable. The committee shall review such plans and matters and shall transmit its recommendations to the governor for review. The committee shall review any voluntary programs or local or regional programs for the production, allocation, or consumption of energy which have been submitted to the committee.

The committee shall receive any request from the governor for the approval of a declaration of a condition of energy emergency as provided in RCW 43.21G.040 as now or hereafter amended and shall either approve or disapprove such request.

During a condition of energy supply alert, the committee shall receive any request from the governor for an extension of the condition of energy supply alert for an additional sixty consecutive days and the findings upon which such request is based and shall either approve or disapprove such request.

During a condition of energy emergency the committee shall receive any request from the governor for an extension of the condition of energy emergency for an additional forty-five consecutive days and the finding upon which any such request is based and shall either approve or disapprove such request. [1977 ex.s. c 328 § 18.]

Severability—1977 ex.s. c 328: See note following RCW 43.21G.010.

Chapter 44.40

LEGISLATIVE TRANSPORTATION COMMITTEE—SENATE AND HOUSE TRANSPORTATION COMMITTEES

Sections

- 44.40.010 Creation—Composition—Appointments—Vacancies.
- 44.40.020 Powers, duties, and studies.
- 44.40.025 Study of funds or accounts related to state transportation programs—Coordination of activities.
- 44.40.030 Participation in activities of other organizations.
- 44.40.040 Members' allowances—Procedure for payment of committee's expenses.
- 44.40.050 Additional motor vehicle fees for support of committee activities.
- 44.40.070 State transportation agencies—Preparation of comprehensive programs and financial plans required.
- 44.40.080 State transportation agencies—Recommended budget—Preparation and presentation—Contents.
- 44.40.090 Delegation of powers and duties to senate and house transportation committees.
- 44.40.100 Contracts and programs authorized.
- 44.40.120 Periodic review of plans for bicycle, pedestrian, and equestrian facilities.
- 44.40.140 Review of policy on fees imposed on nonpolluting fuels—Report.
- 44.40.150 Study—Final report by December 1993.

Report (state traffic safety commission) to legislative transportation committee: RCW 43.59.130.

Review of rules for private carrier drivers: RCW 46.73.010.

Study reports available to legislators: RCW 47.01.145.

44.40.010 Creation—Composition—Appointments—Vacancies. The joint fact-finding committee on highways, streets, and bridges originally created by chapter 111, Laws of 1947, recreated and renamed the joint committee on highways by chapter 3, Laws of 1963 extraordinary session, is hereby recreated and renamed the legislative transportation committee. The renaming of said committee shall not affect any powers invested in it or its duties imposed upon it by any other statute. All appropriations made to the committee under its former name shall continue to be available to said committee as renamed, the legislative transportation committee. The committee shall consist of eleven senators to be appointed by the president of the senate and twelve members of the house of representatives to be appointed by the speaker thereof. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority. [1980 c 87 § 39; 1971 ex.s. c 195 § 1; 1967 ex.s. c 145 § 68; 1965 ex.s. c 170 § 64; 1963 ex.s. c 3 § 35.]

Severability—1971 ex.s. c 195: "If any provision of this 1971 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other circumstances is not affected." [1971 ex.s. c 195 § 21.]

44.40.020 Powers, duties, and studies. The committee is authorized and directed to continue its studies and for that purpose shall have the powers set forth in chapter 111, Laws of 1947. The committee is further authorized to make

studies related to bills assigned to the house and senate transportation committees and such other studies as provided by law. The executive committee of the committee may assign responsibility for all or part of the conduct of studies to the house and/or senate transportation committees. [1977 ex.s. c 235 § 5; 1975 1st ex.s. c 268 § 1; 1963 ex.s. c 3 § 36.]

Powers set forth in chapter 111, Laws of 1947: "Sec. 2. The committee is hereby authorized and directed to ascertain, study and analyze all available facts and matters relating or pertaining to: (a) A study of the policies relating to and the cost of the administration, operation, construction and maintenance of public highways and streets of the state, with recommendations for such changes as may be deemed necessary;

(b) the need for and cost of bringing the highways and streets in the state to acceptable standards, the cost of maintaining them in such condition, the need and cost of expanding the highway and street systems of the state to meet the increasing demands for travel and the demands arising from the changing economic and industrial development, and the determination of long-range programs to provide the needed construction;

(c) the making of a study of motor vehicle taxation including the assignment of the total highway costs among property owners, general taxpayers and highway users;

(d) the determination of the portion of highway and street operation and construction costs assignable to the various highway users and classes of users so that all vehicles and classes of vehicles shall bear their fair share of such costs;

(e) the determination of the tax basis and rates to be exacted from each vehicle or user;

(f) a determination of what roads should be included in the state highway system and what changes should be made in the existing system;

(g) other studies of motor vehicle transport economics including but not limited to the inspection of motor vehicles to insure the safety of operation upon the highways, the control of loads and weights for the protection of the highway and street investments, and a study of such other factors and conditions as may appear necessary;

(h) the revision of any and all laws bearing upon or relating to the subject of this resolution together with the committee's recommendations for appropriate legislation. [1947 c 111 § 2.]

Sec. 3. The committee is authorized to act during this session of the legislature, including any recess, and after final adjournment until the commencement of the next regular session. It shall file a final report not later than the 15th legislative day of the next regular session. The committee may prepare and submit a preliminary report to the legislature at any extraordinary session which may be convened. [1947 c 111 § 3.]

Sec. 4. The committee and its members shall have and exercise all of the rights, duties and powers conferred upon legislative committees and their members by the provisions of chapter 6, Laws of 1895 and chapter 33, Laws of 1897 (secs. 8178 through 8194, Rem. Rev. Stat.; secs. 722-1, -3, -5, -7, -9, -11, -13, -15, -17, -19, -21, -23, -25, -27, -29, -31, and -33, PPC) [chapter 44.16 RCW] and shall have additional powers: (a) To select a chairman and vice-chairman from its membership;

(b) to employ an executive secretary and such expert, clerical and other help as may be necessary to carry out its duties;

(c) to cooperate with and secure the cooperation of county, city and other local law enforcement agencies in investigating any matter within the scope of this act and to direct the sheriff of any county to serve subpoenas, orders and other process issued by the committee;

(d) to do any and all other things necessary or convenient to enable it fully and adequately to exercise its powers, perform its duties, and accomplish the objects and purposes of this act." [1947 c 111 § 4.]

Reviser's note: Successive study authorizations, not codified in RCW, are to be found in the various session laws subsequent to 1947, for example: 1949 c 213; 1951 c 269; 1953 c 254; 1955 c 384; 1957 c 172; 1959 c 319; 1961 ex.s. c 21; 1963 ex.s. c 3; 1965 ex.s. c 170; 1967 ex.s. c 145; 1969 ex.s. c 281; 1970 ex.s. c 85; 1971 ex.s. c 195; 1973 1st ex.s. c 210; 1975 1st ex.s. c 268; 1977 ex.s. c 235; and 1979 ex.s. c 192.

Legislative transportation committee duties in conjunction with transportation commission: See note following RCW 47.01.071.

44.40.025 Study of funds or accounts related to state transportation programs—Coordination of activities. In addition to the powers and duties authorized in

RCW 44.40.020, the committee and the standing committees on transportation of the house and senate shall, in coordination with the legislative budget committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives, ascertain, study, and/or analyze all available facts and matters relating or pertaining to sources of revenue, appropriations, expenditures, and financial condition of the motor vehicle fund and accounts thereof, the highway safety fund, and all other funds or accounts related to transportation programs of the state.

The legislative budget committee, the legislative evaluation and accountability program committee, and the ways and means committees of the senate and house of representatives shall coordinate their activities with the legislative transportation committee in carrying out the committees' powers and duties under chapter 43.88 RCW in matters relating to the transportation programs of the state. [1981 c 270 § 15; 1977 ex.s. c 235 § 6; 1975 1st ex.s. c 293 § 19; 1971 ex.s. c 195 § 2.]

Effective date—Severability—1981 c 270: See notes following RCW 43.88.010.

Severability—Effective date—1975 1st ex.s. c 293: See RCW 43.88.902 and 43.88.910.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.030 Participation in activities of other organizations. In addition to the powers and duties heretofore conferred upon it, the legislative transportation committee may participate in: (1) The activities of committees of the council of state governments concerned with transportation activities; (2) activities of the national committee on uniform traffic laws and ordinances; (3) any interstate reciprocity or proration meetings designated by the department of licensing; and (4) such other organizations as it deems necessary and appropriate. [1982 c 227 § 17; 1977 ex.s. c 235 § 7; 1971 ex.s. c 195 § 3; 1963 ex.s. c 3 § 38.]

Effective date—1982 c 227: See note following RCW 19.09.100.

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.040 Members' allowances—Procedure for payment of committee's expenses. The members of the legislative transportation committee and the house and senate transportation committees shall receive allowances while attending meetings of the committees or subcommittees and while engaged in other authorized business of the committees as provided in RCW 44.04.120 as now or hereafter amended. All expenses incurred by the committee, and the house and senate transportation committees, including salaries of employees of the legislative transportation committee, shall be paid upon voucher forms as provided by the office of financial management and signed by the chairman or vice chairman or authorized designee of the chairman of the committee, and the authority of said chairman or vice chairman to sign vouchers shall continue until their successors are selected. Vouchers may be drawn upon funds appropriated for the expenses of the committee. [1979 c 151 § 157; 1977 ex.s. c 235 § 8; 1975 1st ex.s. c 268 § 3; 1971 ex.s. c 195 § 4; 1963 ex.s. c 3 § 39.]

Severability—1971 ex.s. c 195: See note following RCW 44.40.010.

44.40.050 Additional motor vehicle fees for support of committee activities. See RCW 46.16.061.

44.40.070 State transportation agencies—Preparation of comprehensive programs and financial plans required. Prior to October 1st of each even-numbered year all state agencies whose major programs consist of transportation activities, including the department of transportation, the utilities and transportation commission, the transportation improvement board, the Washington state patrol, the department of licensing, the traffic safety commission, the county road administration board, and the board of pilotage commissioners, shall adopt or revise, after consultation with the legislative transportation committee, a comprehensive six-year program and financial plan for all transportation activities under each agency's jurisdiction.

The comprehensive six-year program and financial plan shall state the general objectives and needs of each agency's major transportation programs, including workload and performance estimates. [1988 c 167 § 10; 1979 ex.s. c 192 § 3; 1979 c 158 § 112; 1977 ex.s. c 235 § 9; 1973 1st ex.s. c 201 § 1.]

Savings—Severability—1988 c 167: See notes following RCW 47.26.121.

Effective dates—1979 ex.s. c 192: "Section 6 of this 1979 act shall take effect July 1, 1980. Sections 1 through 5 of this 1979 act are necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1979." [1979 ex.s. c 192 § 7.] "Section 6 of this 1979 act" refers to the reenactment of RCW 46.16.380 by 1979 ex.s. c 192. "Sections 1 through 5 of this 1979 act" refer to three temporary, uncodified sections of 1979 ex.s. c 192 and to the amendments to RCW 44.40.070 and 47.17.370 by 1979 ex.s. c 192.

Revenue forecasts: RCW 43.88.122.

44.40.080 State transportation agencies—Recommended budget—Preparation and presentation—Contents. Notwithstanding any other provision of law, state transportation agencies shall prepare and present to the governor and to the legislature prior to its convening a recommended budget for the ensuing biennium. The biennial budget shall include details of expenditures, and performance and public service criteria for the transportation programs and activities of each agency in consonance with said agency's adopted six-year comprehensive program and financial plan. [1973 1st ex.s. c 201 § 2.]

44.40.090 Delegation of powers and duties to senate and house transportation committees. Powers and duties enumerated by this chapter shall be delegated to the senate and house transportation committees during periods when the legislative transportation committee is not appointed. [1977 ex.s. c 235 § 10; 1973 1st ex.s. c 210 § 2.]

44.40.100 Contracts and programs authorized. The legislative transportation committee and/or the senate and house transportation committees may enter into contracts on behalf of the state to carry out the purposes of chapter 44.40 RCW as amended; and it or they may act for the state in the initiation of or participation in any multigovernmental program relative to transportation planning or programming; and it or they may enter into contracts to receive federal or

other funds, grants, or gifts to carry out said purposes and to be used in preference to or in combination with state funds. When federal or other funds are received, they shall be deposited with the state treasurer and thereafter expended only upon approval by the committee or committees. [1977 ex.s. c 235 § 11; 1975 1st ex.s. c 268 § 7; 1973 1st ex.s. c 210 § 3.]

44.40.120 Periodic review of plans for bicycle, pedestrian, and equestrian facilities. The house and senate transportation committees shall periodically review the six-year comprehensive plans submitted by cities and counties for expenditures for bicycle, pedestrian, and equestrian facilities prepared pursuant to RCW 35.77.010 and 36.81.121. [1977 ex.s. c 235 § 12; 1975 1st ex.s. c 268 § 2.]

44.40.140 Review of policy on fees imposed on nonpolluting fuels—Report. Prior to the start of each regular legislative session in an odd-numbered year, the legislative transportation committee shall review the policy of the state concerning fees imposed on non-polluting fuels under RCW 82.38.075, and shall report its findings and recommendations for change, if any, to the legislature. [1983 c 212 § 2.]

44.40.150 Study—Final report by December 1993. (1) The legislative transportation committee shall undertake a study and develop recommendations for legislative and executive consideration that will:

- (a) Increase the efficiency and effectiveness of state transportation programs and reduce costs;
- (b) Enhance the accountability and organizational soundness of all transportation modes;
- (c) Encourage better communication between local jurisdictions and the department of transportation in developing engineering plans and subsequent construction projects;
- (d) Encourage private sector support and financial participation in project development and construction of transportation projects;
- (e) Develop long-range goals that reflect changing technology and state-of-the-art advancements in transportation;

(f) Explore alternatives for the establishment of an integrated and balanced multimodal state-wide transportation system to meet the needs of the 21st century; and

(g) Explore ways to reduce the demand on the transportation system and more effectively use the existing system.

The committee may study other transportation needs and problems and make further recommendations.

(2) The office of financial management and the department of transportation shall provide staff support as required by the legislative transportation committee in developing the recommendations. To the extent permitted by law, all agencies of the state shall cooperate fully with the legislative transportation committee in carrying out its duties under this section.

(3) The legislative transportation committee may receive and expend gifts, grants, and endowments from private sector sources to carry out the purpose of this section.

(4) By December 1991 the legislative transportation committee shall submit its preliminary findings and recommendations to the governor, transportation commission, and legislature. A final report shall be submitted by December 1993. [1989 1st ex.s. c 6 § 14.]

Severability—1989 1st ex.s. c 6: See note following RCW 46.68.110.

Chapter 44.44

OFFICE OF STATE ACTUARY—JOINT COMMITTEE ON PENSION POLICY

Sections

- 44.44.010 Office of state actuary—Created—Qualifications.
- 44.44.030 Personnel—Participation of American academy of actuaries.
- 44.44.040 Powers and duties—Actuarial fiscal notes.
- 44.44.050 Joint committee on pension policy—Membership, terms, leadership.
- 44.44.060 Joint committee on pension policy—Powers and duties.
- 44.44.900 Severability—1975-'76 2nd ex.s. c 105.

Department of retirement systems: Chapter 41.50 RCW.

44.44.010 Office of state actuary—Created—Qualifications. (1) There is hereby created an office within the legislative branch to be known as the office of the state actuary.

(2) The executive head of the office shall be the state actuary who shall be qualified by education and experience in the field of actuarial science. [1987 c 25 § 1; 1975-'76 2nd ex.s. c 105 § 19.]

44.44.030 Personnel—Participation of American academy of actuaries. (1) The state actuary shall have the authority to select and employ such research, technical, clerical personnel, and consultants as the actuary deems necessary, whose salaries shall be fixed by the actuary and approved by the joint committee on pension policy, and who shall be exempt from the provisions of the state civil service law, chapter 41.06 RCW.

(2) All actuarial valuations and experience studies performed by the office of the state actuary shall be signed by a member of the American academy of actuaries. If the state actuary is not such a member, the state actuary, after approval by the committee, shall contract for a period not to exceed two years with a member of the American academy of actuaries to assist in developing actuarial valuations and experience studies. [1987 c 25 § 2; 1975-'76 2nd ex.s. c 105 § 21.]

44.44.040 Powers and duties—Actuarial fiscal notes. The office of the state actuary shall have the following powers and duties:

(1) Perform all actuarial services for the department of retirement systems, including all studies required by law. Reimbursement for such services shall be made to the state actuary pursuant to the provisions of RCW 39.34.130 as now or hereafter amended.

(2) Advise the legislature and the governor regarding pension benefit provisions, and funding policies and investment policies of the state investment board.

(3) Consult with the legislature and the governor concerning determination of actuarial assumptions used by the department of retirement systems.

(4) Prepare a report, to be known as the actuarial fiscal note, on each pension bill introduced in the legislature which briefly explains the financial impact of the bill. The actuarial fiscal note shall include: (a) The statutorily required contribution for the biennium and the following twenty-five years; (b) the biennial cost of the increased benefits if these exceed the required contribution; and (c) any change in the present value of the unfunded accrued benefits. An actuarial fiscal note shall also be prepared for all amendments which are offered in committee or on the floor of the house of representatives or the senate to any pension bill. However, a majority of the members present may suspend the requirement for an actuarial fiscal note for amendments offered on the floor of the house of representatives or the senate.

(5) Provide such actuarial services to the legislature as may be requested from time to time.

(6) Provide staff and assistance to the committee established under RCW 46.44.050. [1987 c 25 § 3; 1986 c 317 § 6; 1975-'76 2nd ex.s. c 105 § 22.]

Legislative findings—Intent—Severability—1986 c 317: See notes following RCW 41.40.150.

Requirements for proposed legislation submitted by department of retirement systems: RCW 41.50.100.

44.44.050 Joint committee on pension policy—Membership, terms, leadership. (1) There is hereby created a joint committee on pension policy. The committee shall consist of: (a) Eight members of the senate appointed by the president of the senate, four of whom shall be members of the majority party and four of whom shall be members of the minority party; and (b) eight members of the house of representatives appointed by the speaker, four of whom shall be members of the majority party and four of whom shall be members of the minority party. Members of the committee shall be appointed before the close of the 1987 legislative session and before the close of each regular session during an odd-numbered year thereafter.

(2) Each member's term of office shall run from the close of the session in which he or she was appointed until the close of the next regular session held in an odd-numbered year. If a successor is not appointed during a session, the member's term shall continue until the member is reappointed or a successor is appointed. The term of office for a committee member who does not continue as a member of the senate or house shall cease upon the convening of the next session of the legislature during an odd-numbered year after the member's appointment, or upon the member's resignation, whichever is earlier. Vacancies on the committee shall be filled by appointment in the same manner as described in subsection (1) of this section. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated.

(3) The committee shall elect a chairperson and a vice-chairperson. The chairperson shall be a member of the senate in even-numbered years and a member of the house of representatives in odd-numbered years.

(4) The committee shall establish an executive committee of four members, including the chairperson and the vice-

chairperson, representing the majority and minority caucuses of each house. [1987 c 25 § 4.]

44.44.060 Joint committee on pension policy—Powers and duties. The joint committee on pension policy shall have the following powers and duties:

- (1) Study pension issues, develop pension policies for public employees in state retirement systems, and make recommendations to the legislature;
- (2) Study the financial condition of the state pension systems, develop funding policies, and make recommendations to the legislature; and
- (3) Appoint or remove the state actuary by a two-thirds vote of the committee. [1987 c 25 § 5.]

44.44.900 Severability—1975-'76 2nd ex.s. c 105. See note following RCW 41.04.270.

Chapter 44.48

LEGISLATIVE EVALUATION AND ACCOUNTABILITY PROGRAM COMMITTEE

Sections

- 44.48.010 Committee created—Composition.
- 44.48.020 Terms of members—Vacancies.
- 44.48.030 Continuation of memberships, powers, duties, etc.
- 44.48.040 Travel expenses of members—Reimbursement.
- 44.48.050 Expenses of committee—Vouchers.
- 44.48.060 Officers and rules.
- 44.48.070 Committee's duties with respect to data processing capability for fiscal matters—LEAP defined.
- 44.48.080 Duties of LEAP administration.
- 44.48.090 Committee's powers.
- 44.48.100 Reports to legislature—Minutes.
- 44.48.110 Witness fees and mileage.
- 44.48.120 LEAP administrator and other assistants—Employment—Duties of LEAP administrator.
- 44.48.130 Exemption from department of information services.
- 44.48.140 Cooperation with legislative committees and others.
- 44.48.900 Severability—1977 ex.s. c 373.

Alternative economic and revenue forecasts to be provided at the request of the legislative evaluation and accountability program committee: RCW 82.33.030.

44.48.010 Committee created—Composition. There is hereby created a legislative evaluation and accountability program committee which shall consist of four senators and four representatives from the legislature. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than two members from each house shall be from the same political party. All members shall be appointed before the close of the 1977 session of the legislature and before the close of each regular session during an odd-numbered year thereafter. Members shall be subject to confirmation, as to the senate members by the senate, and as to the house members by the house. [1980 c 87 § 40; 1977 ex.s. c 373 § 1.]

44.48.020 Terms of members—Vacancies. The term of office of the members of the committee who continue to be members of the senate and house shall be from the close of the session in which they were appointed or elected as

provided in RCW 44.48.010 until the close of the next regular session during an odd-numbered year, or, in the event that such appointments or elections are not made, until the close of the next regular session during an odd-numbered year during which successors are appointed or elected. The term of office of such committee members as shall not continue to be members of the senate and house shall cease upon the convening of the next regular session of the legislature during an odd-numbered year after their confirmation, election, or appointment. Vacancies on the committee shall be filled by appointment by the remaining members. All such vacancies shall be filled from the same political party and from the same house as the member whose seat was vacated. [1980 c 87 § 41; 1977 ex.s. c 373 § 2.]

44.48.030 Continuation of memberships, powers, duties, etc. On and after the commencement of a succeeding regular session of the legislature during an odd-numbered year, those members of the committee who continue to be members of the senate and house, respectively, shall continue as members of the committee as indicated in RCW 44.48.020 and the committee shall continue with all its powers, duties, authorities, records, papers, personnel and staff, and all funds made available for its use. [1980 c 87 § 42; 1977 ex.s. c 373 § 3.]

44.48.040 Travel expenses of members—Reimbursement. The members of the committee shall serve without additional compensation, but shall be reimbursed in accordance with RCW 44.04.120 while attending sessions of the committee or meetings of any subcommittee of the committee, or on other committee business authorized by the committee. [1977 ex.s. c 373 § 4.]

44.48.050 Expenses of committee—Vouchers. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the administrator and signed by the chairman or vice chairman of the committee and attested by the secretary of said committee, and the authority of said chairman and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated by law for the committee: PROVIDED, That the senate and the house may authorize the committee to draw on funds appropriated by the legislature for legislative expenses. [1977 ex.s. c 373 § 5.]

44.48.060 Officers and rules. The committee shall have the power and duty to appoint its own chairman, vice chairman, and other officers; and to make rules for orderly procedure. [1977 ex.s. c 373 § 6.]

44.48.070 Committee's duties with respect to data processing capability for fiscal matters—LEAP defined. The committee shall acquire a data processing service capability under the exclusive jurisdiction and control of the legislature acting through the committee and its administrator for the purpose of providing the legislature and its staff with the type of information required for in-depth analysis and

monitoring of state agency expenditures, budgets, and related fiscal matters. The legislative evaluation and accountability program established in this section may be referred to in this chapter as the LEAP administration. [1977 ex.s. c 373 § 7.]

44.48.080 Duties of LEAP administration. To carry out the provisions of RCW 44.48.070 the LEAP administration shall provide for:

- (1) Automated data bases and application systems in support of legislative requirements to monitor, evaluate, analyze, report, and review;
- (2) Maintenance of computer software, application programs, data bases, and related documentation;
- (3) Education, training, and programming services;
- (4) Procedural documentation support; and
- (5) Consulting assistance on special projects. [1977 ex.s. c 373 § 8.]

44.48.090 Committee's powers. The committee shall have the following powers:

- (1) To have timely access, upon written request of the administrator, to all machine readable, printed, and other data of state agencies relative to expenditures, budgets, and related fiscal matters;
- (2) To suggest changes relative to state accounting and reporting systems to the office of financial management or its successor and to require timely written responses to such suggestions; and
- (3) To enter into contracts; and when entering into any contract for computer access, make necessary provisions relative to the scheduling of computer time and usage in recognition of the unique requirements and priorities of the legislative process. [1979 c 151 § 158; 1977 ex.s. c 373 § 9.]

44.48.100 Reports to legislature—Minutes. The committee shall have the power to make reports to the legislature. The committee shall keep complete minutes of its meetings. [1987 c 505 § 46; 1977 ex.s. c 373 § 10.]

44.48.110 Witness fees and mileage. Each person who appears before the committee, other than a state official or employee, may upon request receive for attendance the fees and mileage provided for witnesses in civil cases in courts of record in accordance with the provisions of RCW 2.40.010, which shall be audited and paid upon the presentation of proper vouchers signed by such person and approved by the secretary and chairman of the committee. [1977 ex.s. c 373 § 11.]

44.48.120 LEAP administrator and other assistants—Employment—Duties of LEAP administrator. The committee is hereby authorized and empowered to appoint an officer to be known as the LEAP administrator who shall be the executive officer of the committee and assist in its duties and shall compile information for the committee.

The committee is hereby authorized and empowered to select and employ temporary and permanent personnel and fix their salaries.

The duties of the administrator shall be as follows:

- (1) To manage the LEAP operations.

(2) To assist the several standing committees of the house and senate; to appear before other legislative committees; and to assist any other legislative committee upon instruction by the committee.

(3) To provide the legislature with information obtained under the direction of the committee.

(4) To maintain a record of all work performed by the administrator under the direction of the committee and to keep and make available all documents, data, and reports submitted to the administrator by any legislative committee. [1977 ex.s. c 373 § 12.]

44.48.130 Exemption from department of information services. The committee is hereby expressly exempted from the provisions of chapter 43.105 RCW. [1977 ex.s. c 373 § 13.]

44.48.140 Cooperation with legislative committees and others. The committee shall cooperate, act, and function with Washington state legislative committees and may cooperate with the councils or committees of other states similar to this committee and with other interstate research organizations. [1977 ex.s. c 373 § 14.]

44.48.900 Severability—1977 ex.s. c 373. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. [1977 ex.s. c 373 § 16.]

Chapter 44.52

LEGISLATIVE COMMITTEE ON ECONOMIC DEVELOPMENT

Sections

44.52.010	Purpose—Legislative committee on economic development created—Membership.
44.52.020	Subcommittees—Rules of procedure.
44.52.030	Powers—Study and review of economic issues.
44.52.040	Staff support.
44.52.050	Travel expenses.
44.52.060	Payment of expenses.
44.52.070	Cooperation with other committees, agencies, and councils.
44.52.900	Severability—1985 c 467.
44.52.901	Effective date—1985 c 467.

44.52.010 Purpose—Legislative committee on economic development created—Membership. (1) Economic development and in particular international trade, tourism, and investment have become increasingly important to Washington, affecting the state's employment, revenues, and general economic well-being. Additionally, economic trends are rapidly changing and the international marketplace has become increasingly competitive as states and countries seek to improve and safeguard their own economic well-being. The purpose of the legislative committee on economic development is to provide responsive and consistent involvement by the legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

(2) There is created a legislative committee on economic development which shall consist of six senators and six

representatives from the legislature and the lieutenant governor who shall serve as chairperson. The senate members of the committee shall be appointed by the president of the senate and the house members of the committee shall be appointed by the speaker of the house. Not more than three members from each house shall be from the same political party. A list of appointees shall be submitted before the close of each regular legislative session during an odd-numbered year or any successive special session convened by the governor or the legislature prior to the close of such regular session or successive special session(s) for confirmation of senate members, by the senate, and house members, by the house. Vacancies occurring shall be filled by the appointing authority. [1985 c 467 § 17.]

44.52.020 Subcommittees—Rules of procedure. The committee shall by majority vote establish subcommittees, and prescribe rules of procedure for itself and its subcommittees which are consistent with this chapter. The committee shall at a minimum establish a subcommittee on international trade and a subcommittee on industrial development. [1985 c 467 § 18.]

44.52.030 Powers—Study and review of economic issues. The committee or its subcommittees are authorized to study and review economic development issues with special emphasis on international trade, tourism, investment, and industrial development, and to assist the legislature in developing a comprehensive and consistent economic development policy. The issues under review by the committee shall include, but not be limited to:

(1) Evaluating existing state policies, laws, and programs which promote or affect economic development with special emphasis on those concerning international trade, tourism, and investment and determine their cost-effectiveness and level of cooperation with other public and private agencies.

(2) Monitoring economic trends, and developing for review by the legislature such appropriate state responses as may be deemed effective and appropriate.

(3) Monitoring economic development policies and programs of other states and nations and evaluating their effectiveness.

(4) Determining the economic impact of international trade, tourism, and investment upon the state's economy.

(5) Assessing the need for and effect of federal, regional, and state cooperation in economic development policies and programs.

(6) Developing and evaluating legislative proposals concerning the issues specified in this section. [1985 c 467 § 19.]

44.52.040 Staff support. The committee shall receive the necessary staff support from both the senate and house staff resources. [1985 c 467 § 20.]

44.52.050 Travel expenses. The members of the committee shall serve without additional compensation, but shall be reimbursed for their travel expenses, in accordance with RCW 44.04.120, incurred while attending sessions of the committee or meetings of any subcommittee of the

committee, while engaged on other committee business authorized by the committee, and while going to and coming from committee sessions or committee meetings. [1985 c 467 § 21.]

44.52.060 Payment of expenses. All expenses incurred by the committee, including salaries and expenses of employees, shall be paid upon voucher forms as provided by the auditor and signed by the chairperson or vice chairperson of the committee and attested by the secretary of the committee, and the authority of the chairperson and secretary to sign vouchers shall continue until their successors are selected after each ensuing session of the legislature. Vouchers may be drawn on funds appropriated generally by the legislature for legislative expenses or upon any special appropriation which may be provided by the legislature for the expenses of the committee or both. [1985 c 467 § 22.]

44.52.070 Cooperation with other committees, agencies, and councils. The committee shall cooperate, act, and function with legislative committees, executive agencies, and with the councils or committees of other states similar to this committee and with other interstate research organizations. [1985 c 467 § 23.]

44.52.900 Severability—1985 c 467. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [1985 c 467 § 25.]

44.52.901 Effective date—1985 c 467. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1985. [1985 c 467 § 26.]

Chapter 44.60

LEGISLATIVE ETHICS

Sections

44.60.010	Definitions.
44.60.020	Boards of legislative ethics—Appointment of members—Terms—Vacancies—Quorum.
44.60.030	Boards of legislative ethics—Jurisdiction.
44.60.040	Affidavit to be filed by members—Additional statement by lay members.
44.60.050	Meetings—Public hearings—Compensation and expenses.
44.60.070	Joint board, powers, duties, and functions—Code of ethics.
44.60.080	Legislature to provide staff services.
44.60.090	Discharge of legislative employees.
44.60.100	Advisory opinions—Procedures.
44.60.110	Powers, duties, and functions of boards.
44.60.120	Boards—Officers and meetings.
44.60.130	Annual reports.

44.60.010 Definitions. (Effective until January 1, 1995.) Definition of terms:

(1) "Legislator" means a current member of the senate or house of representatives of the state of Washington. The term shall include an appointee to either house.

(2) "Board" or "board of ethics" means the senate board of legislative ethics or the house board of legislative ethics, created by this chapter, or the joint board composed of the senate and house boards, whichever is appropriate.

(3) "Unethical conduct" means any conduct which constitutes a violation of any constitutional provision, statute, rule of the house or senate or joint rule prescribing standards of conduct for legislators and legislative employees.

(4) "Legislative employee" means any person employed by either house on a temporary or permanent basis as well as any employee of a permanent or interim legislative committee. [1977 ex.s. c 218 § 1; 1967 ex.s. c 150 § 1.]

Severability—1977 ex.s. c 218: "If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1977 ex.s. c 218 § 12.]

Code of ethics for public officials: Chapter 42.21 RCW.

Financial disclosure: Chapter 42.17 RCW.

44.60.020 Boards of legislative ethics—Appointment of members—Terms—Vacancies—Quorum. (Effective until January 1, 1995.) There is created within each house of the legislature a board of legislative ethics composed of eight members. Prior to the close of the present session of the legislature the respective chairmen of the majority and minority senate caucuses shall each appoint two senators from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the senate board, and the eight members so selected shall constitute the senate board of ethics; and the respective chairmen of the majority and minority caucuses in the house of representatives shall each appoint two members from their own caucus and in addition thereto shall each appoint two persons who are not active members of the legislature to serve as lay members of the house board, and the eight members so selected shall constitute the house board of ethics. All such appointments of legislative and lay members shall be subject to the consent of the caucus wherein the appointment is made. The terms of legislative members shall be until they are no longer a member of the legislature or until their successors are appointed, whichever is sooner, and the terms of lay members shall be until their successors are appointed; and no member shall be removed during his term except for cause. Successors to legislative and lay members shall be appointed either: (1) On the day on which the next succeeding regular session of the legislature during an odd-numbered year shall adjourn sine die: PROVIDED, That if prior to such adjournment sine die, the governor or the legislature shall have convened a special session of the legislature, the appointments shall not be made until the day on which such special session shall adjourn sine die; or (2) within sixty days after the vacancy occurs, whichever is sooner. Legislative and lay members shall both be eligible for reappointment. Vacancies in the position of legislative or lay members shall be filled by the same appointing power and in the same manner as for the member vacating. Any vacancy shall not impair the right of the remaining members to exercise all of the powers of their board so long as quorum requirements are met.

Five members shall constitute a quorum for the board of each house and nine members shall constitute a quorum for the joint board: PROVIDED, That for the purpose of

rendering a final decision pursuant to RCW 44.60.110(4)(h) six members shall constitute a quorum for the board of each house. [1980 c 87 § 43; 1977 ex.s. c 218 § 2; 1967 ex.s. c 150 § 2.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.030 Boards of legislative ethics—Jurisdiction. (Effective until January 1, 1995.) The jurisdiction of the respective boards of ethics created by this chapter shall be strictly limited to the consideration of the conduct of the members of its own house and the conduct of employees of its own house. [1967 ex.s. c 150 § 3.]

Reviser's note: The act which amended this section [1972 ex.s. c 82] was referred to and ratified by the people at the November 7, 1972, general election [Referendum Bill No. 24]. Section 50 of Initiative Measure No. 276 which was approved at the same election repealed 1972 ex.s. c 82 and Referendum Bill No. 24.—See RCW 42.17.940.

44.60.040 Affidavit to be filed by members—Additional statement by lay members. (Effective until January 1, 1995.) Each legislative and lay member appointed by the respective caucus chairmen shall within thirty days after his appointment sign, under oath, and file an affidavit with the secretary of the senate or the chief clerk of the house of representatives, whichever is appropriate, that he will perform his duties as provided in this chapter, not disclose confidential information acquired by him as a result of such membership on the board, and a lay member shall additionally provide in his affidavit that during his term of office he will not engage in any legislative activity designed to defeat or enhance the passage of any legislative bill or measure, except as otherwise required by this chapter. Upon the failure of a legislative or lay member to sign and file an affidavit as required by this section, the chairman of the board to which he was appointed shall declare his seat vacant. [1977 ex.s. c 218 § 3; 1967 ex.s. c 150 § 4.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.050 Meetings—Public hearings—Compensation and expenses. (Effective until January 1, 1995.) The boards may meet as frequently as they deem necessary, whether or not the legislature is in session. Each board shall hold at least one public hearing each year at which the public will be permitted to testify only on matters relating to present or proposed legislative ethics codes, rules, and laws, as well as the functions and operations of the board. For attendance at meetings during the interim or in attending to other business of his board during the interim, each legislative member shall be entitled to the allowances provided for in RCW 44.04.120, and each lay member shall be compensated in accordance with RCW 43.03.240 and shall be entitled to travel expenses in accordance with RCW 43.03.050 and 43.03.060 from funds appropriated for that purpose.

All expenses incurred by a board or any member thereof shall be paid upon voucher forms as provided by the director of financial management and signed by the chairman of the board or his designee: PROVIDED, That vouchers for the expenses of the joint board shall be signed and attested by the chairman of the joint board. [1984 c 287 § 92; 1979 c 151 § 159; 1977 ex.s. c 218 § 4; 1975-'76 2nd ex.s. c 34 § 135; 1967 ex.s. c 150 § 5.]

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

44.60.070 Joint board, powers, duties, and functions—Code of ethics. (Effective until January 1, 1995.) The joint board shall have the following powers, duties, and functions:

(1) Propose joint rules relating to legislative ethics and revisions or amendments thereto, which when adopted shall be referred to as the legislative code of ethics.

The code, and revisions or amendments thereto, shall be prepared in the form of joint rules of the senate and the house of representatives and shall be submitted in the form of a concurrent resolution at the next session of the legislature following its preparation. Such code, or revision or amendment thereof, when adopted, shall become effective as standards of conduct for the members and employees of the legislature and shall continue in effect except to the extent revised by subsequent joint rules.

The code submitted to the legislature for adoption shall be approved by a majority of the members of the joint board.

(2) To recommend other legislation and other action relating to legislative ethics.

(3) To develop advisory opinions to systematically establish criteria on which subsequent decisions can be based.

(4) Investigate possible unethical conduct of employees of legislative interim committees in the same manner as hereafter specified for employees of one house. [1980 c 165 § 1; 1977 ex.s. c 218 § 5; 1967 ex.s. c 150 § 6.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.080 Legislature to provide staff services. (Effective until January 1, 1995.) The senate and the house of representatives shall provide necessary staff services to the board. [1977 ex.s. c 218 § 6; 1967 ex.s. c 150 § 8.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.090 Discharge of legislative employees. (Effective until January 1, 1995.) Nothing contained in this chapter shall prevent the discharge of any legislative employee without recourse to the provisions hereof. [1967 ex.s. c 150 § 9.]

44.60.100 Advisory opinions—Procedures. (Effective until January 1, 1995.) The joint, senate, and house boards of legislative ethics shall issue advisory opinions with regard to standards of ethical conduct for legislators and legislative employees in accordance with the following procedures:

(1) Requests for advisory opinions may be made by legislators, legislative employees, or members of the public. A request must be stated hypothetically unless the individual requests a specific opinion concerning his own conduct. Requests must be written, signed, and directed to the chairman of the appropriate board as specified in subsection (2)

of this section. Requests shall supply such information as the board requires to enable it to issue the opinion. The identity of the person making the request shall be known only to the chairman of such appropriate board, unless such confidentiality is waived in the request.

(2) Requests shall be directed to the chairman of the joint board: PROVIDED, That all requests concerning the conduct of a particular member or employee of the legislature shall be sent to the chairman of the senate or house board as appropriate.

(3) Within thirty days of the receipt of a request, unless delay is unavoidable, a board shall either: (a) Issue a written advisory opinion, which shall not contain information which reveals the identity of any individual; or (b) notify the person requesting such opinion that the request is beyond its jurisdiction, or that there are insufficient facts upon which an opinion can be based, or that the request is frivolous, or that the request is made for the purpose of harassment.

If delay is unavoidable, the person requesting the opinion shall be notified as to the status of the request within said thirty day period and at thirty day intervals until such time as action is taken.

(4) Upon receipt, requests shall be assigned a reference number. Each board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each request: Its reference number, the date received by the board, and its present status.

(5) The secretary of the senate shall make available to the public copies of the status sheets and advisory opinions issued by the senate and joint boards and the chief clerk of the house of representatives shall make available to the public copies of the status sheets and advisory opinions issued by the house and joint boards. [1977 ex.s. c 218 § 7.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.110 Powers, duties, and functions of boards. (Effective until January 1, 1995.) Each board shall have the following powers, duties, and functions:

(1) Issue advisory opinions pursuant to RCW 44.60.100.

(2) To provide a continuing program of education, assistance, and information to legislators with regard to legislative ethics.

(3) To make such rules for its own functioning and exercise such powers as may be appropriate for the discharge of the responsibilities of the board not in conflict with this chapter or the joint rules of the legislature.

(4) Investigate possible unethical conduct by legislators or legislative employees of its own house. Any such investigation shall be conducted in accordance with the following procedures:

(a) A complaint may be filed by a legislator, legislative employee, member of the public, a board, or member of a board. Complaints must be written, signed under oath, and directed to the chairman of the appropriate board. The board shall determine if the complaint is within its jurisdiction and whether there are sufficient facts alleged which if true may support a finding of unethical conduct.

(b) If the board finds that the complaint is not within its jurisdiction, or is frivolous, or is made for the purpose of harassment, or that there are insufficient facts alleged which if true may support a finding of unethical conduct, it shall

dismiss the complaint, so notify the complainant, the person charged, and the public with a copy of the complaint and the board's reasons for dismissal.

(c) If the board finds that a complaint is within its jurisdiction and there are sufficient facts alleged which if true may support a finding of unethical conduct, such board shall hold an investigative hearing and send a notice to the complainant and the person charged which shall include a copy of the complaint. The person charged shall receive at least thirty days' written notice of such hearing. The notice shall provide that the person charged shall be entitled to request the board to set an earlier hearing date, present evidence, cross-examine witnesses, be represented by counsel, and file an affidavit of prejudice within ten days of receipt of the notice as provided in subsection (4)(f) of this section.

(d) Investigative hearings shall be closed to the public unless, at least seventy-two hours prior to the hearing, the chairman receives from the person charged a written request that the hearing be open to the public.

(e) A board may designate a subcommittee composed of at least two members of the board, at least half of whom shall be lay members, to conduct investigative hearings. The board, or if designated thereby, any member or subcommittee of the board, may issue subpoenas for the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under examination by the board or involved in any hearing, administer oaths or affirmations, examine witnesses, and receive evidence. In case of disobedience to a subpoena, the board may invoke the aid of any superior court of the state. Such court may, in case of refusal to obey a subpoena issued to such person, issue an order requiring such person to appear before the board, to produce documentary evidence, and/or to give evidence, and any failure to obey such order may be punished by that court as contempt. Notwithstanding any other provision of law, every public official, state agency, and local governmental unit shall furnish to the board any documents, records, data, statements, or information which the board designates as being necessary for the exercise of its functions, powers or duties.

(f) Members of a board shall be disqualified in any case: (i) involving persons whom such members cannot judge impartially, in which cases they shall disqualify themselves; or (ii) where the person charged files an affidavit of prejudice against a member or members whom he believes is unable to make an impartial judgment, in which case the disqualification shall be automatic: PROVIDED, That only one such affidavit may be filed in a single investigation. Whenever a member of the board is disqualified, the appropriate caucus chairman shall appoint pro tem, a replacement legislator or lay member as appropriate. Such appointment shall be subject to the consent of the caucus wherein the appointment is made.

(g) At the conclusion of the investigative hearings, a statement of findings of fact shall be prepared based upon evidence presented at the hearings. A copy of this statement shall be sent to the person charged who shall have at least ten days to offer a written rebuttal to the board. The board, on the basis of the findings of fact, any written rebuttal, and applicable standards of ethical conduct shall make a preliminary report which shall be subject to review and the render-

ing of a decision at the final hearing. Copies of the findings of fact, preliminary report, and notice of the date for a final hearing shall be sent by registered mail to the person charged. Such person may rebut the report not later than one week prior to the final hearing date, but shall in any event have a period of not less than two weeks in which to respond.

(h) The final hearing shall be open to the public. There shall be available at the hearing copies of the board's findings of fact, preliminary report, and any written rebuttal received by the board from the person charged. The board shall, on the basis of these documents and any final statement made by the person charged, render a final decision as to whether the facts justify a finding of unethical conduct. A final decision must be agreed upon by at least six members of the board. The board shall notify the appropriate law enforcement agency directly if the board makes a finding that it has reasonable grounds to believe that a criminal violation has occurred.

(i) If the board in its final decision determines that the facts support a finding of unethical conduct, it shall include in its decision a specific recommendation for disciplinary action which may include but is not necessarily limited to: (i) In the case of a legislator, reprimand, censure, or expulsion, and when applicable, restitution; and (ii) in the case of a legislative employee, reprimand, suspension, or dismissal, and when applicable, restitution. Such decision shall be transmitted to the chief clerk of the house or the secretary of the senate as appropriate. Such officer shall deliver the report to his house at such time as that house is in session, for such action as that house deems appropriate.

(j) Upon receipt, complaints shall be assigned a reference number. Each board shall maintain and keep current for public inspection a status sheet which shall contain with respect to each complaint: Its reference number, the date received by the board, and its present status, including the date of any hearings scheduled. The name of the complainant and the person charged shall be entered on the status sheet following the notification provided for in subsection (4)(c) of this section.

The secretary of the senate and the chief clerk of the house of representatives shall make available to the public copies of the status sheets, findings of fact, written rebuttals, preliminary reports, and final decisions issued by their respective boards. [1980 c 165 § 2; 1977 ex.s. c 218 § 8.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.120 Boards—Officers and meetings. (Effective until January 1, 1995.) For the purposes of complying with the provisions of this chapter, each board shall select a chairman, who may be either a legislator or lay member, a vice chairman, and a secretary; and meetings of the board shall be called by the chairman when deemed necessary for the performance of the duties of the board. [1977 ex.s. c 218 § 9.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

44.60.130 Annual reports. (Effective until January 1, 1995.) Each board shall issue an annual report which shall contain advisory opinions and summaries of final board decisions. Copies of the reports shall be distributed to

members of the legislature and through the depository library system. [1977 ex.s. c 218 § 10.]

Severability—1977 ex.s. c 218: See note following RCW 44.60.010.

Chapter 44.68

JOINT LEGISLATIVE SYSTEMS COMMITTEE

Sections

44.68.010	Definitions.
44.68.020	Committee created—Members, terms, vacancies, officers, rules.
44.68.030	Administrative committee—Membership, coordinator as secretary.
44.68.040	Legislative systems coordinator—Employment, duties.
44.68.050	Administrative committee—Powers and duties.
44.68.060	Joint legislative service center—Duties—Protection of information—Bill drafts.
44.68.070	Legislative systems revolving fund.
44.68.080	Scope of requirements of this chapter.
44.68.090	Systems committee, administrative committee members—Travel expenses.

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

(1) "Administrative committee" means the legislative systems administrative committee created under RCW 44.68.030.

(2) "Center" means the joint legislative service center established under RCW 44.68.060.

(3) "Coordinator" means the legislative systems coordinator employed under RCW 44.68.040.

(4) "Systems committee" means the joint legislative systems committee created under RCW 44.68.020. [1986 c 61 § 1.]

44.68.020 Committee created—Members, terms, vacancies, officers, rules. (1) The joint legislative systems committee is created to oversee the direction of the information processing and communications systems of the legislature and to enforce the policies, procedures, and standards established under this chapter. The systems committee consists of four members as follows:

(a) A member from each of the two largest caucuses in the house of representatives, appointed by the speaker of the house of representatives; and

(b) A member from each of the two largest caucuses in the senate, appointed by the majority leader of the senate.

(2) Members shall serve two-year terms, beginning with their appointment in the regular legislative session held in an odd-numbered year and continuing until their successors are appointed and qualified. In case of a vacancy, the original appointing authority shall appoint another member of the same party as the vacating member.

(3) The systems committee shall choose its own presiding officer and other necessary officers from among its membership, and shall make rules for orderly procedure. [1993 c 332 § 1; 1986 c 61 § 2.]

44.68.030 Administrative committee—Membership, coordinator as secretary. (1) The legislative systems administrative committee is created to manage the informa-

tion processing and communications systems of the legislature. The administrative committee consists of five members appointed as follows:

(a) The secretary of the senate, and another senate staff person appointed by and serving at the pleasure of the secretary;

(b) The chief clerk of the house of representatives, and another house of representatives staff person appointed by and serving at the pleasure of the chief clerk; and

(c) The code reviser, or the code reviser's designee, serving in a nonvoting capacity.

(2) The coordinator shall serve as the secretary of the administrative committee. [1986 c 61 § 3.]

44.68.040 Legislative systems coordinator—Employment, duties. (1) The systems committee, after consultation with the administrative committee, shall employ a legislative systems coordinator. The coordinator shall serve at the pleasure of the systems committee, which shall fix the coordinator's salary.

(2) The coordinator shall serve as the executive and administrative head of the center, and shall assist the administrative committee in managing the information processing and communications systems of the legislature as directed by the administrative committee. [1986 c 61 § 4.]

44.68.050 Administrative committee—Powers and duties. The administrative committee shall, subject to the approval of the systems committee:

(1) Adopt policies, procedures, and standards regarding the information processing and communications systems of the legislature;

(2) Establish appropriate charges for services, equipment, and publications provided by the legislative information processing and communications systems, applicable to legislative and nonlegislative users as determined by the administrative committee;

(3) Employ or engage and fix the compensation for personnel required to carry out the purposes of this chapter;

(4) Enter into contracts for (a) the sale, exchange, or acquisition of equipment, supplies, services, and facilities required to carry out the purposes of this chapter and (b) the distribution of legislative information;

(5) Generally assist the systems committee in carrying out its responsibilities under this chapter, as directed by the systems committee. [1986 c 61 § 5.]

44.68.060 Joint legislative service center—Duties—Protection of information—Bill drafts. (1) The administrative committee, subject to the approval of the systems committee, shall establish a joint legislative service center. The center shall provide automatic data processing services, equipment, training, and support to the legislature and legislative agencies. The center may also, by agreement, provide services to agencies of the judicial and executive branch. All operations of the center shall be subject to the general supervision of the administrative committee in accordance with the policies, procedures, and standards established under RCW 44.68.050.

(2) Except as provided otherwise in subsection (3) of this section, determinations regarding the security, disclosure,

and disposition of information placed or maintained in the center shall rest solely with the originator and shall be made in accordance with any law regulating the disclosure of such information. The originator is the person who directly places information in the center.

(3) When utilizing the center to carry out the bill drafting functions required under RCW 1.08.027, the code reviser shall be considered the originator as defined in RCW 44.68.060. However, determinations regarding the security, disclosure, and disposition of drafts placed or maintained in the center shall be made by the person requesting the code reviser's services and the code reviser, acting as the originator, shall comply with and carry out such determinations as directed by that person. A measure once introduced shall not be considered a draft under this subsection. [1986 c 61 § 6.]

44.68.070 Legislative systems revolving fund. The legislative systems revolving fund is established in the custody of the state treasurer. All moneys received by the systems committee, the administrative committee, and the center shall be deposited in the fund. Moneys in the fund may be spent only for expenses approved by the systems committee for the purposes of this chapter. Disbursements from the fund shall be on vouchers signed by both the presiding officer of the systems committee and the coordinator. No appropriation is required for disbursements from the fund. The senate and house of representatives may transfer moneys appropriated for legislative expenses to the fund, in addition to charges made under RCW 44.68.050(2). [1986 c 61 § 7.]

44.68.080 Scope of requirements of this chapter. The information and communications functions of the legislature and legislative agencies are subject to the requirements of this chapter, and the standards, policies, and procedures established under this chapter. [1986 c 61 § 8.]

44.68.090 Systems committee, administrative committee members—Travel expenses. Members of the systems committee and of the administrative committee shall be reimbursed for travel expenses under RCW 44.04.120 or 43.03.050 and 43.03.060, as appropriate, while attending meetings of their respective committees or on other official business authorized by their respective committees. [1986 c 61 § 9.]

Title 45

TOWNSHIPS

Chapters

- 45.04 Vote on township organization.
- 45.08 Division of county into townships.
- 45.12 Town meetings—Powers of towns.
- 45.16 Qualifications of town officers.
- 45.20 Vacancies in office.
- 45.24 Duties of town supervisors.
- 45.28 Duties of town clerk.
- 45.32 Duties of town treasurer.
- 45.36 Pounds and poundmasters.
- 45.40 Duties of town officers at elections.
- 45.44 Compensation of officers.
- 45.48 Duty of retiring officers.
- 45.52 Claims against towns.
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- 45.56 Town taxes and charges.
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- 45.72 Miscellaneous provisions.
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*Hospitalization and medical aid for public employees and dependents—
Premiums, governmental contributions authorized: RCW 41.04.180,
41.04.190.*

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19.16.500.*

Township organization: State Constitution Art. 11 § 4.

Chapter 45.04

VOTE ON TOWNSHIP ORGANIZATION

Sections

- 45.04.010 Petition for township organization.
- 45.04.020 County commissioners to examine petition and order vote at
election on township organization.
- 45.04.030 Ballots.

45.04.010 Petition for township organization. When at least thirty days before a general election one hundred or more qualified electors of any county in this state present a petition in writing, signed by them, to the board of county commissioners of their county, asking that the question of township organization in said county be submitted to a vote of the people at the next general election, it shall be the duty of said commissioners to submit the question of adopting township organization in said county to the vote of the electors thereof at the first general election held after such petition is presented to said board of commissioners. [1895 c 175 § 1; RRS § 11360.]

45.04.020 County commissioners to examine petition and order vote at election on township orga-

nization. Upon such petition being filed with the clerk of the board of county commissioners, it shall be the duty of said board to examine said petition, and if they find that it has been signed by the requisite number of electors of said county, said board shall, by an order to be entered on their minutes, direct that the question of adopting township organization shall be submitted to the voters of said county at the next general election; said order shall direct that after the names of the candidates for office to be voted for at the next general election, and after any question directed by the state to be voted on, there shall be printed on the ballots the words "For township organization", and "Against township organization". [1895 c 175 § 2; RRS § 11361.]

45.04.030 Ballots. The clerk of the board of county commissioners shall, on preparing the ballots for the general election to be held next after the said petition has been so presented, have the words "For township organization", and "Against township organization" printed on said ballots as above directed. At said election the votes on said question shall be returned by the judges and clerks of election, and shall be canvassed along with the rest of the election returns. [1895 c 175 § 3; RRS § 11362.]

Chapter 45.08

DIVISION OF COUNTY INTO TOWNSHIPS

Sections

- 45.08.010 Division, how made.
- 45.08.020 Dividing towns.
- 45.08.060 Towns to be named.
- 45.08.070 County auditor to send abstract of report to state auditor.
- 45.08.080 Proceedings when two towns have the same name.
- 45.08.090 Boundaries of town to remain as first established.

45.08.010 Division, how made. Should the majority of the votes cast at such general election be in favor of township organization, it shall be the duty of the board of county commissioners, at their next meeting after such election, or as soon thereafter as practicable, to divide all the surveyed portion of the county, outside of incorporated cities, towns and villages, into organized townships. In making such division the county commissioners shall see that each organized township has at least twenty-five inhabitants who are legal voters, and they shall pay due regard to the lines of congressional townships, but wherever it shall be most convenient for the inhabitants of two or more congressional townships, or portions thereof adjoining each other, that they should be formed into one organized township, the county commissioners may organize a township out of such adjacent congressional townships or portions thereof, and a congressional township may be divided among two or more organized townships. Thereafter, when any

township has been surveyed, it shall either be organized into a township or be attached to another township or townships. When any unsurveyed tract of land in a county has a sufficient number of inhabitants who are legal voters to be organized into a township, the board of county commissioners may organize such tract into a township, or any unsurveyed tract may be annexed to an adjoining township. Said board shall fix and determine the boundaries of each of such townships, and shall name the same; and said board shall make a full report of all their proceedings in relation to laying out said towns, and shall have said report entered in full upon their minutes. [1927 c 74 § 1; 1895 c 175 § 4; RRS § 11363.]

Reviser's note: Caption for 1895 c 175 § 4 reads: "Division of counties into townships by county commissioners."

45.08.020 Dividing towns. When rivers or lakes or mountains so divide a township as to make it inconvenient to do town business, the said commissioners may dispose of any fraction so formed by annexing the same to an adjoining township in the same county, if it shall seem to them proper, whenever petitioned to do so by not less than two-thirds of the legal voters residing in such fraction, and the fact that such petition is signed by two-thirds of such voters may be proved by the affidavit of any legal voter residing in such fraction and having knowledge of the fact; and any township having two or more villages, each containing two hundred or more inhabitants, may petition the county commissioners for a division. When the county commissioners are so petitioned, they may, if they think the interest of such town will be subserved thereby, proceed to divide such townships in such manner as will best suit the inhabitants thereof: PROVIDED, HOWEVER, That at least twenty days' notice shall first be given by the county commissioners to the chairman of the board of supervisors of each township affected by the change before action is taken thereon: PROVIDED FURTHER, That nothing herein contained shall be construed to release any property in or belonging to that part of any township so detached from any tax levied or assessed prior to such division being made: PROVIDED, That part of any town annexed to any other town, and any village or city separated from any town under the provisions of *this act shall not be released from or in any way discharged from the payment of any bonded or other indebtedness that may exist against the town from which separation has been made. [1895 c 175 § 5; RRS § 11364. Formerly RCW 45.08.020, 45.08.030, 45.08.040 and 45.08.050.]

***Reviser's note:** This act [1895 c 175] is codified in chapters 45.04, 45.08, 45.12, 45.16, 45.20, 45.24 RCW, RCW 45.28.010, 45.28.040 through 45.28.100, 45.32.010 through 45.32.080, chapters 45.36, 45.40, 45.44, 45.48, 45.52 RCW, RCW 45.56.010, 45.56.040, 45.56.060 through 45.56.080, chapters 45.64 and 45.68 RCW, RCW 45.72.010 through 45.72.030 and 45.72.070.

45.08.060 Towns to be named. Towns thus formed shall be named by the county commissioners in accordance with the expressed wish of a majority of the legal voters resident therein; but if they fail to so designate the name, the county commissioners may select a name. [1895 c 175 § 6; RRS § 11365.]

45.08.070 County auditor to send abstract of report to state auditor. Each county auditor shall, within thirty days after such town is organized, transmit by mail to the auditor of state an abstract of such report, giving the bounds of each town, and the name designated; and said county auditor shall record, in a book for that purpose, a full description of each town. [1895 c 175 § 7; RRS § 11366.]

45.08.080 Proceedings when two towns have the same name. If the auditor of state, on comparing the abstracts of the reports from the several counties, finds that any two or more townships have the same name, he shall transmit to the auditor of the proper county the name of the town to be altered; and the board of commissioners shall, at their next meeting thereafter, adopt for such town some name different from those heretofore named, so that no two towns organized under *this chapter shall have the same name; and when such name is adopted, the auditor of the county shall inform the state auditor as before directed. [1895 c 175 § 8; RRS § 11367.]

***Reviser's note:** The term "this chapter" appears in the session law (1895 c 175) which was divided by Roman numbered subtitles into twenty-one subdivisions. The above section appears in subdivision "II—DIVISION OF COUNTIES INTO TOWNSHIPS" which contains sections 4 through 9 of the 1895 act, codified herein as RCW 45.08.010, 45.08.020, and 45.08.060 through 45.08.090.

45.08.090 Boundaries of town to remain as first established. The limits and boundary lines of every organized township shall remain as first established, until otherwise provided by the board of county commissioners under the authority of law. [1895 c 175 § 9; RRS § 11368.]

Chapter 45.12

TOWN MEETINGS—POWERS OF TOWNS

Sections

- 45.12.010 Place and time of holding first town meeting.
- 45.12.020 Powers of towns.
- 45.12.021 Joint acquisition, operation, and maintenance of public cemeteries.
- 45.12.022 Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility.
- 45.12.025 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts.
- 45.12.030 Limitation of powers.
- 45.12.040 Proceedings to be in name of town.
- 45.12.050 Bylaws, when to take effect.
- 45.12.060 Electors—Eligibility to office.
- 45.12.070 Annual town meetings.
- 45.12.080 What officers to be elected at town meeting.
- 45.12.090 Supervisors to be fence viewers.
- 45.12.100 Powers of electors at town meetings.
- 45.12.110 Special town meetings.
- 45.12.120 Notice of special town meeting.
- 45.12.130 Contents of notice.
- 45.12.140 Town meeting, how organized.
- 45.12.150 Business, how transacted.
- 45.12.160 Challenges, how regulated.
- 45.12.170 Proclamation.
- 45.12.180 Officers, how elected.
- 45.12.190 Names voted on to be on one ballot.
- 45.12.200 Method of voting.
- 45.12.210 Manner of conducting canvass.
- 45.12.220 Result of canvass to be read to meeting.
- 45.12.230 Minutes of town meeting to be filed.

45.12.240 Persons elected to be notified.

Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

45.12.010 Place and time of holding first town meeting. At the time of dividing any county into organized townships the county commissioners shall make out notices designating a suitable place for holding the first town meeting in each town, which shall be holden on the second Tuesday in January following the election at which township organization was adopted by vote of the county, and the auditor shall deliver such notice to the sheriff of the county, who shall cause the same to be posted in each township not less than ten days before the day set for such town meeting. [1923 c 13 § 1; 1895 c 175 § 10; RRS § 11369.]

45.12.020 Powers of towns. Each town is a body corporate, and has capacity:

(1) To sue and be sued.

(2) To purchase, or receive by gift or otherwise, and hold lands within or without its own limits for the use of its inhabitants, subject to the power of the legislature.

(3) To make contracts, purchase, and hold such personal property as may be necessary for the exercise of its corporate or administrative powers, and convey and dispose of the same.

(4) To make such orders for the disposition, regulation or use of its corporate property as may be deemed conducive to the interest of its own inhabitants.

(5) To acquire property jointly with adjacent towns to use for the operation of a garbage disposal dump, and to mutually contribute to the cost of operating said garbage disposal dump in such amounts as shall be determined by the electors at the annual town meeting. [1953 c 167 § 1; 1909 c 47 § 1; 1895 c 175 § 11; RRS § 11370.]

45.12.021 Joint acquisition, operation, and maintenance of public cemeteries. Two or more townships may agree, contract or combine for the purpose of acquiring, operating and maintaining a public cemetery or cemeteries, and may enter into any necessary negotiations, contracts or agreements with the state or any political subdivision thereof, the federal government or any agency thereof, or any private individual, corporation, partnership or unincorporated association for the joint purchase, operation and maintenance of such public cemetery or cemeteries. [1965 c 119 § 1.]

45.12.022 Nonpolluting power generation by individual—Exemption from regulation—Authorization to contract with utility. See chapter 80.58 RCW.

45.12.025 Hydroelectric resources—Separate legal authority—Creation by irrigation districts and cities, towns, or public utility districts. See RCW 87.03.825 through 87.03.840.

45.12.030 Limitation of powers. No town shall possess or exercise any corporate powers except such as are enumerated in *this chapter or are especially given by law

or necessary to the exercise of the powers so enumerated or granted. [1895 c 175 § 12; RRS § 11371.]

***Reviser's note:** The term "this chapter" appears in the session law (1895 c 175) which was divided by Roman numbered subtitles into twenty-one subdivisions. The above section appears in subdivision "III—TOWN MEETINGS, POWERS OF TOWNS" which contains sections 10 through 33 of the 1895 act, codified herein as chapter 45.12 RCW.

45.12.040 Proceedings to be in name of town. All acts or proceedings by or against a town in its corporate capacity shall be in the name of such town; but every conveyance of land within the limits of such town, made in any manner for the use or benefit of its inhabitants, has the same effect as if made to the town by name. [1895 c 175 § 13; RRS § 11372.]

Actions, in what name brought: RCW 45.64.020.

45.12.050 Bylaws, when to take effect. No bylaw made by any town shall take effect before the same is published by posting up copies thereof in three of the most public places in the town; and such bylaws duly made and so published are binding upon all persons coming within the limits of the town, as well as upon the inhabitants thereof, and shall remain in force until altered or repealed at some subsequent town meeting. [1895 c 175 § 14; RRS § 11373.]

45.12.060 Electors—Eligibility to office. Every person possessing the qualifications of an elector in any town is entitled to vote at any town meeting, and is eligible to any town office. [1895 c 175 § 15; RRS § 11374.]

Reviser's note: Caption for 1895 c 175 § 15 reads: "Who are electors at town meeting."

45.12.070 Annual town meetings. The citizens of the several towns of this state qualified to vote at town meetings shall annually assemble and hold town meetings in their several towns on the second Tuesday in January, at such place in each town as the electors thereof, at their annual town meetings from time to time appoint, and notice of the time and place of holding such meeting shall be given by the town clerk by posting up written or printed notices in three of the most public places in said town, at least ten days prior to said meeting. Every town meeting shall be held at the same place as the last preceding town meeting was held, unless the place of meeting be changed by vote of the town meeting or of the board of supervisors: PROVIDED, That before any change of place of holding town meetings is made by the board of supervisors, notice of such contemplated change may be given by any member of the town board to the town clerk, who shall, in his regularly printed or written notices as provided herein, incorporate the notice of the change of place at which said town meeting is to be held. [1923 c 13 § 2; 1895 c 175 § 16; RRS § 11375.]

45.12.080 What officers to be elected at town meeting. There shall be elected at the annual town meeting in each town, one supervisor and there shall be elected at the annual town meeting in the odd-numbered years one town clerk, one treasurer, one assessor, one justice of the peace and one constable to hold office for the term of two years and until their successors are elected and qualified: PRO-

VIDED, That at the first annual town meeting of every town hereafter organized there shall be elected three supervisors, one to hold office for the term of one year, one to hold office for the term of two years and one to hold office for the term of three years. The board of supervisors shall have power to employ and appoint and to fix the salary of an *overseer of highways for said town or an *overseer of highways for each road district in said town. Said overseer or overseers may or may not be a resident of said town or road district. [1923 c 13 § 3; 1915 c 90 § 1; 1909 c 47 § 2; 1895 c 175 § 17; RRS § 11376.]

***Reviser's note:** This section and other sections throughout this title relating to roads should be read in the light of *Great Northern Railway Co. v. Glover*, 94 Wash. 146, 77 P.2d 598 (1938), wherein it is said that "... the provisions of the township laws have been impliedly repealed insofar as they are inconsistent with chapters 53, 187, and 207 of the Laws of 1937." Such 1937 laws are comprehensive, general acts relating to highways, roads, and bridges.

Office of township assessor abolished: Chapter 45.54 RCW.

Officers, how elected: RCW 45.12.180.

45.12.090 Supervisors to be fence viewers. The supervisors elected in every town are, by virtue of their office, fence viewers of such town. [1959 c 16 § 5. Prior: 1895 c 175 § 18; RRS § 11377.]

45.12.100 Powers of electors at town meetings. The electors of each town shall have power, at their annual town meeting:

(1) To determine the number of poundmasters, and location of pounds.

(2) To select such town officers as are required to be chosen.

(3) To direct the institution or defense of actions in all controversies where the town is interested.

(4) To direct such sums to be raised in the town for prosecuting or defending such actions as they may deem necessary.

(5) To make all rules and regulations for ascertaining the sufficiency of fences in the town and for impounding animals.

(6) To determine the time and manner in which certain domestic animals, including dogs, may be permitted to go at large.

(7) To impose such penalties on persons offending against any rules and regulations established by the town, except such as relate to the keeping and maintaining of fences, as they think proper not exceeding ten dollars for each offense, unless herein otherwise provided.

(8) To apply such penalties, when collected, in such manner as they may deem conducive to the interests of the town.

(9) To vote to raise such sums of money as they deem necessary for the purchase, repair, maintenance, and operation of snow plows or snow removing equipment, appliances for the prevention of highway dust or debris, and highway lighting, all in cooperation with the state and county authorities: PROVIDED, The board of county commissioners of any county wherein township taxing power is abolished under the provisions of this chapter shall annually budget and levy under chapter 36.82 RCW such additional amounts as necessary to maintain street lighting facilities now

provided by townships if no other sufficient financial provision has been made for that purpose at the conclusion of the final hearing on the county's annual road fund budget. Such amount shall be limited to the dollar amount budgeted by the townships in the year 1967 for such street lighting and shall be subject to the same limitations applicable to township levies prior to August 11, 1969. The county shall thereafter maintain such street lighting facilities either as a part of its road fund program or by contract, during the next ensuing year.

(10) To instruct by vote the board to purchase grounds for a town cemetery; to limit the price to be paid therefor, to raise a special assessment for payment thereon and to establish rules for the care and management thereof.

(11) To make such bylaws and regulations as may be deemed conducive to the peace, good order and welfare of the town; to license, tax, regulate and control dogs, hawkers, peddlers, shows, theatricals, circuses, lawful games, merry-go-rounds, ferris wheels, or other amusement devices or places of amusement.

(12) To create a river improvement fund from revenues available for that purpose other than ad valorem taxes. [1984 c 189 § 4; 1969 ex.s. c 243 § 4; 1959 c 16 § 2; 1953 c 165 § 1. Prior: (i) 1927 c 269 § 1; 1923 c 13 § 4; 1919 c 108 § 2; 1913 c 142 § 1; 1911 c 34 § 1, part; 1909 c 47 § 3; 1895 c 175 § 19; RRS § 11378. (ii) 1945 c 148 § 3; 1941 c 226 § 1, part; Rem. Supp. 1945 § 11449-1, part.]

Severability—1969 ex.s. c 243: See note following RCW 45.82.010.

Public places for posting notices: RCW 45.72.010.

What officers to be elected at town meeting: RCW 45.12.080.

45.12.110 Special town meetings. Special town meetings may be held for the purpose of transacting any lawful business whenever the supervisors, town clerk and justice of the peace, or any two of them, together with at least twelve other freeholders of the town, file in the office of the town clerk a written statement that a special meeting is necessary for the interest of the town. [1895 c 175 § 20; RRS § 11379.]

45.12.120 Notice of special town meeting. Every town clerk with whom such statement is filed, as required in RCW 45.12.110, shall record the same and immediately cause notice to be posted up in five of the most public places in the town, giving at least ten days' notice of such special meeting; and if there is a newspaper published in said town he shall cause a copy of said notice to be published therein at least three days before the time appointed for such meeting. [1895 c 175 § 21; RRS § 11380.]

45.12.130 Contents of notice. Every notice given for a special town meeting shall specify the purpose for which it is to be held, and no other business shall be transacted at such meeting than such as is specified in such notice. [1895 c 175 § 22; RRS § 11381.]

45.12.140 Town meeting, how organized. The electors present at any time between nine and ten o'clock in the forenoon of the day of the annual town meeting, or special town meeting, shall be called to order by the town clerk, if there is one present; in case there is none present,

then the voters may elect, by acclamation, one of their number chairman. They shall then proceed to choose one of their number to preside as moderator of such meeting. The town clerk last before elected shall be clerk of the meeting, and keep full minutes of its proceedings, in which he shall enter at length every order or direction, and all rules and regulations made by the meeting. If the town clerk is absent, then such person as is elected for that purpose shall act as clerk of the meeting. [1895 c 175 § 23; RRS § 11382.]

45.12.150 Business, how transacted. At the opening of every town meeting, the moderator shall state the business to be transacted and the order in which it shall be entertained, and no proposition to vote a tax shall be acted on out of the order of business as stated by the moderator; and no proposition to reconsider any vote shall be entertained at any town meeting, unless such proposition to reconsider is made within one hour from the time such vote was passed or the motion for such reconsideration is sustained by a number of voters equal to a majority of all the names entered upon the poll list at such election up to the time such motion is made; and all questions upon motions made at town meetings shall be determined by a majority of the electors voting, and the moderator shall ascertain and declare the result of the votes on each question. [1895 c 175 § 24; RRS § 11383.]

45.12.160 Challenges, how regulated. If any person offering to vote at any election or upon any question arising at such town meeting is challenged as unqualified, the judges of the town meeting shall proceed thereupon in like manner as the judges at the general election are required to proceed, adapting the oath to the circumstances of the town meeting. [1895 c 175 § 25; RRS § 11384.]

45.12.170 Proclamation. Before the electors proceed to elect any town officer, proclamation shall be made of the opening of the polls by the moderator, and proclamation shall, in like manner, be made of the adjournment, and the opening and closing of the polls, until the election is ended. [1895 c 175 § 26; RRS § 11385.]

45.12.180 Officers, how elected. The supervisors, treasurer, town clerk, assessor, justices of the peace and constables in each township shall be elected by ballot. All other officers, if not otherwise provided by law, shall be chosen either by yeas or nays or by a division, as the electors determine. [1895 c 175 § 27; RRS § 11386.]

Office of township assessor abolished: Chapter 45.54 RCW.

What officers to be elected at town meeting: RCW 45.12.080.

45.12.190 Names voted on to be on one ballot. When the electors vote by ballot, all the officers voted for shall be named in one ballot, which shall contain, written or printed, or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen. [1895 c 175 § 28; RRS § 11387.]

45.12.200 Method of voting. When the election is by ballot, the elector voting shall fold his ballot so that the

names voted for cannot be seen, and hand the ballot to one of the judges of election, who shall, without opening the same or permitting the same to be opened or examined, deposit the ballot in the ballot box, and shall announce the name of the elector in an audible voice. The clerk of the town meeting shall then enter on a poll list to be kept by him the name of the person voting. [1895 c 175 § 29; RRS § 11388.]

Reviser's note: Caption for 1895 c 175 § 28 reads: "Judge to deposit ballot in box—Poll list to be kept."

45.12.210 Manner of conducting canvass. At the close of every election by ballot the judges shall proceed publicly to canvass the votes, which canvass, when commenced, shall continue without adjournment or interruption until the same is completed. The canvass shall be conducted by taking a ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list; and if there are any left in the box they shall be immediately destroyed; and the person having the greatest number of votes for any office shall be declared duly elected: **PROVIDED**, That if two or more persons have an equal and the highest number of votes for any office the judges of election shall at once publicly, by lot, determine who of such persons shall be declared elected. If, on opening the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such votes immediately. [1895 c 175 § 30; RRS § 11389.]

45.12.220 Result of canvass to be read to meeting. The canvass being completed, a statement of the result shall be entered at length by the clerk of the meeting in the minutes of its proceedings, to be kept by him as before required, which shall be publicly read by him to the meeting; and such reading shall be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter. [1895 c 175 § 31; RRS § 11390.]

45.12.230 Minutes of town meeting to be filed. The minutes of the proceedings of every town meeting, subscribed by the clerk of said meeting and by the judges, shall be filed in the office of the town clerk within two days after such town meeting. [1895 c 175 § 32; RRS § 11391.]

45.12.240 Persons elected to be notified. The clerk of every town meeting, within ten days thereafter, shall transmit to each person elected to any town office whose name is not entered on the poll list as a voter notice of his election. [1895 c 175 § 33; RRS § 11392.]

Chapter 45.16

QUALIFICATIONS OF TOWN OFFICERS

Sections

- 45.16.010 Officers to take oath.
- 45.16.020 Certificate of oath to be filed.
- 45.16.030 Effect of not filing oath or bond.
- 45.16.035 Effect of not filing oath or bond—Treasurer, constable or overseer.
- 45.16.040 Overseers and poundmasters to file acceptance of office.

- 45.16.060 Treasurer to give bond.
- 45.16.070 Bond, when approved, to be filed.
- 45.16.080 Constable to take oath and give bond.
- 45.16.090 Justices to take oath and give bond.
- 45.16.100 Penalty for entering on duties before taking oath.
- 45.16.110 Town officers must not be interested in contracts with towns.
- 45.16.120 Terms of office.

Reviser's note: References in this chapter to justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Public officials—Official bonds: Chapter 42.08 RCW.

45.16.010 Officers to take oath. Every person elected or appointed to the office of supervisor, town clerk, assessor, treasurer or constable, within two weeks after he is notified of his election or appointment, shall take and subscribe before the town clerk or justice of the peace an oath to support the Constitution of the United States and of the state of Washington, and faithfully to discharge the duties of his office (naming the same) to the best of his ability. Such oath shall be administered without fee and certified by the officer before whom it was taken, with the date of taking the same. [1895 c 175 § 34; RRS § 11393.]

Office of township assessor abolished: Chapter 45.54 RCW.

45.16.020 Certificate of oath to be filed. The person taking such oath shall immediately, and before entering upon the duties of his office, file the certificate of such oath in the office of the town clerk. [1895 c 175 § 35; RRS § 11394.]

45.16.030 Effect of not filing oath or bond. If any person elected or appointed to any town office, of whom an oath or bond is required, neglects to file the same within the time prescribed by law, such neglect shall be deemed a refusal to serve in such office. [1895 c 175 § 36; RRS § 11395.]

Penalty for entering on duties before taking oath: RCW 45.16.100.

45.16.035 Effect of not filing oath or bond—Treasurer, constable or overseer. If any person elected or appointed to the office of treasurer, constable or *overseer of highways does not give such bond and take such oath as is required above, within the time limited for that purpose, such neglect shall be deemed a refusal to serve. [1913 c 142 § 4; 1895 c 175 § 42; RRS § 11401.]

Reviser's note: (1) Caption for 1895 c 175 § 42 reads: "Effect of neglect to give bond."

*(2) For "overseer of highways," see note following RCW 45.12.080.

Penalty for entering on duties before taking oath: RCW 45.16.100.

45.16.040 Overseers and poundmasters to file acceptance of office. Every person elected or appointed to the office of *overseer of highways or poundmaster, before he enters on the duties of his office, and within two weeks after he is notified of his election or appointment, shall file in the office of the town clerk a notice signifying his acceptance of such office. A neglect to file such notice shall be deemed a refusal to serve. Every person elected or appointed to the office of *overseer of highways, before he enters upon the duties of his office, and within two weeks after he is notified of his election or appointment shall take

and subscribe before the town clerk or justice of the peace an oath to support the Constitution of the United States and of the state of Washington, and faithfully to discharge the duties of his office to the best of his ability. Such *overseer of highways shall also execute and deliver to the supervisors of the town and their successors in office a bond, with one or more sureties, to be approved by the board of supervisors, in an amount determined by said board, conditioned for the faithful discharge of his duties. [1913 c 142 § 2; 1895 c 175 § 37; RRS § 11396. Formerly RCW 45.16.040 and 45.16.050.]

***Reviser's note:** For "overseer of highways," see note following RCW 45.12.080.

45.16.060 Treasurer to give bond. Every person appointed or elected to the office of treasurer, before he enters upon the duties of his office, shall execute and deliver to the supervisors of the town and their successors in office, a bond, with one or more sureties, to be approved by the board of supervisors, in double the probable amount of money to be in his hands at any one time, which amount shall be determined by said board, conditioned for the faithful execution of his duties as such treasurer. [1913 c 142 § 3; 1895 c 175 § 38; RRS § 11397.]

45.16.070 Bond, when approved, to be filed. The said chairman shall, within six days thereafter, file such bond, with said approval indorsed thereon, in the office of the county clerk, who shall record the same in a book provided for that purpose. [1895 c 175 § 39; RRS § 11398.]

45.16.080 Constable to take oath and give bond. Every person chosen to the office of constable, before he enters upon the duties of his office, and within two weeks after he is notified of his election or appointment, shall take and subscribe the oath of office prescribed by law and execute a bond to the state of Washington in such penal sum as the supervisors direct, with one or more sufficient sureties, to be approved by the chairman of said board or the town clerk, conditioned for the faithful discharge of his duties. The chairman of said board or the town clerk shall, if such bond is approved, indorse his approval thereon and cause such bond to be filed with the town clerk for the benefit of any person aggrieved by acts or omission of said constable; and any person so aggrieved, or the town, may maintain an action on said bond against said constable and sureties. [1895 c 175 § 40; RRS § 11399.]

45.16.090 Justices to take oath and give bond. Every person elected or appointed to the office of justice of the peace shall, within two weeks after receiving notice thereof, take and subscribe before any other officer duly authorized to administer oaths, an oath to support the Constitution of the United States and of the state of Washington and faithfully and impartially to discharge the duties of his office according to the best of his ability. He shall also execute a bond to the state of Washington, with two or more sufficient sureties, to be approved by the chairman, in the penal sum of not less than five hundred dollars nor more than one thousand dollars, conditioned for the faithful discharge of his official duties. Said chairman shall indorse thereon his

approval of the sureties named in such bond, and such justice shall immediately file the same, together with his oath of office, duly certified, with the clerk of the county of the proper county for the benefit of any person aggrieved by the acts of said justice; and any person aggrieved may maintain an action on said bond in his own name against said justice and his sureties. [1895 c 175 § 41; RRS § 11400.]

45.16.100 Penalty for entering on duties before taking oath. If any town officer who is required by law to take the oath of office enters upon the duties of his office before taking such oath, he forfeits to such town the sum of fifty dollars, and the same to go to the county poor fund. [1895 c 175 § 43; RRS § 11402.]

45.16.110 Town officers must not be interested in contracts with towns. No town officer shall become a party to or interested, directly or indirectly, in any contract made by the board of which he may be a member: PROVIDED, This shall not be construed to prohibit the employment of a team or teams belonging to a township officer when a required number of teams, owned in the township, are not otherwise obtainable, or the employment of a township officer as a day laborer. Every contract or payment voted for or made contrary to the provisions of *this title is void and any violation of this section hereafter committed shall be a malfeasance in office, which will subject the officer so offending to be removed from office. [1913 c 142 § 5; 1895 c 175 § 44; RRS § 11403.]

***Reviser's note:** The term "this title" apparently refers to title 505, Pierce's Washington Code, 1912—TOWNSHIP ORGANIZATION, in which 1895 c 175 and amendments thereto were codified.

45.16.120 Terms of office. Town officers, except as otherwise provided, hold their offices for one year and until others are elected or appointed in their places and are qualified. All officers shall qualify and enter upon the duties of their offices at the first regular meeting of the board of supervisors following their election, and such first meeting of the board of supervisors shall be held within thirty days after such election. [1923 c 13 § 5; 1895 c 175 § 45; RRS § 11404.]

Chapter 45.20 VACANCIES IN OFFICE

Sections

- 45.20.010 County commissioners may accept resignations.
45.20.020 Procedure for filling vacancies.

45.20.010 County commissioners may accept resignations. The board of county commissioners of any county may, for sufficient cause shown to them, accept the resignation of any town officer in any township in their county, and whenever they accept any such resignation, they shall forthwith appoint another elector of the town to the office, and shall give notice thereof in writing to the person so appointed and to the town clerk; or in the case of a vacancy in the office of town clerk or *overseer of highways, to the chairman of the board of supervisors of the town. [1913 c 142 § 6; 1895 c 175 § 46; RRS § 11405.]

(1994 Ed.)

Reviser's note: (1) Caption for 1895 c 175 § 46 reads: "Vacancies in town offices, how filled."

(2) For "overseer of highways," see note following RCW 45.12.080.

45.20.020 Procedure for filling vacancies. Whenever any town fails to elect the proper number of town officers, or when any person elected to a town office fails to qualify, or whenever any vacancy happens in any town office from death, resignation, removal from town or other cause, the town clerk, or in case there is no town clerk, then the chairman or one of the town supervisors shall give notice in writing of such vacancy or vacancies to the board of county commissioners of the county in which such town is situated, and said board, upon such notice being given them, or if they know of any vacancy in any town office in any township in their county, shall forthwith fill the vacancy or vacancies by appointment by warrant, signed by the chairman of the board, and countersigned by the clerk of said board, and shall give notice in writing personally or by mail to the town clerk or the chairman of the board of supervisors, and also to the person so appointed. All persons appointed to office under *this act shall qualify as herein provided, and shall hold their offices until the next annual town meeting and until their successors are elected or appointed and qualified in their places, and shall have the same powers and be subject to the same duties and penalties as if they had been duly elected to such offices. [1895 c 175 § 47; RRS § 11406.]

Reviser's note: *(1) For "this act," see note following RCW 45.08.020.

(2) Caption for 1895 c 175 § 47 reads: "Fail to elect officers."

Chapter 45.24 DUTIES OF TOWN SUPERVISORS

Sections

- 45.24.010 Powers and duties—General.
45.24.040 Supervisors to prosecute actions on bonds, penalties and trespasses.
45.24.050 Supervisors to audit accounts against towns.
45.24.060 Two supervisors a quorum.

Actions by or against towns

- papers in action, how served:* RCW 45.64.030.
tax levy to pay judgment: RCW 45.64.080.

Division of precinct: RCW 45.40.030.

Judges and clerks of election—Places of holding elections: RCW 45.40.010.

Office of township assessor abolished: Chapter 45.54 RCW.

Poundmaster—Duties—Fees: RCW 45.36.030.

45.24.010 Powers and duties—General. The supervisors shall have charge of such affairs of the town as are not by law committed to other town officers. They shall have power to draw orders on the town treasurer for the disbursement of such sums as may be necessary for the purpose of defraying the incidental expenses of the town, and for all moneys raised by the town to be disbursed for any other purpose. The board of township supervisors shall be authorized to cooperate with the board of county commissioners of the county acting under the provisions of RCW 86.12.010 through 86.12.030 in making new flood control improvements and to enter into contracts with the county to

pay a certain portion of the cost of such improvements made by the county. [1977 c 15 § 1; 1919 c 108 § 2; 1911 c 34 § 1, part; 1909 c 47 § 4; 1895 c 175 § 48; RRS § 11407. Formerly RCW 45.24.010 and 45.24.020.]

45.24.040 Supervisors to prosecute actions on bonds, penalties and trespasses. The supervisors shall, in the name of their town, prosecute, for the benefit of the town, all actions upon bonds given to them or their predecessors in office; and shall also sue for and collect all penalties and forfeitures, in respect to which no other provision is made, incurred by any officer or inhabitant of the town; and they shall have power, in like manner, to prosecute for any trespass committed on any public inclosure or property belonging to the town, and shall pay all moneys collected under this section to the town treasurer. [1895 c 175 § 51; RRS § 11410.]

Reviser's note: Caption for 1895 c 175 § 51 reads: "Supervisors shall bring actions on official bonds."

Action to recover penalty for trespass: RCW 45.64.050.

Actions by or against towns: Chapter 45.64 RCW.

Powers of electors at town meetings: RCW 45.12.100.

Proceedings to be in name of town: RCW 45.12.040.

45.24.050 Supervisors to audit accounts against towns. The supervisors constitute a town board for the purpose of auditing all accounts payable by said town; and if from any cause there are not three supervisors present to constitute said board, the chairman, and, in his absence, either of the other supervisors, may notify the justice of the peace of the town as will, together with the supervisors present, make a board of three; and the board so constituted shall have authority to act as the town board. [1895 c 175 § 52; RRS § 11411.]

Reviser's note: Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Board to audit and settle town charges: RCW 45.52.050.

Claims against towns: Chapter 45.52 RCW.

45.24.060 Two supervisors a quorum. Any two of the supervisors constitute a quorum for the performance of any duties required by law of the town supervisors, except when otherwise provided. [1895 c 175 § 49; RRS § 11408.]

Chapter 45.28

DUTIES OF TOWN CLERK

Sections

- 45.28.010 Duties in general—Appointment of deputy.
- 45.28.020 Annual report of needed supplies.
- 45.28.030 Supplies to be furnished at cost.
- 45.28.040 To record minutes and preserve accounts.
- 45.28.050 Town clerks may take acknowledgments and oaths.
- 45.28.060 Official bond.
- 45.28.070 Name of constable to be sent to clerk of court.
- 45.28.100 Bylaws to be posted.

45.28.010 Duties in general—Appointment of deputy. The town clerk shall be clerk of the town board, and shall keep a true record of all their proceedings in his office. He shall have the custody of the record books and

papers of the town, when no other provision is made by law, and he shall duly file and safely keep all certificates of oaths and other papers required by law to be filed in his office. The town board may, in case of necessity, appoint a deputy town clerk. Before any deputy town clerk shall enter upon the duties of his office he shall take and subscribe the oath required by law, which oath shall be filed in the office of the county clerk. In the month of March, each year, after the annual town meeting, the town clerk of each town shall make to the county auditor a return of all taxes and sums of money voted at said town meeting to be raised, except such taxes as may be assessed by the supervisors as labor tax, designating the separate amounts to be raised for each purpose; and it shall be the duty of the county auditor to levy such amounts on the tax rolls of that year against the assessed property of such town as hereinafter provided. [1895 c 175 § 53; RRS § 11412.]

Reviser's note: Caption for 1895 c 175 § 53 reads: "Town clerk to be clerk of town board and custodian of books—May appoint deputy."

45.28.020 Annual report of needed supplies. It shall be the duty of each township clerk to report to the county auditor on or before the first day of March in each year the amount and the kind of printing supplies, blank books, etc., other than those furnished by the county assessor, needed by the township for the ensuing year. [1911 c 34 § 2; RRS § 11413.]

45.28.030 Supplies to be furnished at cost. The county auditor upon receiving the estimates of the various townships shall procure from the lowest bidder the supplies and turn said supplies over to the township ordering the same at actual cost. [1911 c 34 § 3; RRS § 11414.]

45.28.040 To record minutes and preserve accounts. He shall record, in the book of records of his town, minutes of the proceedings of every town meeting, and he shall enter therein every order or direction, and all rules and regulations of any such town meeting; and shall also file and preserve all accounts audited by the town board, or allowed at a town meeting, and enter a statement thereof in such book of records. [1895 c 175 § 54; RRS § 11415.]

Reviser's note: Caption for 1895 c 175 § 54 reads: "Proceedings of town meeting to be recorded."

45.28.050 Town clerks may take acknowledgments and oaths. The town clerks of the several towns in this state are hereby authorized to administer all oaths, and take all acknowledgments of instruments, authorized or required by *this act. [1895 c 175 § 55; RRS § 11416.]

***Reviser's note:** For "this act," see note following RCW 45.08.020.

45.28.060 Official bond. Every person elected or appointed to the office of town clerk in any of the towns of this state shall, before he enters upon the duties of his office, and within the time prescribed by law for filing his oath of office, execute a bond with two or more sufficient sureties, to be approved by the town supervisors, in such penal sum as the supervisors direct, conditioned for the faithful discharge of his duties. Said bond so approved shall be filed and recorded in the office of the clerk of the superior court,

for the benefit of any person aggrieved by the acts or omissions of said town clerk; and any person so aggrieved, or the town, may maintain an action on said bond against said town clerk and sureties. [1895 c 175 § 56; RRS § 11417.]

Effect of not filing oath or bond: RCW 45.16.030.

Supervisors to prosecute actions on bonds, penalties and trespasses: RCW 45.24.040.

45.28.070 Name of constable to be sent to clerk of court. Every town clerk, immediately after the qualification of any constable elected or appointed in his town, shall transmit to the clerk of the superior court of the county the name of such constable. [1895 c 175 § 57; RRS § 11418.]

45.28.100 Bylaws to be posted. The town clerk shall post in three of the most public places in his town, copies of all bylaws made by such town, and shall make an entry in the town records of the time when, and the place where, such bylaws were posted. [1895 c 175 § 60; RRS § 11421.]

Fees for posting notices: RCW 45.44.010.

Public places for posting notices: RCW 45.72.010.

Chapter 45.32

DUTIES OF TOWN TREASURER

Sections

- 45.32.010 Duties of town treasurer.
- 45.32.020 Shall keep true accounts, and deliver books to successor.
- 45.32.030 Shall draw money from county treasurer—Compensation.
- 45.32.050 Shall make annual statement.
- 45.32.060 Penalty for noncompliance.
- 45.32.070 Unpaid orders—Indorsement.
- 45.32.080 Order of payment of town orders.
- 45.32.090 Town depository—Bond.

Actions by or against towns—Judgment against town, how collected: RCW 45.64.070.

Treasurer shall pay audited accounts: RCW 45.52.090.

45.32.010 Duties of town treasurer. The town treasurer shall receive and take charge of all moneys belonging to the town or which are by law required to be paid into the town treasury, and shall pay over and account for the same upon the order of such town, or the officers thereof duly authorized in that behalf, made pursuant to law, and shall perform all such duties as may be required of him by law. [1895 c 175 § 70; RRS § 11431.]

45.32.020 Shall keep true accounts, and deliver books to successor. Every town treasurer shall keep a true account of all moneys by him received by virtue of his office, and the manner in which the same are disbursed, in a book provided at the expense of the town for that purpose, and exhibit such account, together with his vouchers, to the town board at its annual meeting for adjustment; and he shall deliver all books and property belonging to his office, the balance of all moneys in his hands as such treasurer, to his successor in office, on demand, after such successor has qualified according to law. [1895 c 175 § 71; RRS § 11432.]

45.32.030 Shall draw money from county treasurer—Compensation. The town treasurer shall from time to time draw from the county treasurer such moneys as have been received by the county treasurer for the use of his town, and on receipt of such moneys shall deliver proper vouchers therefor. Each town treasurer shall be allowed and entitled to retain, as his official compensation, one percent of all moneys paid out in the redemption of warrants: PROVIDED, That the compensation of said treasurer shall in no case exceed the sum of seventy-five dollars in any one year: PROVIDED FURTHER, That in any town meeting, before the electors commence balloting for officers, they may by resolution, reduce or increase such compensation. [1923 c 13 § 6; 1913 c 142 § 7; 1895 c 175 § 72; RRS § 11433.]

Reviser's note: Caption for 1895 c 175 § 72 reads: "Shall draw money from county treasurer—Fees."

45.32.050 Shall make annual statement. Each town treasurer, within five days preceding the annual town meeting, shall make out a statement in writing of the moneys by him received into the town treasury from the county treasurer, and from all other officers and persons, and also of all moneys paid out by him as such treasurer, in which statement he shall set forth particularly from whom and on what account such moneys were received by him, with the amount received from each officer or person and the date of receiving the same; also to whom and for what purpose any moneys have been paid out by him, with the amount and date of each payment. He shall also state therein the amount of moneys remaining in his hands as treasurer. Such statement shall be filed by him in the office of the town clerk and shall be by such clerk carefully preserved and recorded in the town book of records. [1895 c 175 § 73; RRS § 11435.]

45.32.060 Penalty for noncompliance. Every town treasurer who refuses or neglects to comply with the provisions of *the four preceding sections shall forfeit not more than two thousand dollars, to be recovered in any court of competent jurisdiction, the amount to be fixed by the jury trying the cause, or by the court if there is no jury impaneled, and may be recovered by civil action in the name of any person who prosecutes the same, with costs of suit; one-half shall go to the person so prosecuting and the remainder to the town of which such delinquent is or has been treasurer. [1895 c 175 § 74; RRS § 11436.]

Reviser's note: *(1) Reference to "the four preceding sections" is to sections 70 through 74, chapter 175, Laws of 1895, which are codified as RCW 45.32.010, 45.32.020, 45.32.030, and 45.32.050.

(2) Caption for 1895 c 175 § 74 reads: "Violation of four preceding sections—Penalty."

45.32.070 Unpaid orders—Indorsement. Each and every town treasurer shall keep a suitable book, to be provided at the expense of the town, in which he shall enter the town orders that he cannot pay for want of funds when presented to him for payment, which orders, when presented, shall be indorsed by such treasurer by putting upon the back of the same the words "Not paid for want of funds", giving the date of such indorsement, signing the same as town treasurer. [1895 c 175 § 75; RRS § 11437.]

Reviser's note: Caption for 1895 c 175 § 75 reads: "Unpaid town orders—Record—Interest."

45.32.080 Order of payment of town orders. All town orders shall be paid in the order of their issuance out of the first moneys that come into the town treasurer's hands for such purpose. [1895 c 175 § 76; RRS § 11438.]

45.32.090 Town depository—Bond. Each township treasurer shall annually within thirty days after taking office, designate some bank of the state as a depository of all public funds held and acquired to be kept by him as such treasurer: PROVIDED, That the bank designated by the township treasurer shall furnish, if required by the board of supervisors, to the township an indemnity bond equal in amount to the official bond of said treasurer, such designation shall be filed in writing as part of the minutes of the township board. [1913 c 142 § 9; RRS § 11434. Formerly RCW 45.32.040.]

Chapter 45.36

POUNDS AND POUNDMASTERS

Sections

- 45.36.010 Pounds to be under care of poundmasters.
- 45.36.020 Pounds discontinued.
- 45.36.030 Poundmaster—Duties—Fees.

Powers of electors at town meetings: RCW 45.12.100.

45.36.010 Pounds to be under care of poundmasters. Whenever the electors of any town determine at their annual meeting to erect one or more pounds therein, the same shall be under the care and direction of such poundmasters as are chosen or appointed for that purpose. [1895 c 175 § 95; RRS § 11458.]

45.36.020 Pounds discontinued. The electors of any town may, at an annual meeting, discontinue any pounds therein. [1895 c 175 § 96; RRS § 11459.]

45.36.030 Poundmaster—Duties—Fees. The poundmaster shall be allowed the following fees, to wit: For taking into pound and discharging therefrom any horse, ass or mule and all meat cattle, fifty cents each; and for every hog, large or small, sheep or lamb, goat or kid, twenty-five cents each; and fifty cents a day for keeping each head of horses, asses, mules or meat cattle twenty-four hours, and twenty cents for keeping each hog, sheep or goat, for each twenty-four hours. And the poundmaster has a lien on all such animals for the full amount of his legal charges and expenses, and shall be entitled to the possession of such animals until the same are paid; and if the same are not paid, and said animals removed, within four days after they are so impounded, the said poundmaster shall give notice by posting the same in three of the most public places in said town, or by personal notice in writing, if the owner is known, that said animals (describing them) are impounded and that, unless the same are taken away and fee paid within fifteen days after the date of such notice, he will sell the same at public vendue at the place where the town meetings of said town are usually held; and on the day designated in such notice the said poundmaster shall expose the said

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animals for sale, and sell the same to the highest bidder in cash, for which service he shall receive two percent of the purchase money for each animal. Out of the money realized from said sale, the said poundmaster shall deduct all his legal fees and charges, and pay the balance, if any, to the chairman of the town supervisors, at the same time giving to said supervisors an accurate description of the animals sold, and the amount received by him for each animal, and shall take a receipt and duplicate therefor, and file one of them with the town clerk: PROVIDED, That the said supervisors shall, at any time within six months, upon sufficient proof from the owner of any animal so sold, pay to said owner the balance due as received from the said poundmaster; but if said money is not claimed within that time, the sum so received shall be retained for the use of said town. [1911 c 34 § 1, part; 1895 c 175 § 94; RRS § 11457.]

Chapter 45.40

DUTIES OF TOWN OFFICERS AT ELECTIONS

Sections

- 45.40.010 Judges and clerks of election—Places of holding elections.
- 45.40.030 Division of precinct.

45.40.010 Judges and clerks of election—Places of holding elections. Each township shall constitute at least one election precinct. The township supervisors of each township are the judges of election, and the town clerk of each township shall act as one of the clerks of election in their respective election precinct, and the judges of election shall appoint an additional clerk of election, who shall be of an opposite political party, if practicable, to the town clerk. The election shall be held in such election precinct at the place where the last preceding town meeting was held, except as herein provided; but if in any town a vote is taken to hold it elsewhere the next ensuing election shall be held at the place designated by such vote. When, in any township having over four hundred electors, the supervisors divide the same into two or more election precincts, they shall designate the boundaries thereof, and thereafter shall be elected, at the annual town meeting of such township, three judges of election and two clerks of election in each precinct, and the place of holding said election in each precinct shall be designated by said town meeting, or, in default of such designation, shall be appointed by the judges of election thereof, in which case they shall make such designation at least twenty days before election, and give notice thereof by posting proper notices in the public places in the township. In case the supervisors divide the township into precincts, as herein provided, and no town meeting is thereafter held prior to the election, then the county commissioners shall, twenty-five days before election, appoint the judges and clerks for that election. No more than two judges and one clerk of election, except where town supervisors and town clerks so act, shall belong to the same political party. No person shall be eligible as judge or clerk of election unless he be a qualified voter within the election district in which he sits, nor unless he can read, write and speak the English language understandingly. [1895 c 175 § 77; RRS § 11439. Formerly RCW 45.40.010 and 45.40.020.]

45.40.030 Division of precinct. Whenever any town constituting one election precinct is found by the number of votes there cast at any election to contain more than four hundred voters, it shall be the duty of the supervisors of the town to cause such precinct at least six weeks before the next ensuing general or town election, to be divided into two or more districts, each containing as nearly as may be an equal number of voters. [1895 c 175 § 78; RRS § 11440.]

**Chapter 45.44
COMPENSATION OF OFFICERS**

Sections
45.44.010 Schedule of compensation and fees fixed.

45.44.010 Schedule of compensation and fees fixed. The following town officers are entitled to compensation at the following rates for each day necessarily devoted by them to the service of the town, in the duties of their respective offices. The town assessors shall receive for their services three dollars per day, while engaged in their respective duties as such assessors. Each *road overseer shall receive for his services such salary as shall be fixed by the board of supervisors, while engaged in his duties as such *road overseer. The town clerks and supervisors shall receive two dollars per day while engaged in their respective duties. No supervisor shall receive more than seventy-five dollars for compensation in any one year, and no clerk shall receive more than one hundred dollars for compensation in any one year: PROVIDED, That the town clerks shall be paid fees for the following, and not a per diem: For filing any paper required by law to be filed in his office ten cents each; for posting up notices required by law, twenty-five cents each; for recording any order or any instrument of writing authorized by law, five cents for each one hundred words; for copying any record or instrument on file in his office and certifying the same, five cents for each one hundred words, to be paid for by the person applying for the same: PROVIDED, FURTHER, That in any town meeting, before the electors commence balloting for officers, they may by resolution, reduce or increase the compensation of officers, and may fix the compensation of the town clerk at an annual salary not to exceed one hundred dollars, in lieu of the compensation per diem and fix his services other than copying and certifying records or instruments on file in his office for which he is paid by the person applying for the same. [1923 c 13 § 9; 1915 c 90 § 2; 1909 c 47 § 9; 1895 c 175 § 93; RRS § 11456.]

Reviser's note: (1) Caption for 1895 c 175 § 93 reads: "Fees of town officers."

*(2) For "road overseer," see note following RCW 45.12.080.

Bylaws to be posted: RCW 45.28.100.

Office of township assessor abolished: Chapter 45.54 RCW.

Poundmaster—Duties—Fees: RCW 45.36.030.

Public places for posting notices: RCW 45.72.010.

Township treasurer—Compensation: RCW 45.32.030.

**Chapter 45.48
DUTY OF RETIRING OFFICERS**

Sections
45.48.010 Incoming officer to demand books and papers.
45.48.020 Same in case of vacancy.
45.48.030 Books to be delivered to successor.
45.48.040 Same in case of death.

45.48.010 Incoming officer to demand books and papers. Whenever the term of any supervisor, town clerk, assessor, justice of the peace, constable, *road overseer or other town officer expires and another person is appointed or elected to such office, such successor, immediately after he enters upon the duties of his office, shall demand of his predecessor all books and papers under his control and belonging to such office. [1895 c 175 § 111; RRS § 11474.]

Reviser's note: *(1) For "road overseer," see note following RCW 45.12.080.

(2) Caption for 1895 c 175 § 111 reads: "Books and papers of outgoing officers."

(3) Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Office of township assessor abolished: Chapter 45.54 RCW.

Township treasurer to keep true accounts, and deliver books to successor: RCW 45.32.020.

45.48.020 Same in case of vacancy. Whenever either of the officers above named resigns, or the office becomes vacant in any way, and another person is elected or appointed in his stead, the person so elected shall make such demand of his predecessors or of any person having charge of such books and papers. [1895 c 175 § 112; RRS § 11475.]

45.48.030 Books to be delivered to successor. Every person so going out of office, whenever thereto required pursuant to the foregoing provisions, shall deliver, upon oath, all records, books and papers in his possession or in his control belonging to the office held by him, which oath may be administered by the officer to whom such delivery is made. [1895 c 175 § 113; RRS § 11476.]

45.48.040 Same in case of death. Upon the death of any of the officers enumerated, the successor of such officer shall make such demand, as above provided, of the executors or administrators of such deceased officer, and such executors or administrators shall deliver, upon like oath, all records, books, papers or moneys in their possession or under their control, belonging to the office held by their testator or intestate. [1895 c 175 § 114; RRS § 11477.]

**Chapter 45.52
CLAIMS AGAINST TOWNS**

Sections
45.52.010 Claims to be itemized before allowance.
45.52.020 Verification of claims.
45.52.030 Auditing of claims.
45.52.040 Penalties for allowing claims not verified.
45.52.050 Board to audit and settle town charges.
45.52.060 Shall audit accounts of town officers.
45.52.070 Board shall draw up report.

45.52.080 Report to be read at town meeting.
45.52.090 Treasurer shall pay audited accounts.

Supervisors to audit accounts against towns: RCW 45.24.050.

What are town charges: RCW 45.56.010.

45.52.010 Claims to be itemized before allowance.

Before any account, claim or demand against any town of this state, for any property or services for which such town shall be liable, shall be audited or allowed by the board of officers authorized by law to audit and allow the same, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and shall verify the same to the effect that such account, claim or demand is just and true, that the money therein charged was actually paid for the purposes therein stated, that the property therein charged was actually delivered or used for the purposes therein stated, and was of the value therein charged, and that the services therein charged were actually rendered, and of the value therein charged; or, in case such services were official for which fees are prescribed by law, then that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand has been paid: PROVIDED, That when the books of the town clerk show the official attendance of a town officer, his claim for per diem for that service need not be verified. [1895 c 175 § 61; RRS § 11422.]

Supervisors to audit accounts against towns: RCW 45.24.050.

45.52.020 Verification of claims. The verification required by RCW 45.52.010 may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim or demand shall be presented to be audited; and every member of any such board is hereby authorized to administer the proper oath in such cases; and every person who shall wilfully or knowingly swear falsely on any such cases, shall be deemed guilty of wilful perjury, and be punished accordingly: PROVIDED, That in any case any such account, claim or demand shall be made or presented by any administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove the same otherwise to the satisfaction of the board. [1895 c 175 § 62; RRS § 11423.]

45.52.030 Auditing of claims. Whenever any account, claim or demand against any town shall have been verified in the manner prescribed in *this act, the board of officers to whom the same shall be presented may receive and consider the same, and may allow or disallow the same in whole or in part as to such board or officers shall appear just or lawful, saving to such claimants the right of appeal. [1895 c 175 § 63; RRS § 11424.]

**Reviser's note:* For "this act," see note following RCW 45.08.020.

Verification of claims: RCW 45.52.020.

45.52.040 Penalties for allowing claims not verified.

Any member of such board who shall audit and allow any accounts, claim or demand required by *this act to be itemized and verified, without the same having been first duly itemized and verified, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding five

hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. [1895 c 175 § 64; RRS § 11425.]

**Reviser's note:* For "this act," see note following RCW 45.08.020.

45.52.050 Board to audit and settle town charges.

The town board shall meet annually on the Tuesday next preceding the annual town meeting to be held in said town, and at such other times as they deem necessary and expedient, for the purpose of auditing and settling all charges against said town, and they shall state on each account the amount allowed by them; but no allowance shall be made for any account which does not specifically state each item of the same, and the nature thereof; and all unpaid accounts of town officers for services rendered since the last annual meeting of said board shall be presented to the town board at their annual meeting on the Tuesday next preceding the annual town meeting, to be audited as aforesaid. [1895 c 175 § 65; RRS § 11426.]

Reviser's note: Caption for 1895 c 175 § 65 reads: "Town board to meet, when."

45.52.060 Shall audit accounts of town officers. The said board shall also, at their annual meeting in each year, examine and audit the accounts of the town treasurer for all moneys received and disbursed by him as such officer; and they shall audit the accounts of all other town officers who are authorized by law to receive or disburse any money of the town by virtue of their office. [1895 c 175 § 66; RRS § 11427.]

Duties of town treasurer—Shall make annual statement: RCW 45.32.050.

Poundmaster—Duties—Fees: RCW 45.36.030.

45.52.070 Board shall draw up report. Such board shall draw up a report, stating in detail the items of account audited and allowed since the last annual meeting, the nature of each account and the name of the person to whom such account was allowed, the total amount audited and allowed to each township officer in payment for his services since their last annual meeting, including a statement of all the fiscal concerns of the town. As a part thereof said board shall make an estimate of the sum necessary for the current expenses thereof, and other incidental expenses for the ensuing year. [1895 c 175 § 67; RRS § 11428.]

45.52.080 Report to be read at town meeting. Such report shall be produced and publicly read by the town clerk at the next ensuing town meeting; and the whole or any portion of such report may be referred, by the order of the meeting, to a committee whose duty it shall be to examine the same and report thereon to such meeting. [1895 c 175 § 68; RRS § 11429.]

45.52.090 Treasurer shall pay audited accounts.

The amount of any account audited and allowed by the town board, and the amount of any account voted to be allowed at any town meeting, shall be paid by the town treasurer on the order of said board, signed by the chairman and countersigned by the clerk; and all orders issued to any person by the town board for any sums due from such town shall be received in payment of town taxes of said town. [1895 c

175 § 69; RRS § 11430. Formerly RCW 45.52.090 and 45.52.100.]

Chapter 45.54

ASSESSMENT OF PROPERTY

Sections

- 45.54.010 Assessors and town board of review abolished.
- 45.54.020 Assessors and town board of review abolished—Powers transferred.

Reviser's note: Assessment of property was regulated by 1895 c 175 § 79-82 and amendments thereto, as follows:

Duties of township assessor. "Each township assessor elected or appointed under this title shall take an oath and give a bond as now required of county assessors, the amount of said bond to be fixed, and the said bond to be approved, by the board of supervisors; and each township assessor shall, in his town, perform the same duties and exercise the same rights as are now performed and exercised by county assessors in their respective counties under the laws of this state, and shall be subject to the same penalties as county assessors now are. All township assessors of the respective counties shall meet at the office of the county assessor on the second Tuesday of February of each year, and formulate and adopt by a majority vote of those present a plan and policy for the purpose of securing the equitable and uniform listing and valuation of property throughout the county, and it shall be the duty of all township assessors to make their respective assessments according to the plan and policy adopted at such meeting, and the county assessor shall have supervisory control over said township assessors for the purpose of enforcing the making of assessments according to such plan and policy." [1923 c 13 § 7; 1909 c 47 § 5; 1895 c 175 § 79; RRS § 11441.]

County auditor to furnish assessors' books and blanks. "First. The county assessor shall annually provide the necessary assessment books and blanks at the expense of the county, for and to correspond with each assessment district. He shall make out in the real property assessment book complete lists of all lands or lots subject to taxation, showing the names of the owners, if to him known, and, if unknown, so stated opposite each tract or lot, the number of acres and the lots and parts of lots or blocks included in each description of property. The list of real property becoming subject to assessment and taxation every odd numbered year may be appended to the personal property assessment book. The assessment books and blanks shall be delivered to the county assessor on or before the second Saturday of March in each year, and the town assessors shall meet on that day at the office of the county assessor for the purpose of receiving such books and blanks, and for conference with the said county assessor in reference to the performance of their duties and that all township assessors shall perform their duties under the supervision of the county assessor.

Second. The county assessor shall in making up his work for the county board of equalization, add thereto the assessment rolls of the various townships and the same shall be equalized by the county board of equalization as between townships as other property in such counties is equalized. If it shall be necessary to raise the assessment of a township or townships, the county board of equalization shall serve written notice upon the chairman of the township board of supervisors of its intention so to do and shall also give general notice by publication to the residents of such township or townships at least five days previous to raising such assessment." [1911 c 34 § 1; 1909 c 47 § 6; 1895 c 175 § 80; RRS § 11442.]

Town board of review—Duties. "The board of supervisors of each town shall meet on the second Monday in May at the office of the town clerk for the purpose of reviewing the assessment of property in such town, and they shall immediately proceed to examine, ascertain and see that all taxable property in their town or district has been properly placed upon the list and duly valued by the assessor; and in case any property, real or personal, shall have been omitted by inadvertence or otherwise, it shall be the duty of said board to place the same upon the list, with the true value thereof, and proceed to correct the assessment, so that each tract or lot of real property and each article, parcel or class of personal property shall be entered on the assessment list at the true and full value thereof; but the assessment of the property of any person shall not be raised until such person shall have been duly notified of the intention of the board so to do. And on the application of any person considering himself aggrieved they shall review the assessment and correct the same as shall appear to them just. Any two of said officers are authorized to act at such meeting, and they may adjourn from day to day until they shall finish the hearing of all

cases presented. All complaints and grievances of individuals, residents of the town or district, in reference to the assessment of any property, shall be heard and decided by the town board: PROVIDED, That the complaints of nonresidents in reference to the assessment of any property, real or personal, and of others in reference to any assessment made after the meeting of the town board of review, shall be heard and determined by the county board of equalization: PROVIDED FURTHER, That any person considering himself aggrieved by a decision of the town board of review may present the matter to the county board of equalization for determination." [1909 c 47 § 7; 1895 c 175 § 81; RRS § 11443.]

Notice of meeting of board of review. "The assessor shall cause at least ten days' previous notice of the time and place of the meeting of the town board of review by posting notices in at least three public places in his town or district, but the failure to give such notice or hold such meeting shall not vitiate such assessment, except as to the excess of valuation of tax thereon shown to be unjustly made or levied. It shall be the duty of the assessor to attend the meeting of the town board of review with his assessment books and papers, and note all changes and additions made by the board, and correct his work accordingly, and not later than ten days after the meeting of the board of review said assessor shall return the assessment books of his town, duly verified, along with all the assessment papers in his hands, to the county assessor not later than the fifth day of June." [1909 c 47 § 8; 1895 c 175 § 82; RRS § 11444.]

45.54.010 Assessors and town board of review abolished. Hereafter no assessor shall be elected by the electors of any township at any township meeting; nor shall the board of supervisors of any township hereafter meet and convene, or exercise any powers or perform any duties, as a town board of review, for the purpose of reviewing the assessment of property of the township or for any other purpose. [1937 c 81 § 1; RRS § 11376-1.]

45.54.020 Assessors and town board of review abolished—Powers transferred. On and after March 1, 1937, the office of township assessor and the town board of review for townships shall be and hereby are abolished; and on and after said date all powers and duties of said assessor and said board of review shall be vested in and required to be performed by the county assessor and the county board of equalization, respectively: PROVIDED, That the abolishment of said office and said board shall not affect the validity of any act done or performed by any township assessor or any town board of review in assessing and valuing or equalizing property for taxation purposes prior to said date, and shall not affect the validity of any tax levied or based upon any such acts. [1937 c 81 § 2; RRS § 11443-1.]

Chapter 45.56

TOWN TAXES AND CHARGES

Sections

- 45.56.010 What are town charges.
- 45.56.035 Ad valorem taxes prohibited—Levy by county commissioners.
- 45.56.040 Limit of debts and outlays.
- 45.56.050 County aid to townships.
- 45.56.070 Poll tax to be a town fund.
- 45.56.080 County treasurer to pay over township moneys quarterly.

Tax levy to pay judgment: RCW 45.64.080.

45.56.010 What are town charges. The following shall be deemed town charges:

- (1) The compensation of town officers for services rendered their respective towns.

(2) Contingent expenses necessarily incurred for the use and benefit of the town.

(3) The moneys authorized to be raised by the vote of the town meeting for any town purpose.

(4) Every sum directed by law to be raised for any town purpose. [1959 c 16 § 3. Prior: 1895 c 175 § 84; RRS § 11446.]

45.56.035 Ad valorem taxes prohibited—Levy by county commissioners. See chapter 45.82 RCW.

45.56.040 Limit of debts and outlays. No town has power to contract debts or make expenditures for any one year in a larger sum than the amount of revenues provided for that year in a formally adopted budget. [1969 ex.s. c 243 § 5; 1895 c 175 § 86; RRS § 11448.]

Severability—1969 ex.s. c 243: See note following RCW 45.82.010.

45.56.050 County aid to townships. Whenever any county of this state shall have adopted township organization it shall be the duty of the board of county commissioners of such county to set aside from the levy of the current year the following sums, which shall be paid to the township treasurer in the manner provided by law: To each township for current expenses, one hundred dollars; to each township for *township roads and bridges, twenty-five percent of the amount levied upon the property of said township for construction and repair of roads and bridges. [1913 c 142 § 10; RRS § 11449.]

**Reviser's note:* For "township roads and bridges," see note following RCW 45.12.080.

45.56.070 Poll tax to be a town fund. All poll tax collected by any *road overseer or other town officer shall be by him paid to the town treasurer and be part of the township funds. [1895 c 175 § 90; RRS § 11453.]

**Reviser's note:* For "road overseer," see note following RCW 45.12.080.

45.56.080 County treasurer to pay over township moneys quarterly. The county treasurer shall keep an account of the money received for each town, and shall quarterly, after the settlement between the county treasurer and county auditor, pay over any money due a town to its treasurer upon the warrant of the county auditor. [1895 c 175 § 92; RRS § 11455.]

Chapter 45.64

ACTIONS BY OR AGAINST TOWNS

Sections

- 45.64.010 How governed.
- 45.64.020 Actions, in what name brought.
- 45.64.030 Papers in action—How served.
- 45.64.040 Action before justice of peace.
- 45.64.050 Action to recover penalty for trespass.
- 45.64.060 In action over lands court may partition.
- 45.64.070 Judgment against town—How collected.
- 45.64.080 Tax levy to pay judgment.

Powers of electors at town meetings: RCW 45.12.100.

Proceedings to be in name of town: RCW 45.12.040.

Supervisors to prosecute actions on bonds, penalties and trespasses: RCW 45.24.040.

45.64.010 How governed. Whenever any controversy or cause of action exists between towns, or between a town and an individual or corporation, such proceedings shall be had either at law or equity, for the purpose of trying and settling such controversy, and the same shall be conducted in the same manner, and the judgment or decree therein shall have the like effect, as in other actions or proceedings of a similar kind between individuals and corporations. [1895 c 175 § 97; RRS § 11460.]

Reviser's note: Caption for 1895 c 175 § 97 reads: "Actions between towns; how regulated."

45.64.020 Actions, in what name brought. In all such actions and proceedings the town shall sue and be sued in its name. [1895 c 175 § 98; RRS § 11461.]

Proceedings to be in name of town: RCW 45.12.040.

45.64.030 Papers in action—How served. In legal proceedings against a town by name, all papers shall be served on the chairman of the board of supervisors, and, in case of his absence, on the town clerk; and whenever any action or proceeding is commenced, said chairman shall attend to the defense thereof, and lay before the electors of the town, at the first town meeting, a full statement of such proceedings, for their direction in regard to the defense thereof. [1895 c 175 § 99; RRS § 11462.]

45.64.040 Action before justice of peace. No action in favor of any town shall be brought before any justice of the peace residing in such town. [1895 c 175 § 100; RRS § 11463.]

Reviser's note: Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

45.64.050 Action to recover penalty for trespass. Whenever any action is brought to recover a penalty imposed for any trespass committed on the lands belonging to the town, if it appears on the trial thereof that the actual amount of injury to such town lands in consequence of such trespass exceeds the sum of twelve dollars and fifty cents, then the amount of actual damage with cost of suit shall be recovered in said action, instead of any penalty for said trespass imposed by the town meeting; and such recovery shall be used as a bar to every other action for the same trespass. [1895 c 175 § 101; RRS § 11464.]

Supervisors to bring actions for trespass: RCW 45.24.040.

45.64.060 In action over lands court may partition. Whenever by decree or decision, in any action or proceeding brought to settle any controversy in relation to town commons or other lands, the common property of a town, or for the partition thereof, the rights of any town are settled and confirmed, the court in which such proceedings are had may partition such lands according to the right of parties. [1895 c 175 § 102; RRS § 11465.]

Reviser's note: Caption for 1895 c 175 § 102 reads: "Other actions; how regulated."

45.64.070 Judgment against town—How collected.

When a judgment is recovered against any town, or against any town officers, in an action prosecuted by or against them in their name of office, no execution shall be awarded or issued upon such judgment, but the same, unless reversed or stayed on appeal, shall be paid by the town treasurer, upon demand and the delivery to him of the certified copy of the judgment, if there is sufficient money of such town in his hands not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection thereof is afterward stayed upon appeal. If payment is not made within thirty days after the time fixed by law for the county treasurer to pay over to the town treasurer the money in his hands belonging to such town, levied for the purpose of paying such judgment, next after the rendition of such judgment, execution may be issued on such judgment, but only town property shall be liable thereon. [1895 c 175 § 103; RRS § 11466.]

45.64.080 Tax levy to pay judgment. If judgment for the recovery of money is rendered against any town, and the judgment is not satisfied, or proceedings thereon stayed by appeal or otherwise, before the next annual meeting of said town, a certified copy of the judgment may be presented to said town at said annual meeting. The supervisors of the town shall thereupon cause the amount due on the judgment, with interest from the date of its recovery, to be added to the tax of said town, and the same certified to the county auditor, and collected as other town taxes are collected. [1895 c 175 § 104; RRS § 11467.]

Chapter 45.72

MISCELLANEOUS PROVISIONS

Sections

- 45.72.010 Public places for posting notices.
- 45.72.020 Conveyances of real estate.
- 45.72.030 Former precincts and road districts abolished, etc.
- 45.72.040 Payment of outstanding obligations.
- 45.72.050 Payment of outstanding obligations—Tax levy to pay obligations.
- 45.72.060 Payment of outstanding obligations—Collection of tax—Application of proceeds.
- 45.72.070 Construction of words used in this act.

45.72.010 Public places for posting notices. At the annual town meeting in each year, the legal voters present at each meeting shall determine and designate three places in the town as public or the most public places of such town, and that all legal notices required to be posted in three public or the most public places of a town shall be posted up at such places at least, and they shall make provision for the erection and maintenance of suitable posts on which to post up notices as aforesaid, in all places so designated in which there is no sufficient natural convenience for that purpose. [1895 c 175 § 110; RRS § 11473.]

Bylaws to be posted: RCW 45.28.100.

Fees for posting notices: RCW 45.44.010.

45.72.020 Conveyances of real estate. Whenever any real estate belonging to the town is sold, the conveyances thereof shall be executed by the chairman of the town board

in his official capacity and attested by the clerk; and such conveyance, duly witnessed and acknowledged, shall convey to the grantee therein named all of the right, title and estate which the town then has in the real estate conveyed. [1909 c 47 § 11; RRS § 11483.]

Proceedings to be in name of town: RCW 45.12.040.

Town supervisors—Powers and duties—General: RCW 45.24.010.

45.72.030 Former precincts and road districts abolished, etc. In all townships after they become fully organized under *this act, the election precinct or precincts, and road district or districts theretofore organized by the county commissioners shall be abolished, and election precincts and **road districts shall be established as provided in *this act; and there shall be no election for **road overseers in the December following the general election at which township organization is voted, but the **road overseers then holding office shall continue to hold their offices till the township **road overseers have been elected or appointed and qualified. After townships have been organized, justices of the peace and constables shall not be elected at general elections, but at town meetings as herein provided. The assessment of property in any town made last before any township has been organized shall remain and continue in force till the next assessment has been made by the township assessor. The county assessor shall not assess any property within the limits of an organized township, and the assessment of property made by the township assessors shall have the same force and effect, when reviewed by the town board of review, as the assessment of property now made by county assessors, and shall be acted on and equalized by the county board of equalization as required by law. [1895 c 175 § 116; RRS § 11479.]

Reviser's note: *(1) For "this act," see note following RCW 45.08.020.

** (2) For "road districts," "road overseers," see note following RCW 45.12.080.

(3) Justices of the peace and courts to be construed to mean district judges and courts: See RCW 3.30.015.

Office of township assessor abolished: Chapter 45.54 RCW.

45.72.040 Payment of outstanding obligations. Whenever any county has heretofore, or shall hereafter, adopt and take upon itself township organization and government under the provisions of any law passed pursuant to the provisions of section 4, Article XI of the Constitution of this state, authorizing such organization and government, and at the time of the adoption of such form of government there shall exist against any road district in such county, previously created and defined by the commissioners of such county, any obligations for debts incurred in the construction or repair of any roads or bridges in such road district, such change in the government of said county shall not in any way affect such existing obligations of any such road district; but all such obligations shall remain and constitute a valid charge upon and against all of the taxable property included within the territorial limits of such road district as it existed at the time of the adoption of such township organization for the full amount of all of said obligations. For the purposes of *this act, the territory which comprised said road district shall thereafter comprise and constitute a road tax district of said county, and said road tax district

shall be designated by a like number by which said road district was theretofore known. [1911 c 13 § 1; RRS § 11480.]

***Reviser's note:** This act [1911 c 13] is codified as RCW 45.72.040 through 45.72.060.

45.72.050 Payment of outstanding obligations—Tax levy to pay obligations. There shall be levied annually at the same time the levy for general county taxes is made, and by the officers levying the said county tax, a tax of not more than one dollar and twenty-five cents per thousand dollars of assessed value on all taxable property within the territorial limits of every such road district as the same existed at the time of the adoption of such township organization for the payment of and until the full amount of all indebtedness, together with all accrued and accruing interest thereon, existing against any such road district, shall have been paid in full. [1973 1st ex.s. c 195 § 45; 1911 c 13 § 2; RRS § 11481.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

45.72.060 Payment of outstanding obligations—Collection of tax—Application of proceeds. The tax levied, as provided for in RCW 45.72.050, shall be extended upon the tax rolls of the county, and shall be collected by the county treasurer of said county at the same time and in the same manner as other taxes are collected, and said treasurer shall credit to the proper road tax district all sums collected from any such levy, and all sums so collected shall by the said treasurer be applied to the payment, in the order of their issue, of the outstanding warrants against the road district for the indebtedness of which said levy was made. [1911 c 13 § 3; RRS § 11482.]

45.72.070 Construction of words used in *this act. In *this act the words town and township are used with the same meaning, and are used to designate a township organized under *this act, unless the contrary appears from the context; and whenever the word oath is used, it shall be understood to mean oath or affirmation.

The word tax means special taxes raised by special assessments and other forms of taxation authorized by law except ad valorem property taxes. [1969 ex.s. c 243 § 6; 1909 c 47 § 10; 1895 c 175 § 115; RRS § 11478.]

***Reviser's note:** For "this act" [1895 c 175], see note following RCW 45.08.020.

Severability—1969 ex.s. c 243: See note following RCW 45.82.010.

Chapter 45.76

DISORGANIZATION OF TOWNSHIPS

Sections

45.76.020	Proceedings for disorganization—Petition for election.
45.76.030	Petition—Canvass by auditor.
45.76.040	Election—Notice—Precincts.
45.76.050	Election—Ballots.
45.76.060	Election—Conduct.
45.76.070	Order of disorganization—Receiver.
45.76.080	Powers of receiver.
45.76.090	Tax levy to pay obligations.

45.76.100 Final account—Disposition of remaining funds—Order of dissolution.

45.76.020 Proceedings for disorganization—Petition for election. Proceedings for disorganization of a township may be commenced by petition for an election therein upon the question. A petition for such election shall be filed with the county auditor. It must be signed by registered voters residing within the township sufficient in number to equal twenty percent of the vote of the township at the last general election. [1951 c 173 § 1.]

45.76.030 Petition—Canvass by auditor. The county auditor shall canvass the petition for an election to vote upon the question of disorganization:

(1) By ascertaining the number of votes cast at the last general election by persons residing within such township; and

(2) By ascertaining by comparison whether the handwriting of each signer on the petition and on the registration card bearing his name were made by the same person. [1951 c 173 § 2.]

45.76.040 Election—Notice—Precincts. If the number of valid signatures on the petition are sufficient, the county auditor shall fix a date for holding the election and give at least twenty days' notice thereof. Notices of elections shall contain a statement of the purpose for which the election is called, the time at which it will be held and the location of the voting place or voting places. Regular voting precincts may be divided or combined, or both. The notices shall be posted in ten of the most public places within the township sought to be disorganized. [1951 c 173 § 3.]

45.76.050 Election—Ballots. Ballots for elections to be held under the provisions of this chapter shall have printed thereon the words "for disorganization" on one line, followed by a printed square bounded on all sides by a line one quarter of an inch long, and the words "against disorganization" on another line, followed by a similar printed square. At the top of the ballot shall appear directions to the voter advising him to place a cross in the square opposite the decision of his choice, or words to that effect. [1951 c 173 § 4.]

45.76.060 Election—Conduct. Elections held under the provisions of this chapter shall be conducted by the county auditor and canvassed by the county election board conformable as nearly as practicable to the requirements for conducting and canvassing the returns of general elections. [1951 c 173 § 5.]

45.76.070 Order of disorganization—Receiver. If, in an election held under the provisions of this chapter, a majority of the votes cast thereat favor disorganization, the county auditor shall certify the results to the presiding judge of the superior court for the county, who shall enter an order of disorganization and shall appoint the chairman of the board of county commissioners who shall act as receiver to wind up the affairs of the disorganized township. [1951 c 173 § 6.]

45.76.080 Powers of receiver. The chairman of the board of county commissioners shall take possession of all the property, moneys, vouchers, records and books of the former township, including those in any manner pertaining to its business, and proceed to wind up its affairs. He shall have the right to sue and be sued in all cases necessary or proper for the purpose of winding up the affairs of the former township. He is authorized to sell at public auction, after such public notice as the sheriff is required to give as to property sold on execution, all the property of the former township, except such as is necessary for his use in winding up its affairs. Any personal property may be sold for cash. Real property may be sold for all cash or for one-half cash and deferred payments, the last payment not to be later than one year from date of sale. Title shall not pass until all deferred payments have been fully paid. [1951 c 173 § 7.]

45.76.090 Tax levy to pay obligations. In the same manner and to the same extent as the proper authorities of the former township could have done had it not been disorganized, the chairman of the board of county commissioners may be authorized by the court when necessary to levy taxes on all taxable property therein, to receive the taxes when collected and to apply them together with the proceeds arising from any sales of property to the extinguishment of the obligations of the former township. [1951 c 173 § 8.]

45.76.100 Final account—Disposition of remaining funds—Order of dissolution. Upon the payment of all lawful demands against the former township, the chairman of the board of county commissioners shall file a final account, together with all vouchers, with the clerk of the superior court and pay any funds remaining in his hands to the county treasurer to be placed to the credit of any school district or districts within whose boundaries the township is located, said money to be prorated to such school districts in proportion to their share of assessed value of the real estate located therein: PROVIDED, That if within one hundred eighty days after the execution of the order of dissolution any city or town is incorporated within the boundaries of the dissolved township, such remaining funds shall be divided between the operating fund of such city or town and said school district or districts in the proportion that the assessed valuation of the territory included within the boundaries of the city or town bears to the assessed valuation of the entire property lying within the boundaries of the dissolved township. Upon the approval by the court of said final account the court shall sign proper orders dissolving such township. [1957 c 65 § 1; 1951 c 173 § 9.]

Chapter 45.80

COUNTY-WIDE DISORGANIZATION OF TOWNSHIPS

Sections

45.80.010	Proceedings for disorganization—Resolution directing election.
45.80.020	Election—Date.
45.80.030	Election—Conduct and canvass.
45.80.040	Election—Order of disorganization—Receiver.

45.80.050	Powers and duties of receiver.
45.80.060	Tax levy by disorganized township barred—Levy to extinguish obligations.
45.80.070	Final account—Payment of demands—Disposition of funds—Order of dissolution—Transfer of cemetery properties.
45.80.080	Vesting of property—Management, conditions.
45.80.090	Tax levy by fire protection district when township disorganized and no longer making a levy.
45.80.100	Chapter additional to other laws.

45.80.010 Proceedings for disorganization—Resolution directing election. Proceedings for the disorganization of the township organization of a county may be commenced by the board of county commissioners through its filing a resolution with the county auditor directing that there be an election by the voters of the county upon the question. [1961 c 53 § 1.]

45.80.020 Election—Date. Upon the filing of the resolution the county auditor shall fix a date for holding an election thereon which may be either a special or general election date set not later than the general election next succeeding the filing of the resolution in the office of the county auditor. [1961 c 53 § 2.]

45.80.030 Election—Conduct and canvass. Elections held under the provisions of this chapter shall be conducted by the county auditor and canvassed by the county election board in the manner provided by law for the conducting and canvassing of returns of general elections within the county. [1961 c 53 § 3.]

45.80.040 Election—Order of disorganization—Receiver. If a majority of the votes cast upon the question favor disorganization of the township system of the county, the county auditor shall certify the results to the presiding judge of the superior court for the county, who shall enter an order of disorganization effective December 31st of that year and shall appoint the chairman of the board of county commissioners to act as receiver to wind up the affairs of the disorganized township. [1961 c 53 § 4.]

45.80.050 Powers and duties of receiver. The chairman of the board of county commissioners shall take possession of all the property, moneys, vouchers, records and books of the townships of the county, including those in any manner pertaining to its business, and proceed to wind up their affairs. He shall have the right to sue and be sued in all cases necessary or proper for the purpose of winding up the affairs of the townships. He is authorized to sell at public auction, after such public notice as the sheriff is required to give as to property sold on execution, all the property of the former townships, except property granted under the provisions of RCW 45.80.080. [1961 c 53 § 5.]

45.80.060 Tax levy by disorganized township barred—Levy to extinguish obligations. A township ordered disorganized by the court will not after the effective date of the order of disorganization levy any tax. However, the chairman of the board of county commissioners may be authorized by the court, when necessary for the extinguish-

ment of the obligations of the township, to levy taxes on all taxable property therein, to receive the taxes when collected and to apply them, together with the proceeds arising from any sales of property, to the extinguishment of the obligations of the townships. [1961 c 53 § 6.]

45.80.070 Final account—Payment of demands—Disposition of funds—Order of dissolution—Transfer of cemetery properties. When an election has resulted in an affirmative vote to disorganize the townships in a county, the chairman of the board of county commissioners shall take the following actions in the order indicated:

First, he shall pay all lawful demands against the townships, and then file a final account together with all vouchers, with the clerk of the superior court;

Second, if prior to the election a tax levy has been made by one or more of the townships, for collection the year following the election, and if a pro rata reduction has been caused in the levy of any junior taxing district in the county which would [not] have been required had the township made no levy, the chairman shall order the county treasurer to collect the township levy and to disburse to the junior taxing district whose levy was reduced by proration the sum of money by which its levy was so reduced; if the township levy is not sufficient for such payments, any available funds to the credit of the township shall be so paid;

Third, the chairman shall pay any remaining township funds to the county treasurer to be deposited to the credit of the several taxing districts of the county (except the state and county) in the following allocations: Each such taxing district of the county shall receive a share that bears the same proportion to the total amount as its assessed valuation within the township times its authorized levy last in process of collection (excepting excess levies) bears to the total assessed valuation of such taxing districts within the township times the total authorized levy (excepting excess levies) of such districts. Upon approval by the court of said final account the court shall sign proper orders dissolving said township;

Fourth, he shall transfer all cemetery properties, facilities, and funds, real and personal, together with all funds designated or intended for endowment care, perpetual care, or similar purposes to the cemetery authority succeeding to the operation and maintenance of such cemetery. All gifts and donations shall be applied strictly according to the requirements stipulated by the donor. Where donor has not otherwise specified, such funds shall be presumed to be endowment care funds within the meaning of chapter 68.44 RCW, and are to be devoted exclusively to the care, improvement, or embellishment of the cemetery or such other purposes authorized by RCW 68.40.060. [1971 c 19 § 3; 1961 c 53 § 7.]

45.80.080 Vesting of property—Management, conditions. Cemetery real property, buildings, and the furnishings and equipment used in connection with the operation of a cemetery shall pass to the cemetery authority succeeding to the control, management, and operation of the cemetery. All other real property, buildings, and the furnishings and equipment used in connection with buildings owned by the township shall pass to the county in fee upon

the effective date of the order of disorganization. Such property, as all other county property, shall be managed and controlled by the board of county commissioners: PROVIDED, That the board shall for at least five years maintain and operate township meeting halls for community and public use. [1971 c 19 § 4; 1961 c 53 § 8.]

45.80.090 Tax levy by fire protection district when township disorganized and no longer making a levy. See RCW 52.16.160.

45.80.100 Chapter additional to other laws. This chapter shall not be construed to repeal, amend or modify any law heretofore enacted providing a method of township disorganization in this state, but shall be held to be an additional and concurrent method providing for such purpose. [1961 c 53 § 10.]

Chapter 45.82

AD VALOREM TAXES—SPECIAL ASSESSMENTS—GIFTS—DISORGANIZATION ELECTION

Sections

- 45.82.010 Ad valorem taxes prohibited—Special assessments authorized, procedure—Gifts and grants—Disorganization election.
45.82.020 Levy of property taxes by county commissioners.

45.82.010 Ad valorem taxes prohibited—Special assessments authorized, procedure—Gifts and grants—Disorganization election. (1) Hereafter no township shall assess or levy any ad valorem taxes upon property. Townships may levy and collect special assessments upon property specially benefited by improvements constructed by such townships under their general powers. The procedure for the making of such improvements and the levying and collecting of such assessments shall, insofar as applicable, be the same as that prescribed for fire protection districts under chapter 52.20 RCW. A township may also receive and expend gifts and grants from any source for strictly township purposes.

(2) The county auditor of each county which contains one or more townships shall prior to January 1, 1970, fix a date for holding an election which may be either a special or general election at which election the voters of the county shall determine whether all township organizations within the county shall or shall not be disorganized. If a majority of votes cast upon the question favor disorganization of the township system of the county, the ensuing disorganization shall be conducted pursuant to RCW 45.80.040, 45.80.050, 45.80.060, 45.80.070 and 45.80.080: PROVIDED, That nothing contained in subsection (1) of this section shall limit the authority of the county commissioners when authorized by the court from levying ad valorem taxes upon real property and using the proceeds therefrom in order to extinguish the obligations of townships disorganized pursuant to this subsection or pursuant to the provisions of chapter 45.80 RCW. [1969 ex.s. c 243 § 1.]

Severability—1969 ex.s. c 243: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of

the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 243 § 8.]

County-wide disorganization election: RCW 45.80.020.

45.82.020 Levy of property taxes by county commissioners. Any township which at the time that *this 1969 amendatory act takes effect has outstanding obligations in excess of anticipated receipts from sources other than general tax levies for the next ensuing year may certify the same to the board of county commissioners and the board shall levy taxes on the property within the township at the rates which the township would have been permitted to levy except for *this 1969 amendatory act until such obligations have been extinguished, and until such time such dollar rate levy will take precedence over any additional dollar rates of fire protection districts under *this 1969 amendatory act. [1973 1st ex.s. c 195 § 46; 1969 ex.s. c 243 § 3.]

Reviser's note: (1) The effective date of 1969 ex.s. c 243 was August 11, 1969.

* (2) This 1969 amendatory act [1969 ex.s. c 243] consists of the enactment of RCW 45.82.010 and 45.82.020; the 1969 ex.s. c 243 amendments to RCW 45.12.100, 45.56.040, 45.72.070, and 52.16.160; and the repeal of RCW 45.56.020, 45.56.030, 45.56.060, 45.60.010, 45.60.030, and 45.60.040.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

